



CITY OF  
BAINBRIDGE ISLAND

**CITY COUNCIL STUDY SESSION  
TUESDAY, JANUARY 05, 2021**

REMOTE MEETING ON ZOOM

PLEASE CLICK THE LINK BELOW TO JOIN THE WEBINAR:

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WEBINAR ID: 923 4598 4250

**AGENDA**

1. **CALL TO ORDER / ROLL CALL - 6:00 PM**
2. **APPROVAL OF AGENDA/ CONFLICT OF INTEREST DISCLOSURE - 6:05 PM**
3. **MAYOR'S REPORT - 6:10 PM**
4. **APPOINTMENT OF MAYOR AND DEPUTY MAYOR**
  - 4.A **(6:15 PM) Nomination and Appointment of Mayor**, 10 Minutes
  - 4.B **(6:25 PM) Nomination and Appointment of Deputy Mayor**, 10 Minutes
5. **FUTURE COUNCIL AGENDAS**
  - 5.A **(6:35 PM) Future Council Agendas**, 10 Minutes
    - [January 12 City Council Regular Business Meeting.pdf](#)
    - [January 19 City Council Study Session.pdf](#)
    - [January 26 City Council Regular Business Meeting.pdf](#)
6. **UNFINISHED BUSINESS**
  - 6.A **(6:45 PM) Update on the Development Moratorium - Planning**, 10 Minutes
    - [Moratorium Work Program Status Report](#)
    - [Development Moratorium Summary Effective 20201104.pdf](#)
    - [Ordinance No. 2020-29 Further Narrowing the Development Moratorium to Shoreline Properties](#)

within the WMPA Approved 102720.pdf  
Ordinance No. 2020-29 Exhibit B Winslow Master Plan Study Area Approved 102720.pdf  
ORD NO. 2020-24 EXTENDING THE DEVELOPMENT MORATORIUM.pdf

**6.B (6:55 PM) Update from Joint City Council and Planning Commission Land Use Subcommittee - Councilmembers Hytopoulos and Pollock, 10 Minutes**

**6.C (7:05 PM) Staff Update on Joint City Council/Planning Commission Land Use Subcommittee Recommendations and Timeline, Phase 1 - Planning, 30 Minutes**

Staff Memo Joint Subcommittee Update  
Background Memo, Initial Recommendations  
Background Memo, Attachment A  
Triage Phase I & II Planning Commission comments  
Power Point Presentation - Staff Update

**6.D (7:35 PM) Policy Options for Lots Less than 12,500 Square Feet in the R-1, R-2 & R-0.4 Zoning District - Planning, 30 Minutes**

Council Member Carr Small Lots Regulatory Option Memo  
Staff Memo Small Lots  
Small Lots Discussion PPT

## **7. NEW BUSINESS**

**7.A (8:05 PM) Review Council Liaison Appointments to Local and City Committees - Council, 20 Minutes**  
2020 Council Assignments.docx

## **8. FOR THE GOOD OF THE ORDER - 8:25 PM**

## **9. ADJOURNMENT - 8:35 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.

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CITY OF  
BAINBRIDGE ISLAND

## City Council Study Session Agenda Bill

**MEETING DATE:** January 5, 2021

**ESTIMATED TIME:** 10 Minutes

**AGENDA ITEM:** (6:15 PM) Nomination and Appointment of Mayor,

**SUMMARY:** Upon her appointment as Mayor in January 2020, Mayor Schneider agreed to serve a one-year term. The City Council will nominate and appoint a Mayor for 2021.

**AGENDA CATEGORY:** Appointment

**PROPOSED BY:** City Council

**RECOMMENDED MOTION:** I nominate \_\_\_\_\_ to serve as Mayor for a one-year term.

**STRATEGIC PRIORITY:** Good Governance

**FISCAL IMPACT:**

|                                    |  |
|------------------------------------|--|
| <b>Amount:</b>                     |  |
| <b>Ongoing Cost:</b>               |  |
| <b>One-Time Cost:</b>              |  |
| <b>Included in Current Budget?</b> |  |

**BACKGROUND:**

**ATTACHMENTS:**

**FISCAL DETAILS:**

**Fund Name(s):**

**Coding:**



CITY OF  
BAINBRIDGE ISLAND

## City Council Study Session Agenda Bill

**MEETING DATE:** January 5, 2021

**ESTIMATED TIME:** 10 Minutes

**AGENDA ITEM:** (6:25 PM) Nomination and Appointment of Deputy Mayor,

**SUMMARY:** The City Council will nominate and appoint a Deputy Mayor for a term commencing January 5, 2021 and ending June 30, 2021.

**AGENDA CATEGORY:** Appointment

**PROPOSED BY:** City Council

**RECOMMENDED MOTION:** I nominate \_\_\_\_\_ as Deputy Mayor for a term commencing January 5, 2021 and ending June 30, 2021.

**STRATEGIC PRIORITY:** Good Governance

**FISCAL IMPACT:**

|                                    |  |
|------------------------------------|--|
| <b>Amount:</b>                     |  |
| <b>Ongoing Cost:</b>               |  |
| <b>One-Time Cost:</b>              |  |
| <b>Included in Current Budget?</b> |  |

**BACKGROUND:**

**ATTACHMENTS:**

**FISCAL DETAILS:**

**Fund Name(s):**

**Coding:**



CITY OF  
BAINBRIDGE ISLAND

## City Council Study Session Agenda Bill

**MEETING DATE:** January 5, 2021

**ESTIMATED TIME:** 10 Minutes

**AGENDA ITEM:** (6:35 PM) Future Council Agendas,

**SUMMARY:** Council will review future Council agendas.

**AGENDA CATEGORY:** Discussion

**PROPOSED BY:** Executive

**RECOMMENDED MOTION:** Discussion.

**STRATEGIC PRIORITY:** Good Governance

**FISCAL IMPACT:**

|                                    |  |
|------------------------------------|--|
| <b>Amount:</b>                     |  |
| <b>Ongoing Cost:</b>               |  |
| <b>One-Time Cost:</b>              |  |
| <b>Included in Current Budget?</b> |  |

**BACKGROUND:**

**ATTACHMENTS:**

[January 12 City Council Regular Business Meeting.pdf](#)

[January 19 City Council Study Session.pdf](#)

[January 26 City Council Regular Business Meeting.pdf](#)

**FISCAL DETAILS:**

**Fund Name(s):**

**Coding:**



CITY OF  
BAINBRIDGE ISLAND

CITY COUNCIL REGULAR BUSINESS MEETING  
TUESDAY, JANUARY 12, 2021

REMOTE MEETING ON ZOOM

**AGENDA**

1. CALL TO ORDER/ROLL CALL - 6:00 PM
2. EXECUTIVE SESSION
  - 2.A (6:05 PM) Pursuant to RCW 42.30.110(1)(i), to discuss with legal counsel matters relating to litigation or potential litigation to which the city, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency, 30 Minutes
3. APPROVAL OF AGENDA / CONFLICT OF INTEREST DISCLOSURE
4. PUBLIC COMMENT
  - 4.A (x PM) Instructions for Providing Public Comment - City Clerk, 15 Minutes  
Instructions for Providing Public Comment at Remote Meetings.docx
5. MAYOR'S REPORT
6. CITY MANAGER'S REPORT
7. FUTURE COUNCIL AGENDAS
8. PRESENTATION(S)
  - 8.A Proclamation Declaring January 2021 as "National Mentoring Month" 5 Minutes  
Proclamation for National Mentoring Month January 2021.docx
9. UNFINISHED BUSINESS
  - 9.A City of Bainbridge Island & BI Metropolitan Parks & Recreation District – Trails Interlocal Agreement & Budget Amendment – Public Works, 15 Minutes  
COBI - BIMPRD - Trail Sharing ILA.docx  
Attachment A - Work Request.docx  
COBI Staff Memo-Trails ILA.docx

- 9.B **(X PM) Revisions to City's Ethics Program - Council,** 60 Minutes  
102720 Motions  
Deputy Mayor Deets\_Suggested Motions for Council Ethics Discussion  
Ethics Board Operating Rules - Revised and Adopted 10-19-2020  
Resolution No. 2020-13 Updating the Code of Conduct and Ethics Program Approved 081120

- 9.C **(X PM) Expectations for Council Liaisons - Councilmember Schneider,** 20 Minutes

## 10. NEW BUSINESS

- 10.A **Ordinance No. 2021-01 Amending BIMC 20.04 Relating to City Fire Code - Public Works,** 20 Minutes  
Ordinance No. 2021-01 City Fire Code.docx  
UAC Fire Code Memo 050918.pdf

- 10.B **Ordinance No. 2021-02 Amending BIMC 13.10 Relating to Regulations of Fire Hydrants & Water Mains - Public Works,** 10 Minutes  
Ordinance No. 2021-02 Ch 13.10 Fire Hydrants & Water Mains.docx

- 10.C **Chlorine Generator Replacement Contract - Public Works,** 5 Minutes  
Contract ProForma.docx

- 10.D **Interlocal Agreement with Kitsap County Sheriff's Office for Mutual Aid and Traffic Safety Task Force, Police,** 10 Minutes  
2021-2026 Traffic Task Force ILA.docx

- 10.E **Inter-agency Agreement with the Washington State Traffic Safety Commission in Support of Multi-jurisdictional Grant-funded High-visibility Emphasis Activities and Target Zero Campaigns - Police,** 10 Minutes  
2020-2021 Emphasis Patrols Agreement.pdf

## 11. CONSENT AGENDA

## 12. COMMITTEE REPORTS

## 13. FOR THE GOOD OF THE ORDER

## 14. ADJOURNMENT

### GUIDING PRINCIPLES

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CITY OF  
BAINBRIDGE ISLAND

**CITY COUNCIL STUDY SESSION  
TUESDAY, JANUARY 19, 2021**

REMOTE MEETING ON ZOOM

**AGENDA**

1. **CALL TO ORDER / ROLL CALL - 6:00 PM**
2. **EXECUTIVE SESSION**
3. **APPROVAL OF AGENDA/ CONFLICT OF INTEREST DISCLOSURE**
4. **MAYOR'S REPORT**
5. **FUTURE COUNCIL AGENDAS**
6. **PRESENTATIONS**
7. **UNFINISHED BUSINESS**
  - 7.A **Sustainable Transportation Plan Update – Projects and Programs - Public Works, 20 Minutes**
8. **NEW BUSINESS**
  - 8.A **WSDOT Presentation on the SR305 Adas Will/Port Madison Roundabout Project - Public Works, 30 Minutes**
  - 8.B **Safe Routes To School Discussion - Public Works, 20 Minutes**
  - 8.C **Review 2020 Citywide Workplan Priorities - Executive, 30 Minutes**
9. **CITY COUNCIL DISCUSSION**
10. **FOR THE GOOD OF THE ORDER**
11. **ADJOURNMENT**

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CITY OF  
BAINBRIDGE ISLAND

CITY COUNCIL REGULAR BUSINESS MEETING  
TUESDAY, JANUARY 26, 2021

REMOTE MEETING ON ZOOM

**AGENDA**

1. **CALL TO ORDER/ROLL CALL - 6:00 PM**
2. **EXECUTIVE SESSION**
  - 2.A **(6:05 PM) Pursuant to RCW 42.30.110(1)(i), to discuss with legal counsel matters relating to litigation or potential litigation to which the city, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency, 30 Minutes**
3. **APPROVAL OF AGENDA / CONFLICT OF INTEREST DISCLOSURE**
4. **PUBLIC COMMENT**
5. **MAYOR'S REPORT**
6. **CITY MANAGER'S REPORT**
7. **PRESENTATION(S)**
8. **PUBLIC HEARING(S)**
  - 8.A **Ordinance 2021-03 Joint City Council/Planning Commission Land Use Subcommittee Phase I "Triage" Code Changes 20 Minutes**  
[Ordinance No 2021-03 Triage Code Updates.docx](#)  
[Ord 2021-03 Exhibit A.docx](#)  
[ORD 2020-40 Planning Commission Recorded Motion 121020.pdf](#)  
[20201029 Planning Commission Workplan for Joint Land Use Subcommittee Recommendations.pdf](#)  
[20201013\\_Joint\\_Land\\_Use\\_Subcommittee\\_Memorandum\\_Initial\\_Recommendations\\_Recovered.pdf](#)  
[20201013 Joint Land Use Subcommittee Attachment A Table.pdf](#)
9. **UNFINISHED BUSINESS**
  - 9.A **Resolution No. 2021-02 - Small Water System Policies - Public Works 15 Minutes**

**10. NEW BUSINESS**

- 10.A Water Resource Inventory Area 15 Watershed Restoration and Enhancement Plan - Public Works, 20 Minutes**
- 10.B Racial Equity Advisory Committee Welcoming Sign and Budget Amendment - Public Works, 10 Minutes**
- 10.C SCADA System Upgrades Contract - Public Works, 10 Minutes**
- 10.D COVID-19 Response Summary and Spending 10 Minutes**
- 10.E Resolution No. 2021-01 to Update the City Fee Schedule - Finance, 5 Minutes**
- 10.F (x PM) Ordinance No. 2020-04, Adopting Small Wireless Facility Design Standards 30 Minutes  
Ordinance No. 2020-04, Adopting Small Wireless Facility Design Standards - Public Hearing Draft**

**11. CONSENT AGENDA**

**12. COMMITTEE REPORTS**

**13. FOR THE GOOD OF THE ORDER**

**14. ADJOURNMENT**

**15. FUTURE COUNCIL AGENDAS**

**GUIDING PRINCIPLES**

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CITY OF  
BAINBRIDGE ISLAND

## City Council Study Session Agenda Bill

**MEETING DATE:** January 5, 2021

**ESTIMATED TIME:** 10 Minutes

**AGENDA ITEM:** (6:45 PM) Update on the Development Moratorium - Planning,

**SUMMARY:** On September 22, 2020, the City Council approved Ordinance No. 2020-24 to extend the development moratorium "as is" for an additional six months through April 3, 2021. On October 27, 2020, the Council approved Ordinance No. 2020-29 which further narrowed the development moratorium to apply only to those properties within the shoreline jurisdiction within the Winslow Master Plan Study Area. See attached Work Program Status Report, moratorium summary, and Ordinance Nos. 2020-24 and 2020-29.

In extending the development moratorium, the Council removed affordable housing from the moratorium work program. Completing the integration of the Critical Area Ordinance (CAO) into the Shoreline Master Program (SMP) is the sole remaining item on the work program. The City expects to complete this work prior to April 3, 2021, and the Council has indicated that the development moratorium could be ended prior to that date, once the CAO/SMP amendment is approved by the Washington State Department of Ecology (which is required) and in effect. The Council adopted the CAO/SMP amendment via Ordinance No. 2020-17 on November 24, 2020. City staff have transmitted the SMP amendment to Ecology in accordance with WAC 173-26-110. See attached moratorium work program status report for the status on this item.

**AGENDA CATEGORY:** Discussion

**PROPOSED BY:** Planning & Community Development

**RECOMMENDED MOTION:** Information only.

**STRATEGIC PRIORITY:** Green, Well-Planned Community

**FISCAL IMPACT:**

|                                    |  |
|------------------------------------|--|
| <b>Amount:</b>                     |  |
| <b>Ongoing Cost:</b>               |  |
| <b>One-Time Cost:</b>              |  |
| <b>Included in Current Budget?</b> |  |

**BACKGROUND:** City staff have been working to address the issues identified in the development moratorium (Ordinance No. 2018-02, amended by Ordinance Nos. 2018-03, 2018-05, 2018-09, 2018-14, 2018-23, 2018-41, 2018-43, 2019-10, 2019-26, 2020-09, 2020-24, and 2020-29). Additional background about the development moratorium can be viewed on the City's website:

<https://www.bainbridgewa.gov/968/Six-Month-Temporary-Building-Moratorium>.

**ATTACHMENTS:**

[Moratorium Work Program Status Report](#)

[Development Moratorium Summary Effective 20201104.pdf](#)

[Ordinance No. 2020-29 Further Narrowing the Development Moratorium to Shoreline Properties within the WMPA Approved 102720.pdf](#)

[Ordinance No. 2020-29 Exhibit B Winslow Master Plan Study Area Approved 102720.pdf](#)

[ORD NO. 2020-24 EXTENDING THE DEVELOPMENT MORATORIUM.pdf](#)

**FISCAL DETAILS:**

**Fund Name(s):**

**Coding:**

| Moratorium Topic  | Status   | Timeline   |
|---|--|--|
| <p>Integrate the Critical Areas Ordinance into the Shoreline Master Program</p> | <p>Incomplete.</p>   | <p>Integrate the updated critical areas ordinance (CAO) into the Shoreline Master Program (SMP). The City sent a draft ordinance to the Dept. of Ecology (Ecology) and received their response on December 9, 2019. Ecology determined that the amendment is largely consistent but has identified elements that appear inconsistent with applicable laws and rules. Due to COVID-19, City staff held a rescheduled March 2020 City Council discussion about Ecology’s response during the June 23, 2020 Council meeting. At that meeting, the Council authorized staff to move forward with the preparation of an ordinance (Ordinance No. 2020-17) that incorporated Ecology’s required changes, staff’s recommended changes based on Ecology’s recommended changes, and staff’s own recommended changes.</p> <p>On September 22, 2020, the Council held a public hearing on Ordinance No. 2020-17, but held off on adopting the ordinance to ensure that the SEPA process was completed prior to adoption. The City Council adopted Ordinance No. 2020-17 on November 24, 2020.</p> |
| <p>Status on December 28, 2020:</p>   | <p>Incomplete: A SEPA Determination of Nonsignificance (DNS) was reissued on October 2, 2020, with the SEPA comment ending on October 16 and the SEPA appeal period ending on October 23, 2020. No additional comments or appeal was received. The City Council adopted Ordinance No. 2020-17 on November 24, 2020. City staff transmitted the SMP amendment to Ecology in accordance with WAC 173-26-110 and it will become effective 14 days after final approval by Ecology. Staff will inform the Council upon final Ecology approval.</p> |  |

November 4, 2020

**DEVELOPMENT MORATORIUM SUMMARY:** Effective beginning January 9, 2018. The moratorium has been narrowed several times, including most recently effective December 4, 2019, and that form of the moratorium has been extended to April 3, 2021.

On September 22, 2020, the City Council extended the development moratorium **AS IS** again by approving Ordinance 2020-24. On October 27, the City Council **NARROWED** the development moratorium further by approving Ordinance 2020-29. The development moratorium in its current form is described below.

**Development Activity PROHIBITED During Current Development Moratorium (November 4, 2020-April 3, 2021)**

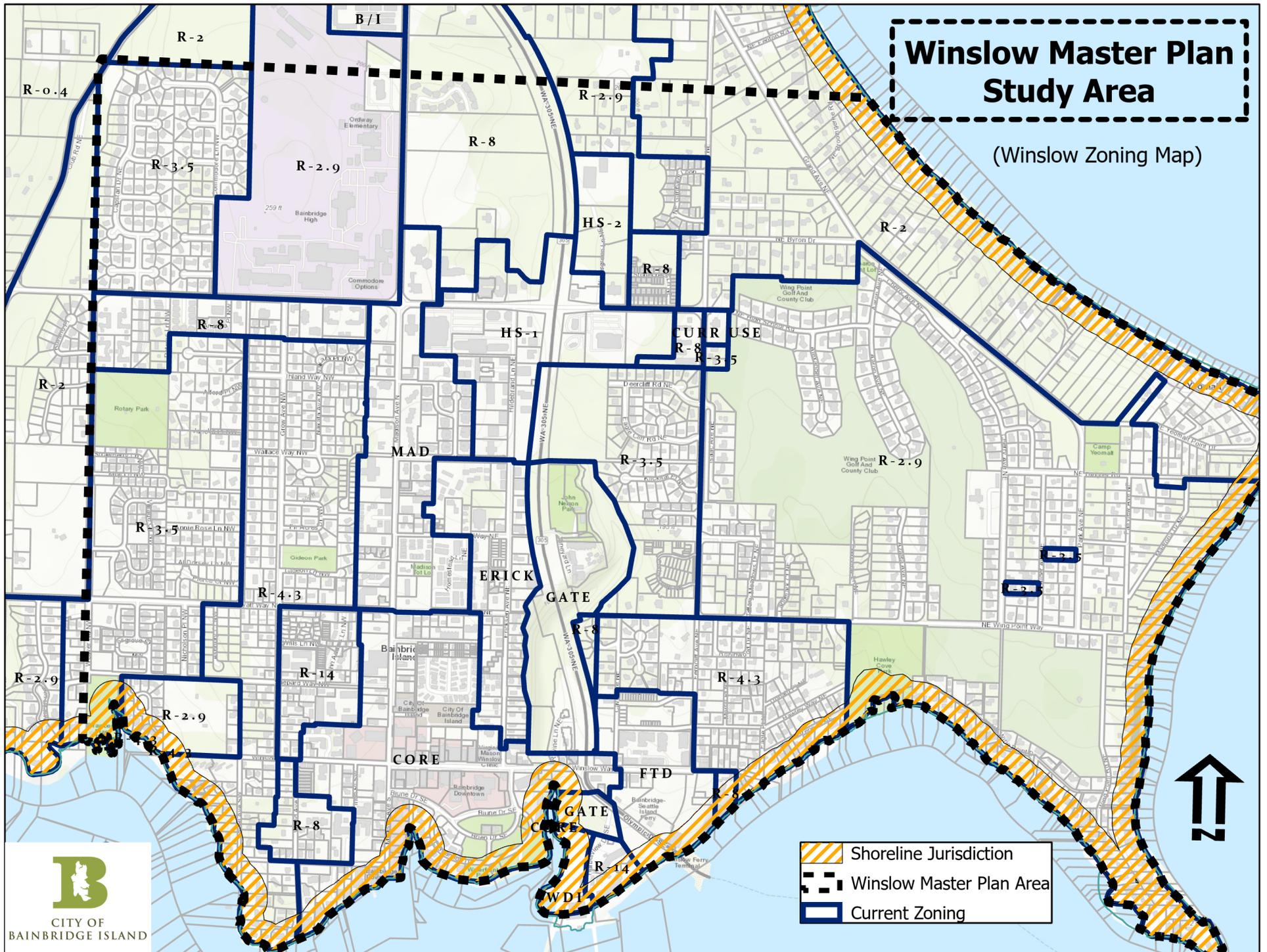
Subject to the exclusions below, the moratorium shall apply to Major Site Plan and Design Review and Major Conditional Use Permit proposals that are for development within the shoreline jurisdiction within the Winslow Master Plan Study Area (see map on next page) and did not, before the effective date of the moratorium, have a pre-application conference on the Planning Department's calendar.

***EXCEPTIONS to the Above Development Activities Prohibited During the Narrowed Moratorium:***

Exclusions.

1. The moratorium shall not apply in the Mixed-Use Town Center/Central Core Overlay District.
2. The moratorium shall not apply to development proposals that include 10% or more of total residential units designated as affordable housing. "Affordable housing" means affordable housing as governed by Chapters 18.21 and 18.12 of the Bainbridge Island Municipal Code ("BIMC"), as well as BIMC 18.36.030.
3. The moratorium shall not apply to subdivisions.
4. The moratorium shall not apply to permits and approvals for affordable housing projects that qualify as Housing Design Demonstration Project (HDDP) Tier 3 projects pursuant to BIMC 2.16.020.S. and Table 2.16.020.S-1.
5. The moratorium shall not apply to permits and approvals for government facilities and structures; educational facilities and preschools; wireless communication facilities; and emergency medical and disaster relief facilities.

# EXHIBIT B



## **ORDINANCE NO. 2020-29**

**AN ORDINANCE** of the City of Bainbridge Island, Washington, adopted pursuant to RCW 35A.63.220 and RCW 36.70A.390; amending Ordinance No. 2020-24; providing for severability; leaving the effective date of the moratorium unchanged; narrowing the moratorium to those properties within the shoreline jurisdiction within the Winslow Master Plan Study Area; and leaving the duration of the moratorium unchanged, which is until April 3, 2021.

**WHEREAS**, on January 9, 2018, the City Council enacted Ordinance No. 2018-02 and thereby established a temporary emergency moratorium on the acceptance and processing of certain Permit Applications, as defined in Section 2 of Ordinance No. 2018-02; and

**WHEREAS**, the City Council and City staff received feedback and comment from individuals related to the moratorium and, based partly on that feedback and comment, the Council determined that certain exclusions to the moratorium needed to be amended to clarify the Council's intent regarding such exclusions; and

**WHEREAS**, on January 16, 2018, the Council enacted Ordinance No. 2018-03, which amended Ordinance No. 2018-02 to clarify some of the exclusions; and

**WHEREAS**, the Council and City staff received additional feedback and comment from individuals related to the moratorium and, based partly on that feedback, the Council determined that further amendment was necessary to clarify which types of activities are subject to the moratorium, and which activities are excluded from the moratorium; and

**WHEREAS**, on February 15, 2018, the Council enacted Ordinance No. 2018-05, which amended and restated Ordinance No. 2018-02 and Ordinance No. 2018-03; and

**WHEREAS**, based on additional information and consideration related to educational facilities and preschools, as well as related to the applicability of the moratorium in the Mixed Use Town Center/Central Core Overlay District, on March 13, 2018, the Council approved Ordinance No. 2018-09 to further clarify which types of activities are subject to the moratorium, and which activities are excluded from the moratorium; and

**WHEREAS**, this moratorium was imposed, in part, to allow the City Council and City staff adequate time to complete the Critical Areas Ordinance Update process, and to address the Council's concerns about the City's development review process, standards, and guidelines, as well as regarding affordable housing related issues; and

**WHEREAS**, the Council adopted the Critical Areas Ordinance Update (Ordinance No. 2018-01) on February 27, 2018, and the updated Critical Areas Ordinance took effect on April 23, 2018; and

**WHEREAS**, critical areas within the City's shoreline jurisdiction are regulated by the City's shoreline master program (see, e.g., Chapter 16.12 BIMC, RCW 36.70A.480(3)(b)); and

**WHEREAS**, integration of applicable critical areas regulations into the shoreline master program is essential to ensuring adequate protection of critical areas within the shoreline jurisdiction and no net loss of shoreline ecological functions; and

**WHEREAS**, regulations for critical areas within the City's shoreline jurisdiction are in the process of being updated through an amendment of the City's shoreline master program consistent with the Shoreline Management Act and that amendment process was ongoing as of July 9, 2018, which was the original date that the moratorium was set to expire, and that process continues to be ongoing; and

**WHEREAS**, the City Council approved Ordinance No. 2018-14 on April 24, 2018, amending the development moratorium in order to have the provisions of Section 3.B. only apply within the City's shoreline jurisdiction areas (Chapter 16.12 BIMC); and

**WHEREAS**, a number of moratorium priorities were identified at a joint meeting of the City's Design Review Board and Planning Commission on February 22, 2018, including the following:

- (1) Revise review procedures for preliminary subdivisions to include the Design Review Board and Planning Commission in process; and
- (2) Analyze alternatives to decision-making authority for the Design Review Board, Planning Commission, and Hearing Examiner for subdivisions, conditional use permits, and site plan and design review; and
- (3) Identify specific development standards to review/revise in Chapters 18.12 and 18.15 of the Bainbridge Island Municipal Code; and
- (4) Initiate rewrite of subdivision design standards in Chapter 17.12 of the Bainbridge Island Municipal Code; and

**WHEREAS**, at the April 3, 2018, City Council study session, the City's Department of Planning and Community Development provided a briefing on the Design Review Board and Planning Commission joint meeting wherein the Council authorized staff to proceed with a work plan addressing the priorities identified at the joint meeting; and

**WHEREAS**, on April 2 and 23, May 7 and 21, June 4 and 18, August 6, 13, and 20, September 4 and 17, and October 15, 2018, the City's Design Review Board discussed alternatives for revisions to the City's land use review procedures and/or subdivision design guidelines; and

**WHEREAS**, on March 22, May 10, June 7, 14, and 21, July 12 and 26, August 9, 23, and 30, September 13 and 27, October 25, November 8 and 29, and December 13, 2018, as well as on January 10, and February 13 and 28, 2019, the City's Planning Commission discussed

alternatives for revisions to the City’s land use review procedures, subdivision design guidelines, and/or subdivision standards; and

**WHEREAS**, the City provided legal background on the roles of land use bodies, presented in a memorandum from attorney James E. Haney (outside legal counsel for the City) entitled, “*Roles of City Council, Planning Commission, Design Review Board, and Hearing Examiner in Land Use Permits*,” dated June 1, 2018, and the City Council had a special workshop related to land use review procedures on August 27, 2018; and

**WHEREAS**, the City’s Planning Commission completed their review of land use review procedures and forwarded their recommendations on those issues to the City Council, and on December 11, 2018, the Council enacted Ordinance No. 2018-20 related to revisions and updates to the City’s land use review procedures; and

**WHEREAS**, in addition to updating standards, guidelines, and land use procedures, another moratorium work plan item was to update the decision criteria for Site Plan and Design Review and Conditional Use Permits to ensure that future development is appropriately and thoroughly analyzed; and

**WHEREAS**, together with the land use review procedural changes approved by Ordinance No. 2018-20, amending the Site Plan and Design Review and Conditional Use Permits decision criteria implements Land Use Element Policies LU 6.5 and LU 6.8; and

**WHEREAS**, the Planning Commission discussed Ordinance No. 2019-24 modifying the decision criteria for Site Plan and Design Review during five meetings in 2019, including on March 14, August 8 and 22 (public hearing), September 5 and 26, and October 10, 2019, and recommended approval to the City Council; and

**WHEREAS**, the City Council discussed Ordinance No. 2019-24 on November 26, 2019 and again on December 10, 2019 and approved the ordinance on December 10, 2019; and

**WHEREAS**, as part of the Planning Commission’s review and consideration of the City’s subdivision review procedures, design guidelines, and standards, the Commission reviewed the proposed ordinance related to such regulations, Ordinance No. 2019-03; and

**WHEREAS**, on February 13, 2019, and continuing to February 28, 2019, the Planning Commission conducted a public hearing on Ordinance No. 2019-03, and subsequently forwarded the proposed ordinance and their recommendations to the City Council; and

**WHEREAS**, each of the multiple Design Review Board and Planning Commission meetings as described above included an opportunity for public comment on the alternatives for revisions to the City’s subdivision guidelines, standards, dimensional standards, and/or land use review procedures; and

**WHEREAS**, the City Council reviewed and considered proposed updates to the City's subdivision regulations at regularly scheduled meetings on September 4 and 11, October 9, and December 4, 2018, and January 22, 2019; and

**WHEREAS**, the City Council considered the Planning Commission's recommendations related to proposed updates to the City's subdivision regulations as included in Ordinance No. 2019-03, including at Council meetings on March 19, April 2 and 16, May 28, and July 23, 2019;

**WHEREAS**, the City Council held a public hearing on Ordinance No. 2019-03 on August 27, 2019 and September 24, 2019; and

**WHEREAS**, the City Council approved Ordinance No. 2019-03 on September 24, 2019 related to updates to the City's subdivision regulations, and the ordinance went into effect on October 24, 2019; and

**WHEREAS**, City staff worked with the Design Review Board and a consultant team related to updating the City's Design Guidelines (BIMC 18.18.030) more generally (i.e., the design guidelines that aren't included in the separate effort described above related to design guidelines for subdivisions), and that work was completed in August 2019; and

**WHEREAS**, on January 30 and May 22, 2019, the City hosted public meetings on the design review regulations update; and

**WHEREAS**, on March 18, April 1, May 6, June 17, and July 15, 2019, the City's Design Review Board discussed the design review regulations update; and

**WHEREAS**, at the February 5 and June 4, 2019 City Council study sessions, the City's consultant, Framework, provided briefings on the design review regulations update; and

**WHEREAS**, the Planning Commission held a public hearing on Ordinance No. 2019-25 (related to design review regulations) on September 5, 2019; and

**WHEREAS**, City staff provided the Planning Commission's September 5, 2019 recommendations related to the design review regulations update to the City Council for consideration at the Council's September 17, 2019 study session; and

**WHEREAS**, the City Council held a public hearing on Ordinance No. 2019-25 and subsequently approved the ordinance on September 24, 2019, after considering the input it received related to Ordinance No. 2019-25 prior to adopting the ordinance; and

**WHEREAS**, on June 12, 2018, the City Council authorized the execution of a professional services agreement to conduct an economic market analysis and feasibility study regarding a new inclusionary zoning program and updates to the City's Transfer of Development Rights program, both of which address affordable housing related issues; and

**WHEREAS**, on July 24, 2018, the Affordable Housing Task Force (“AHTF”) presented its final report to the City Council and the Council discussed the recommendations more thoroughly on August 21, 2018; and

**WHEREAS**, on October 2 and December 4, 2018, the City Council received a project update on the economic market analysis from the consultant (ECONorthwest/Forterra) related to inclusionary zoning and possible updates to the City’s Transfer of Development program; and

**WHEREAS**, on February 19, 2019, the City Council reviewed and provided direction to staff related to the ECONorthwest/Forterra final report and the AHTF report recommendations, and the Council discussed the status of the Council’s Affordable Housing Ad Hoc Committee; and

**WHEREAS**, City staff members continue to work on prioritizing and organizing work on the inclusionary zoning and other AHTF report recommendations which were endorsed by the Council at its February 19, 2019, meeting and work is ongoing in this effort; and

**WHEREAS**, the City Council had policy discussions on September 17, 2019 and February 4, 2020 regarding inclusionary zoning or multifamily property tax exemption programs; and

**WHEREAS**, on February 27, 2018, the City Council was provided with a moratorium work program; and

**WHEREAS**, on April 10, May 22, June 5, June 19, July 17, August 21, September 4 and 18, October 2 and 16, November 6 and 20, and December 4, 2018, as well as on January 15, February 5 and 19, March 5 and 19, April 2 and 16, May 7 and 21, June 4 and 18, July 2 and 16, August 6 and 20, September 3 and 17, November 5, and December 3, 2019, and January 7, February 4, March 3, April 7, May 5, June 2, July 7, August 4, September 1, 2020, October 6, 2020 the City Council was provided further moratorium work program status report updates; and

**WHEREAS**, on June 26, 2018, the City Council held a public hearing and approved Ordinance No. 2018-23, extending the development moratorium for another 90 days until October 9, 2018; and

**WHEREAS**, on September 25, 2018, the City Council held a public hearing and approved Ordinance No. 2018-41, and thereby extended the development moratorium for another six (6) months, and in so doing narrowed the moratorium to remove two-lot short subdivisions in which there is an existing single-family residence from the moratorium; and

**WHEREAS**, on October 16, 2018, the City Council discussed integrating critical area regulations into the Shoreline Master Program (Chapter 16.12 BIMC) and made the policy decision to not apply new Aquifer Recharge Protection Area regulations (BIMC 16.20.100) within the City’s shoreline jurisdiction areas; and

**WHEREAS**, as a result of that policy decision, and the City Council’s affirmation on October 23, 2018 that the moratorium should be narrowed in that manner, the Council directed staff to prepare an ordinance to entirely remove Section 3.B. (which, in effect, applied the Aquifer Recharge Protection Area regulations in the City’s shoreline jurisdiction areas) from the moratorium; and

**WHEREAS**, on October 23, 2018, the City Council discussed additional revisions to the development moratorium, including related to excluding from the moratorium certain permit applications for development in the Business/Industrial zoning district, and the Council directed staff to prepare an ordinance to narrow the moratorium accordingly; and

**WHEREAS**, on October 23, 2018, the City Council also discussed potentially further narrowing provisions of the moratorium related to applications for new short subdivisions that the Council had previously narrowed, and the Council decided to not take such action at that time pending the Planning Commission’s ongoing but not yet completed work related to subdivisions, including new subdivision design guidelines and revised subdivision standards and review procedures; and

**WHEREAS**, on October 23, 2018, the City Council also discussed issues related to making condominiums out of accessory dwelling units (“ADUs”) and common ownership of ADUs, and the Council directed staff to work on possible revisions to the BIMC to allow the Council to further consider the common ownership issue related to ADUs; and

**WHEREAS**, the City Council discussed requiring common ownership for new ADUs at its meetings on June 18, July 23, September 10, and October 22, 2019, and directed staff to begin legislative review with the Planning Commission to adopt such regulations via draft Ordinance No. 2019-09; and

**WHEREAS**, the Planning Commission discussed Ordinance No. 2019-09 on December 12, 2019 and then held a public hearing on Ordinance No. 2020-02 (formerly Ordinance No. 2019-09) on January 9, 2020; and

**WHEREAS**, on January 9, 2020, the Planning Commission created a temporary subcommittee to further discuss these topics and other ADU regulations, and that subcommittee submitted recommended changes related to Ordinance No. 2020-02 to the Planning Commission at its February 13, 2020 meeting; and

**WHEREAS**, the Planning Commission endorsed the subcommittee recommendations on February 13, 2020, and reviewed amended Ordinance No. 2020-02 on February 27, 2020; and

**WHEREAS**, the Planning Commission held another public hearing on Ordinance No. 2020-02 on March 12, 2020, and after closing the public hearing, recommended approval of Ordinance No. 2020-02 to the City Council; and

**WHEREAS**, on November 13, 2018, the City Council approved Ordinance No. 2018-43, and thereby narrowed the moratorium as requested by the Council and described above related to

entirely removing Section 3.B. (which, in effect, applied the Aquifer Recharge Protection Area regulations in the City’s shoreline jurisdiction areas) from the moratorium, and broadening an exclusion related to certain Major Site Plan and Design Review and Major Conditional Use Permit proposals to include in that exclusion such proposals for properties located in the Business/Industrial District; and

**WHEREAS**, although the City has been working to address the land use issues identified in the development moratorium, as described above, the work is ongoing and not yet completed on affordable housing and some other moratorium work plan items; and

**WHEREAS**, on September 3 and 10, 2019, the City Council discussed the moratorium, including the option of extending it for two additional months (to December 3, 2019) to allow time for public outreach to educate the public about the new subdivision standards and design review regulations and to possibly extend a more narrow form of the moratorium beyond December 3, 2019, in order to adopt affordable housing requirements; and

**WHEREAS**, it was anticipated that an extended moratorium would be narrowed to apply only to certain types of development in the Winslow Master Plan Study Area, with some exceptions; and

**WHEREAS**, on September 24, 2019, the City Council enacted Ordinance No. 2019-26, which extended the moratorium in its then-current form until December 3, 2019, and in a more narrow form from December 4, 2019, until April 3, 2020; and

**WHEREAS**, the City Council had a policy discussion on February 4, 2020 regarding inclusionary zoning and multifamily property tax exemption programs, and on June 22, 2020 tasked a joint City Council/Planning Commission Ad Hoc Subcommittee to assist in prioritizing land use code changes, including related to affordable housing and accessory dwelling units; and

**WHEREAS**, on March 24, 2020, the City Council enacted Ordinance No. 2020-09, which extended the moratorium in its current form from April 3, 2020 to October 3, 2020; and

**WHEREAS**, the City submitted a draft ordinance integrating the updated Critical Areas Ordinance (“CAO”) regulations into the Shoreline Master Program (“SMP”) to the Washington State Department of Ecology (“Ecology”) and received Ecology’s response on December 9, 2019; and

**WHEREAS**, due to the COVID-19 public health emergency and pandemic, tens of thousands of persons in Washington State have contracted the virus and more than a thousand persons in the state have died due to the virus thus far and during the time period that this moratorium has been in effect, and the public health emergency is ongoing and is expected to continue for many months, and likely much longer; and

**WHEREAS**, due to the COVID-19 public health emergency and pandemic, the City has been engaged in essential work on a highest-priority basis related to the public health emergency, and as a result City staff and the City Council have had to significantly adjust work priorities

accordingly to address the public health crisis, including related to work that the Council has been able to consider at modified Council meetings during this time period; and

**WHEREAS**, as a result of the public health emergency, the final review and public hearing in response to Ecology’s comments were delayed from March 2020 to June 23, 2020; and

**WHEREAS**, on June 23, 2020, the City Council directed staff to move forward with the preparation of an ordinance that incorporates Ecology’s required and recommended changes, and staff’s own recommended changes, and to schedule a public hearing for that ordinance at a future meeting; and

**WHEREAS**, on September 1, 2020, as part of the moratorium update, the City Council directed staff that due to the passage of time that has occurred regarding the variety of topics on the moratorium work plan related to affordable housing, and in that such work on affordable housing at this point is expected to continue in various ways, the Council’s expectation is that such work can continue outside of this moratorium and, as such, the Council directed staff to update the moratorium work plan to remove the affordable housing topic from the work plan; and

**WHEREAS**, on September 8, 2020, the City Council considered this Ordinance No. 2020-24, which is the ordinance that City staff prepared as directed by the Council at its September 1, 2020 meeting, including related to the revised work plan, and the Council set the public hearing on the ordinance for September 22, 2020; and

**WHEREAS**, regarding the remaining item on the moratorium work plan, on September 22, 2020, the City Council conducted a public hearing on an ordinance related to integrating the CAO into the SMP, which is Ordinance No. 2020-17, and that ordinance will be coming back to the City Council for further consideration after additional environmental review is completed; and

**WHEREAS**, the CAO/SMP integration ordinance must be approved by Ecology before it becomes effective, and that Ordinance No. 2020-17 will first be considered further by the City Council and, after adoption by the Council, the ordinance will be transmitted to Ecology for approval, which is expected to occur in the coming months; and

**WHEREAS**, due to the narrowing of the work plan to the CAO/SMP integration, the City Council directed the City Manager during the public hearing on Ordinance No. 2020-24 on September 22, 2020 to bring back an ordinance to further narrow the moratorium to the properties within the shoreline zone within the Winslow Master Plan Study Area; and

**WHEREAS**, under Washington state law and regulations, including RCW 90.58.030(2)(f) and WAC 173-22-030(10), and the City’s regulations, the “shoreline zone” refers to the shoreline jurisdiction, as defined in the Shoreline Master Program, BIMC 16.12.080 as, “the proper term describing all of the geographic areas covered by the Shoreline Management Act, related rules, and the applicable master program. Those lands extending landward for 200

feet in all directions, as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all marshes, bogs, swamps and deltas associated with the streams, lakes, and tidal waters subject to the Shoreline Management Act. Also, such areas within a specified local government's authority.”; and

**WHEREAS**, those properties now impacted by the narrowed moratorium are reflected in Exhibit B; and

**WHEREAS**, the City possesses land use jurisdiction and regulatory authority over the City's incorporated lands; and

**WHEREAS**, the moratorium promotes the public good and is necessary for the protection of public health, property, safety, and welfare, and the public emergency on which this moratorium was imposed continues to exist and this ordinance does not change the basis for that declaration of emergency, except as described above, nor the effective date of the moratorium, which is January 9, 2018.

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

**Section 1. Findings of Fact.** The recitals set forth above are hereby adopted as additional and supplemental findings of fact to the City Council's initial findings of fact in support of the moratorium, as established by Ordinance Nos. 2018-02, 2018-03, 2018-05, 2018-09, 2018-14, 2018-23, 2018-41, 2018-43, 2019-10, 2019-26, 2020-09, and 2020-24.

**Section 2. Public Hearing.** Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council conducted a public hearing on the most recent extension of the moratorium at its meeting on September 22, 2020, and took public testimony and considered further findings of fact.

**Section 3. Moratorium Amended.** The moratorium is hereby amended, as also stated in Section 7 below, such that the moratorium is narrowed to apply only to the properties within the shoreline zone within the Winslow Master Plan Study Area, as identified in attached Exhibit B, and as incorporated herein.

**Section 4. Moratorium Work Plan.** As provided for under RCW 35A.63.220 and RCW 36.70A.390, the City may renew a moratorium for one or more six-month periods if a work plan has been developed, a public hearing has been held, and findings of fact have been made, and the City has thereby previously extended the moratorium as described herein based on the work plan that has been developed and the findings of fact that have been made in this ordinance and the previous ordinances related to this moratorium. The work plan was last updated when the City Council, after conducting a public hearing on September 22, 2020, extended the moratorium to April 3, 2021. This current ordinance does not change the duration of the moratorium. The ordinance further narrows the moratorium, and the work plan attached as Exhibit A and incorporated herein is updated to reflect the current status of the moratorium.

**Section 5. Severability.** 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 6. No Change to Basis for Declaration of Emergency or Effective Date.** This ordinance shall take effect and be in force five (5) days from and after its passage and publication as required by law. Provided, that this ordinance is not intended to change the basis of the emergency declarations stated in the moratorium ordinances which preceded this ordinance, Ordinance Nos. 2018-02, 2018-03, 2018-05, 2018-09, 2018-14, 2018-23, 2018-41, 2018-43, 2019-10, 2019-26, 2020-09, and 2020-24, except as described in the “Whereas” clauses of this ordinance. Pursuant to *Matson v. Clark County Board of Commissioners*, 79 Wn. App. 641 (1995), non-exhaustive underlying facts necessary to support the emergency declarations adopted as part of the enactment of this moratorium were included in the “Whereas” clauses of Ordinance No. 2018-02 and Ordinance No. 2018-03, and were restated and supplemented in Ordinance No. 2018-05 and Ordinance No. 2018-09, and Ordinance Nos. 2018-14, 2018-23, 2018-41, 2018-43, 2019-10, 2019-26, 2020-09, and 2020-24, as well as in this ordinance, and those “Whereas” clauses are adopted as findings of fact.

**Section 7. No Change in Duration.** This ordinance amends Ordinance No. 2020-24 and does not change the duration of the moratorium, which is until April 3, 2021, unless terminated earlier by the City Council. This ordinance does not change the effective date of the moratorium, which is January 9, 2018. The Council may, at its sole discretion, renew the moratorium for one or more six (6) month periods in accordance with state law. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City.

PASSED by the City Council this 27<sup>th</sup> day of October, 2020.

APPROVED by the Mayor this 27<sup>th</sup> day of October, 2020.



Leslie Schneider, Mayor

ATTEST/AUTHENTICATE:



Christine Brown, CMC, City Clerk

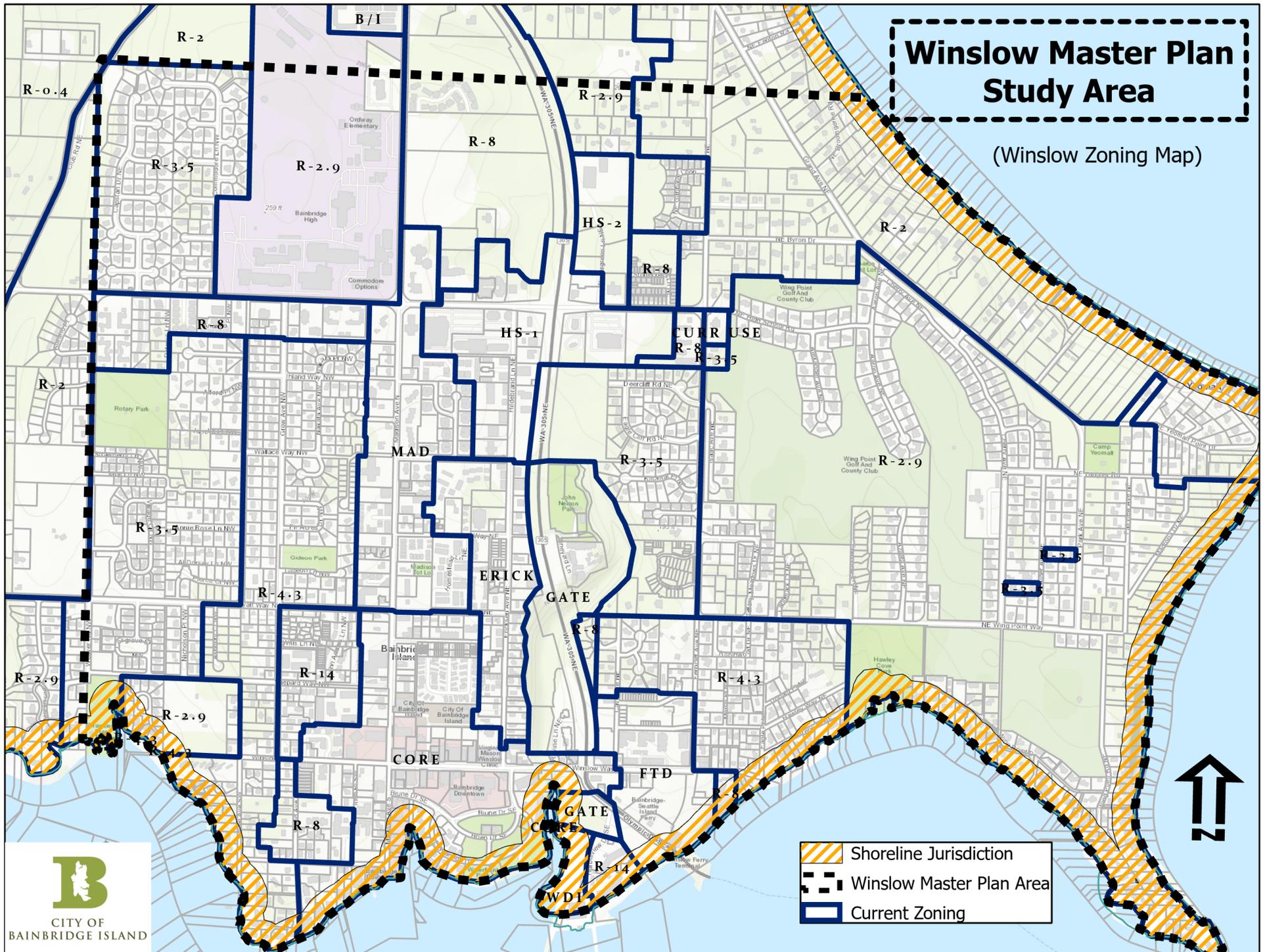
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|----------------------------|------------------|
| FILED WITH THE CITY CLERK  | October 23, 2020 |
| PASSED BY THE CITY COUNCIL | October 27, 2020 |
| PUBLISHED:                 | October 30, 2020 |
| EFFECTIVE DATE:            | November 4, 2020 |
| ORDINANCE NO:              | 2020-29          |

Attached:

Exhibit A (Updated Work Plan)

Exhibit B (Properties within the Shoreline Jurisdiction and within the Winslow Master Plan Study Area)

# EXHIBIT B



## **ORDINANCE NO. 2020-24**

**AN ORDINANCE** of the City of Bainbridge Island, Washington, adopted pursuant to RCW 35A.63.220 and RCW 36.70A.390; amending Ordinance No. 2020-09; providing for severability; leaving the effective date of the moratorium unchanged; and extending the moratorium for six months to April 3, 2021.

**WHEREAS**, on January 9, 2018, the City Council enacted Ordinance No. 2018-02 and thereby established a temporary emergency moratorium on the acceptance and processing of certain Permit Applications, as defined in Section 2 of Ordinance No. 2018-02; and

**WHEREAS**, the City Council and City staff received feedback and comment from individuals related to the moratorium and, based partly on that feedback and comment, the Council determined that certain exclusions to the moratorium needed to be amended to clarify the Council's intent regarding such exclusions; and

**WHEREAS**, on January 16, 2018, the Council enacted Ordinance No. 2018-03, which amended Ordinance No. 2018-02 to clarify some of the exclusions; and

**WHEREAS**, the Council and City staff received additional feedback and comment from individuals related to the moratorium and, based partly on that feedback, the Council determined that further amendment was necessary to clarify which types of activities are subject to the moratorium, and which activities are excluded from the moratorium; and

**WHEREAS**, on February 15, 2018, the Council enacted Ordinance No. 2018-05, which amended and restated Ordinance No. 2018-02 and Ordinance No. 2018-03; and

**WHEREAS**, based on additional information and consideration related to educational facilities and preschools, as well as related to the applicability of the moratorium in the Mixed Use Town Center/Central Core Overlay District, on March 13, 2018, the Council approved Ordinance No. 2018-09 to further clarify which types of activities are subject to the moratorium, and which activities are excluded from the moratorium; and

**WHEREAS**, this moratorium was imposed, in part, to allow the City Council and City staff adequate time to complete the Critical Areas Ordinance Update process, and to address the Council's concerns about the City's development review process, standards, and guidelines, as well as regarding affordable housing related issues; and

**WHEREAS**, the Council adopted the Critical Areas Ordinance Update (Ordinance No. 2018-01) on February 27, 2018, and the updated Critical Areas Ordinance took effect on April 23, 2018; and

**WHEREAS**, critical areas within the City's shoreline jurisdiction are regulated by the City's shoreline master program (see, e.g., Chapter 16.12 BIMC, RCW 36.70A.480(3)(b)); and

**WHEREAS**, integration of applicable critical areas regulations into the shoreline master program is essential to ensuring adequate protection of critical areas within the shoreline jurisdiction and no net loss of shoreline ecological functions; and

**WHEREAS**, regulations for critical areas within the City’s shoreline jurisdiction are in the process of being updated through an amendment of the City’s shoreline master program consistent with the Shoreline Management Act and that amendment process was ongoing as of July 9, 2018, which was the original date that the moratorium was set to expire, and that process continues to be ongoing; and

**WHEREAS**, the City Council approved Ordinance No. 2018-14 on April 24, 2018, amending the development moratorium in order to have the provisions of Section 3.B. only apply within the City’s shoreline jurisdiction areas (Chapter 16.12 BIMC); and

**WHEREAS**, a number of moratorium priorities were identified at a joint meeting of the City’s Design Review Board and Planning Commission on February 22, 2018, including the following:

- (1) Revise review procedures for preliminary subdivisions to include the Design Review Board and Planning Commission in process; and
- (2) Analyze alternatives to decision-making authority for the Design Review Board, Planning Commission, and Hearing Examiner for subdivisions, conditional use permits, and site plan and design review; and
- (3) Identify specific development standards to review/revise in Chapters 18.12 and 18.15 of the Bainbridge Island Municipal Code; and
- (4) Initiate rewrite of subdivision design standards in Chapter 17.12 of the Bainbridge Island Municipal Code; and

**WHEREAS**, at the April 3, 2018, City Council study session, the City’s Department of Planning and Community Development provided a briefing on the Design Review Board and Planning Commission joint meeting wherein the Council authorized staff to proceed with a work plan addressing the priorities identified at the joint meeting; and

**WHEREAS**, on April 2 and 23, May 7 and 21, June 4 and 18, August 6, 13, and 20, September 4 and 17, and October 15, 2018, the City’s Design Review Board discussed alternatives for revisions to the City’s land use review procedures and/or subdivision design guidelines; and

**WHEREAS**, on March 22, May 10, June 7, 14, and 21, July 12 and 26, August 9, 23, and 30, September 13 and 27, October 25, November 8 and 29, and December 13, 2018, as well as on January 10, and February 13 and 28, 2019, the City’s Planning Commission discussed alternatives for revisions to the City’s land use review procedures, subdivision design guidelines, and/or subdivision standards; and

**WHEREAS**, the City provided legal background on the roles of land use bodies, presented in a memorandum from attorney James E. Haney (outside legal counsel for the City) entitled, “*Roles of City Council, Planning Commission, Design Review Board, and Hearing Examiner in Land Use Permits*,” dated June 1, 2018, and the City Council had a special workshop related to land use review procedures on August 27, 2018; and

**WHEREAS**, the City’s Planning Commission completed their review of land use review procedures and forwarded their recommendations on those issues to the City Council, and on December 11, 2018, the Council enacted Ordinance No. 2018-20 related to revisions and updates to the City’s land use review procedures; and

**WHEREAS**, in addition to updating standards, guidelines, and land use procedures, another moratorium work plan item was to update the decision criteria for Site Plan and Design Review and Conditional Use Permits to ensure that future development is appropriately and thoroughly analyzed; and

**WHEREAS**, together with the land use review procedural changes approved by Ordinance No. 2018-20, amending the Site Plan and Design Review and Conditional Use Permits decision criteria implements Land Use Element Policies LU 6.5 and LU 6.8; and

**WHEREAS**, the Planning Commission discussed Ordinance No. 2019-24 modifying the decision criteria for Site Plan and Design Review during five meetings in 2019, including on March 14, August 8 and 22 (public hearing), September 5 and 26, and October 10, 2019, and recommended approval to the City Council; and

**WHEREAS**, the City Council discussed Ordinance No. 2019-24 on November 26, 2019 and again on December 10, 2019 and approved the ordinance on December 10, 2019; and

**WHEREAS**, as part of the Planning Commission’s review and consideration of the City’s subdivision review procedures, design guidelines, and standards, the Commission reviewed the proposed ordinance related to such regulations, Ordinance No. 2019-03; and

**WHEREAS**, on February 13, 2019, and continuing to February 28, 2019, the Planning Commission conducted a public hearing on Ordinance No. 2019-03, and subsequently forwarded the proposed ordinance and their recommendations to the City Council; and

**WHEREAS**, each of the multiple Design Review Board and Planning Commission meetings as described above included an opportunity for public comment on the alternatives for revisions to the City’s subdivision guidelines, standards, dimensional standards, and/or land use review procedures; and

**WHEREAS**, the City Council reviewed and considered proposed updates to the City’s subdivision regulations at regularly scheduled meetings on September 4 and 11, October 9, and December 4, 2018, and January 22, 2019; and

**WHEREAS**, the City Council considered the Planning Commission’s recommendations related to proposed updates to the City’s subdivision regulations as included in Ordinance No. 2019-03, including at Council meetings on March 19, April 2 and 16, May 28, and July 23, 2019;

**WHEREAS**, the City Council held a public hearing on Ordinance No. 2019-03 on August 27, 2019 and September 24, 2019; and

**WHEREAS**, the City Council approved Ordinance No. 2019-03 on September 24, 2019 related to updates to the City’s subdivision regulations, and the ordinance went into effect on October 24, 2019; and

**WHEREAS**, City staff worked with the Design Review Board and a consultant team related to updating the City’s Design Guidelines (BIMC 18.18.030) more generally (i.e., the design guidelines that aren’t included in the separate effort described above related to design guidelines for subdivisions), and that work was completed in August 2019; and

**WHEREAS**, on January 30 and May 22, 2019, the City hosted public meetings on the design review regulations update; and

**WHEREAS**, on March 18, April 1, May 6, June 17, and July 15, 2019, the City’s Design Review Board discussed the design review regulations update; and

**WHEREAS**, at the February 5 and June 4, 2019 City Council study sessions, the City’s consultant, Framework, provided briefings on the design review regulations update; and

**WHEREAS**, the Planning Commission held a public hearing on Ordinance No. 2019-25 (related to design review regulations) on September 5, 2019; and

**WHEREAS**, City staff provided the Planning Commission’s September 5, 2019 recommendations related to the design review regulations update to the City Council for consideration at the Council’s September 17, 2019 study session; and

**WHEREAS**, the City Council held a public hearing on Ordinance No. 2019-25 and subsequently approved the ordinance on September 24, 2019, after considering the input it received related to Ordinance No. 2019-25 prior to adopting the ordinance; and

**WHEREAS**, on June 12, 2018, the City Council authorized the execution of a professional services agreement to conduct an economic market analysis and feasibility study regarding a new inclusionary zoning program and updates to the City’s Transfer of Development Rights program, both of which address affordable housing related issues; and

**WHEREAS**, on July 24, 2018, the Affordable Housing Task Force (“AHTF”) presented its final report to the City Council and the Council discussed the recommendations more thoroughly on August 21, 2018; and

**WHEREAS**, on October 2 and December 4, 2018, the City Council received a project update on the economic market analysis from the consultant (ECONorthwest/Forterra) related to inclusionary zoning and possible updates to the City's Transfer of Development program; and

**WHEREAS**, on February 19, 2019, the City Council reviewed and provided direction to staff related to the ECONorthwest/Forterra final report and the AHTF report recommendations, and the Council discussed the status of the Council's Affordable Housing Ad Hoc Committee; and

**WHEREAS**, City staff members continue to work on prioritizing and organizing work on the inclusionary zoning and other AHTF report recommendations which were endorsed by the Council at its February 19, 2019, meeting and work is ongoing in this effort; and

**WHEREAS**, the City Council had policy discussions on September 17, 2019 and February 4, 2020 regarding inclusionary zoning or multifamily property tax exemption programs; and

**WHEREAS**, on February 27, 2018, the City Council was provided with a moratorium work program; and

**WHEREAS**, on April 10, May 22, June 5, June 19, July 17, August 21, September 4 and 18, October 2 and 16, November 6 and 20, and December 4, 2018, as well as on January 15, February 5 and 19, March 5 and 19, April 2 and 16, May 7 and 21, June 4 and 18, July 2 and 16, August 6 and 20, September 3 and 17, November 5, and December 3, 2019, and January 7, February 4, March 3, April 7, May 5, June 2, July 7, August 4, and September 1, 2020, the City Council was provided further moratorium work program status report updates; and

**WHEREAS**, on June 26, 2018, the City Council held a public hearing and approved Ordinance No. 2018-23, extending the development moratorium for another 90 days until October 9, 2018; and

**WHEREAS**, on September 25, 2018, the City Council held a public hearing and approved Ordinance No. 2018-41, and thereby extended the development moratorium for another six (6) months, and in so doing narrowed the moratorium to remove two-lot short subdivisions in which there is an existing single-family residence from the moratorium; and

**WHEREAS**, on October 16, 2018, the City Council discussed integrating critical area regulations into the Shoreline Master Program (Chapter 16.12 BIMC) and made the policy decision to not apply new Aquifer Recharge Protection Area regulations (BIMC 16.20.100) within the City's shoreline jurisdiction areas; and

**WHEREAS**, as a result of that policy decision, and the City Council's affirmation on October 23, 2018 that the moratorium should be narrowed in that manner, the Council directed staff to prepare an ordinance to entirely remove Section 3.B. (which, in effect, applied the Aquifer Recharge Protection Area regulations in the City's shoreline jurisdiction areas) from the moratorium; and

**WHEREAS**, on October 23, 2018, the City Council discussed additional revisions to the development moratorium, including related to excluding from the moratorium certain permit applications for development in the Business/Industrial zoning district, and the Council directed staff to prepare an ordinance to narrow the moratorium accordingly; and

**WHEREAS**, on October 23, 2018, the City Council also discussed potentially further narrowing provisions of the moratorium related to applications for new short subdivisions that the Council had previously narrowed, and the Council decided to not take such action at that time pending the Planning Commission's ongoing but not yet completed work related to subdivisions, including new subdivision design guidelines and revised subdivision standards and review procedures; and

**WHEREAS**, on October 23, 2018, the City Council also discussed issues related to making condominiums out of accessory dwelling units ("ADUs") and common ownership of ADUs, and the Council directed staff to work on possible revisions to the BIMC to allow the Council to further consider the common ownership issue related to ADUs; and

**WHEREAS**, the City Council discussed requiring common ownership for new ADUs at its meetings on June 18, July 23, September 10, and October 22, 2019, and directed staff to begin legislative review with the Planning Commission to adopt such regulations via draft Ordinance No. 2019-09; and

**WHEREAS**, the Planning Commission discussed Ordinance No. 2019-09 on December 12, 2019 and then held a public hearing on Ordinance No. 2020-02 (formerly Ordinance No. 2019-09) on January 9, 2020; and

**WHEREAS**, on January 9, 2020, the Planning Commission created a temporary subcommittee to further discuss these topics and other ADU regulations, and that subcommittee submitted recommended changes related to Ordinance No. 2020-02 to the Planning Commission at its February 13, 2020 meeting; and

**WHEREAS**, the Planning Commission endorsed the subcommittee recommendations on February 13, 2020, and reviewed amended Ordinance No. 2020-02 on February 27, 2020; and

**WHEREAS**, the Planning Commission held another public hearing on Ordinance No. 2020-02 on March 12, 2020, and after closing the public hearing, recommended approval of Ordinance No. 2020-02 to the City Council; and

**WHEREAS**, on November 13, 2018, the City Council approved Ordinance No. 2018-43, and thereby narrowed the moratorium as requested by the Council and described above related to entirely removing Section 3.B. (which, in effect, applied the Aquifer Recharge Protection Area regulations in the City's shoreline jurisdiction areas) from the moratorium, and broadening an exclusion related to certain Major Site Plan and Design Review and Major Conditional Use Permit proposals to include in that exclusion such proposals for properties located in the Business/Industrial District; and

**WHEREAS**, although the City has been working to address the land use issues identified in the development moratorium, as described above, the work is ongoing and not yet completed on affordable housing and some other moratorium work plan items; and

**WHEREAS**, on September 3 and 10, 2019, the City Council discussed the moratorium, including the option of extending it for two additional months (to December 3, 2019) to allow time for public outreach to educate the public about the new subdivision standards and design review regulations and to possibly extend a more narrow form of the moratorium beyond December 3, 2019, in order to adopt affordable housing requirements; and

**WHEREAS**, it was anticipated that an extended moratorium would be narrowed to apply only to certain types of development in the Winslow Master Plan Study Area, with some exceptions; and

**WHEREAS**, on September 24, 2019, the City Council enacted Ordinance No. 2019-26, which extended the moratorium in its then-current form until December 3, 2019, and in a more narrow form from December 4, 2019, until April 3, 2020; and

**WHEREAS**, the City Council had a policy discussion on February 4, 2020 regarding inclusionary zoning and multifamily property tax exemption programs, and on June 22, 2020 tasked a joint City Council/Planning Commission Ad Hoc Subcommittee to assist in prioritizing land use code changes, including related to affordable housing and accessory dwelling units; and

**WHEREAS**, on March 24, 2020, the City Council enacted Ordinance No. 2020-09, which extended the moratorium in its current form from April 3, 2020 to October 3, 2020; and

**WHEREAS**, the City submitted a draft ordinance integrating the updated Critical Areas Ordinance (“CAO”) regulations into the Shoreline Master Program (“SMP”) to the Washington State Department of Ecology (“Ecology”) and received Ecology’s response on December 9, 2019; and

**WHEREAS**, due to the COVID-19 public health emergency and pandemic, tens of thousands of persons in Washington State have contracted the virus and more than a thousand persons in the state have died due to the virus thus far and during the time period that this moratorium has been in effect, and the public health emergency is ongoing and is expected to continue for many months, and likely much longer; and

**WHEREAS**, due to the COVID-19 public health emergency and pandemic, the City has been engaged in essential work on a highest-priority basis related to the public health emergency, and as a result City staff and the City Council have had to significantly adjust work priorities accordingly to address the public health crisis, including related to work that the Council has been able to consider at modified Council meetings during this time period; and

**WHEREAS**, as a result of the public health emergency, the final review and public hearing in response to Ecology’s comments were delayed from March 2020 to June 23, 2020; and

**WHEREAS**, on June 23, 2020, the City Council directed staff to move forward with the preparation of an ordinance that incorporates Ecology’s required and recommended changes, and staff’s own recommended changes, and to schedule a public hearing for that ordinance at a future meeting; and

**WHEREAS**, on September 1, 2020, as part of the moratorium update, the City Council directed staff that due to the passage of time that has occurred regarding the variety of topics on the moratorium work plan related to affordable housing, and in that such work on affordable housing at this point is expected to continue in various ways, the Council’s expectation is that such work can continue outside of this moratorium and, as such, the Council directed staff to update the moratorium work plan to remove the affordable housing topic from the work plan; and

**WHEREAS**, on September 8, 2020, the City Council considered this Ordinance No. 2020-24, which is the ordinance that City staff prepared as directed by the Council at its September 1, 2020 meeting, including related to the revised work plan, and the Council set the public hearing on the ordinance for September 22, 2020; and

**WHEREAS**, regarding the remaining item on the moratorium work plan, on September 22, 2020, the City Council is scheduled to hold a public hearing on an ordinance related to integrating the CAO into the SMP; and

**WHEREAS**, the CAO/SMP integration ordinance must be approved by Ecology before it becomes effective, and if the City Council approves the CAO/SMP integration ordinance on September 22, 2020, it is expected, based on information provided by Ecology to the City, that the earliest the ordinance could be in effect would be in November 2020; and

**WHEREAS**, the City possesses land use jurisdiction and regulatory authority over the City’s incorporated lands; and

**WHEREAS**, the moratorium promotes the public good and is necessary for the protection of public health, property, safety, and welfare, and the public emergency on which this moratorium was imposed continues to exist and this ordinance does not change the basis for that declaration of emergency, except as described above, nor the effective date of the moratorium, which is January 9, 2018.

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

**Section 1. Findings of Fact.** The recitals set forth above are hereby adopted as additional and supplemental findings of fact to the City Council’s initial findings of fact in support of the moratorium, as established by Ordinance Nos. 2018-02, 2018-03, 2018-05, 2018-09, 2018-14, 2018-23, 2018-41, 2018-43, 2019-10, 2019-26, and 2020-09.

**Section 2. Public Hearing.** Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council conducted a public hearing on this extension of the moratorium at its meeting on September 22, 2020, and took public testimony and considered further findings of fact.

**Section 3. Moratorium Amended.** The moratorium is hereby amended, as also stated in Section 7 below, to extend the moratorium in its current form as described in Ordinance No. 2020-09 for six months until April 3, 2021, recognizing that the City Council may terminate the moratorium prior to that date depending on when the City completes the moratorium work plan.

**Section 4. Moratorium Work Plan.** As provided for under RCW 35A.63.220 and RCW 36.70A.390, the City may renew a moratorium for one or more six-month periods if a work plan has been developed, a public hearing has been held, and findings of fact have been made, and the City has thereby previously extended the moratorium as described herein based on the work plan that has been developed and the findings of fact that have been made in this ordinance and the previous ordinances related to this moratorium, and the City is hereby extending the moratorium for an additional six months based on an updated work plan (see attached Exhibit A), conducting another public hearing, and adopting additional findings of fact as stated in this ordinance. Exhibit A (Updated Work Plan) and Exhibit B (Winslow Master Plan Study Area) are incorporated herein to this ordinance.

**Section 5. Severability.** 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 6. No Change to Basis for Declaration of Emergency or Effective Date.** This ordinance shall take effect and be in force five (5) days from and after its passage and publication as required by law. Provided, that this ordinance is not intended to change the basis of the emergency declarations stated in the moratorium ordinances which preceded this ordinance, Ordinance Nos. 2018-02, 2018-03, 2018-05, 2018-09, 2018-14, 2018-23, 2018-41, 2018-43, 2019-10, 2019-26, and 2020-09, except as described in the “Whereas” clauses of this ordinance. Pursuant to *Matson v. Clark County Board of Commissioners*, 79 Wn. App. 641 (1995), non-exhaustive underlying facts necessary to support the emergency declarations adopted as part of the enactment of this moratorium were included in the “Whereas” clauses of Ordinance No. 2018-02 and Ordinance No. 2018-03, and were restated and supplemented in Ordinance No. 2018-05 and Ordinance No. 2018-09, and Ordinance Nos. 2018-14, 2018-23, 2018-41, 2018-43, 2019-10, 2019-26, and 2020-09, as well as in this ordinance, and those “Whereas” clauses are adopted as findings of fact.

**Section 7. Change to Duration to April 3, 2021.** This ordinance amends Ordinance No. 2020-09 and hereby extends the current moratorium, and this ordinance shall cause the moratorium to remain effective in its current form until April 3, 2021, unless terminated earlier by the City Council. This ordinance does not change the effective date of the moratorium, which is January 9, 2018. The Council may, at its sole discretion, renew the moratorium for one or

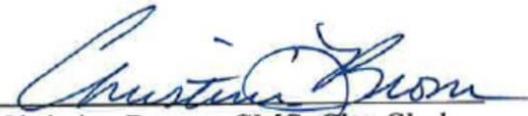
more six (6) month periods in accordance with state law. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City.

PASSED by the City Council this 22nd day of September, 2020.

APPROVED by the Mayor this 22nd day of September, 2020.

  
\_\_\_\_\_  
Leslie Schneider, Mayor

ATTEST/AUTHENTICATE:

  
\_\_\_\_\_  
Christine Brown, CMC, City Clerk

|                            |                    |
|----------------------------|--------------------|
| FILED WITH THE CITY CLERK  | September 4, 2020  |
| PASSED BY THE CITY COUNCIL | September 22, 2020 |
| PUBLISHED:                 | September 25, 2020 |
| EFFECTIVE DATE:            | September 30, 2020 |
| ORDINANCE NO:              | 2020-24            |

Attached:

Exhibit A (Updated Work Plan)

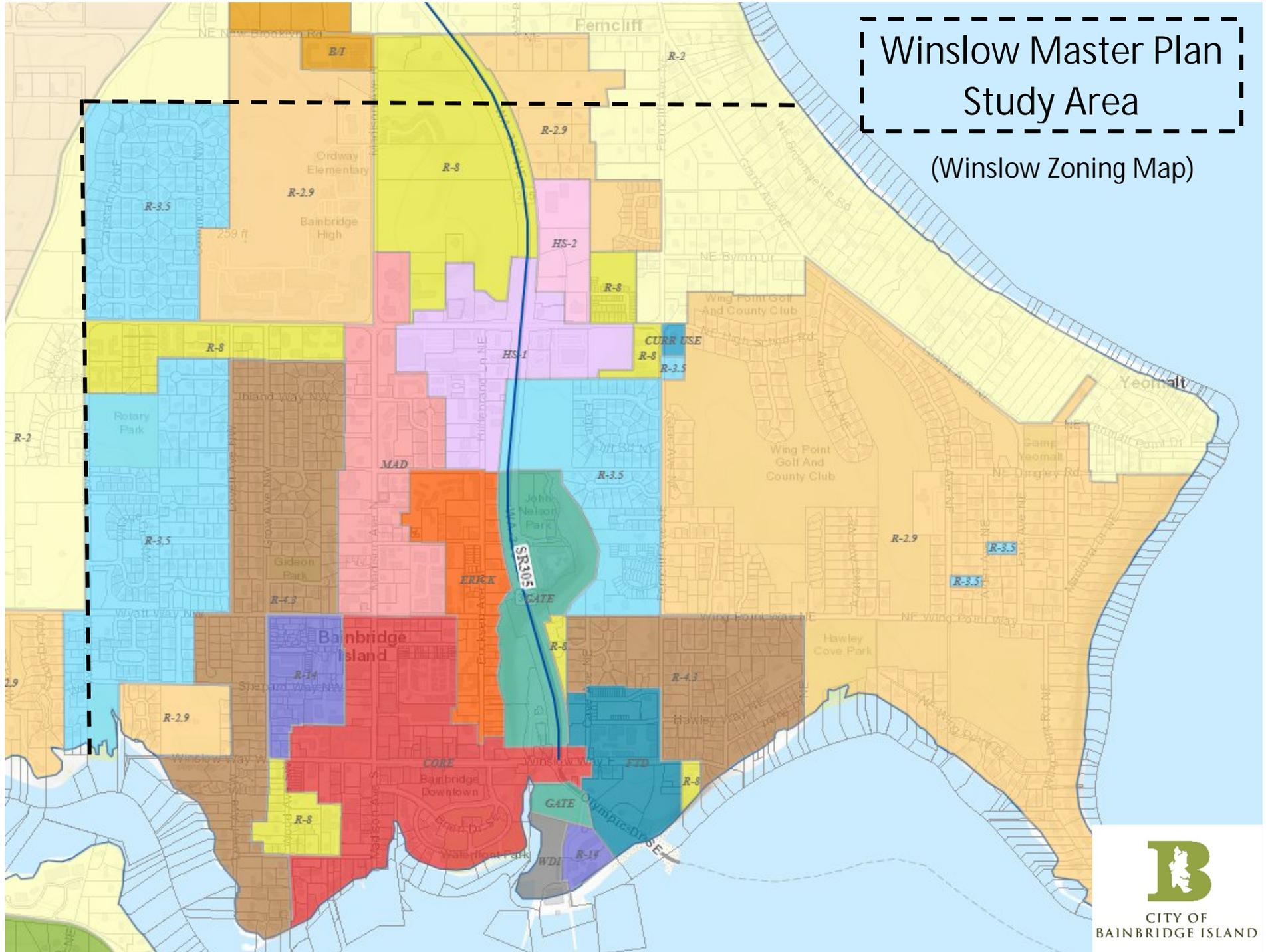
Exhibit B (Winslow Master Plan Study Area)

## Exhibit A

### Moratorium on Certain Development Work Plan Schedule Ordinance No. 2020-24 (October 2020 – April 2021)

| Work Program Item               | Description  |
|---------------------------------|--|
| <b>Critical Areas Ordinance</b> | <p>Adopt the new critical areas ordinance (CAO) into the Shoreline Master Program (SMP). The City sent a draft ordinance to the Dept. of Ecology (Ecology) and received their response on December 9, 2019. Ecology determined that the amendment is largely consistent but has identified elements that appear inconsistent with applicable laws and rules. Due to COVID-19, City staff held a rescheduled March 2020 Council discussion about Ecology's response during the June 23, 2020 City Council meeting. At that meeting, the Council authorized staff to move forward with the preparation of an ordinance that incorporates Ecology's required changes, staff's recommended changes based on Ecology's recommended changes, and staff's own recommended changes, as well as to schedule a public hearing for that ordinance at a future meeting.</p> <p>City staff plans to hold the public hearing on September 22, 2020. Following a public hearing and local adoption by the City Council, Staff will transmit the SMP amendment to Ecology in accordance with WAC 173-26-110 and it will become effective 14 days after final approval by Ecology. With that timeline, the effective date could be early to mid-November.</p> |

# EXHIBIT B



Winslow Master Plan  
Study Area

(Winslow Zoning Map)



CITY OF  
BAINBRIDGE ISLAND

## City Council Study Session Agenda Bill

**MEETING DATE:** January 5, 2021

**ESTIMATED TIME:** 10 Minutes

**AGENDA ITEM:** (6:55 PM) Update from Joint City Council and Planning Commission Land Use Subcommittee - Councilmembers Hytopoulos and Pollock,

**SUMMARY:**

Members of the Joint City Council and Planning Commission Land Use Subcommittee will provide an update to the Council.

**AGENDA CATEGORY:** Discussion

**PROPOSED BY:** City Council

**RECOMMENDED MOTION:** Discussion.

**STRATEGIC PRIORITY:** Green, Well-Planned Community

**FISCAL IMPACT:**

|                                    |  |
|------------------------------------|--|
| <b>Amount:</b>                     |  |
| <b>Ongoing Cost:</b>               |  |
| <b>One-Time Cost:</b>              |  |
| <b>Included in Current Budget?</b> |  |

**BACKGROUND:**

**ATTACHMENTS:**

**FISCAL DETAILS:**

**Fund Name(s):**

**Coding:**



CITY OF  
BAINBRIDGE ISLAND

## City Council Study Session Agenda Bill

**MEETING DATE:** January 5, 2021

**ESTIMATED TIME:** 30 Minutes

**AGENDA ITEM:** (7:05 PM) Staff Update on Joint City Council/Planning Commission Land Use Subcommittee Recommendations and Timeline, Phase 1 - Planning,

**AGENDA CATEGORY:** Discussion

**PROPOSED BY:** Heather Wright

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

**PREVIOUS COUCIL REVIEW DATE(S):** October 13, 2020

**RECOMMENDED MOTION:**  
Discussion.

**SUMMARY:**

On October 13, 2020, the joint subcommittee requested and received the City Council's approval that the Planning Commission complete its portion of the required legislative work as follows (see Background Memo - attached):

1. Miscellaneous code revisions December 31, 2020 (see Background Memo, Attachment A)
2. Major projects decision criteria January 31, 2021
3. MFTE program December 31, 2020

The purpose of this agenda item is to update the Council on the Planning Commission and City staff's work on these items and to provide an anticipated timeline for completion.

**BACKGROUND:** On June 22, 2020, the City Council formed a City Council and Planning Commission joint land use subcommittee (subcommittee) consisting of Councilmembers Carr, Hytopoulos, and Pollock. The Planning Commission selected commissioners Bill Chester, Kim McCormick-Osmond, and Lisa Macchio to serve on the subcommittee. The Council directed the subcommittee to “provide recommendations to the Council on a process to clarify an approach for affordable housing initiatives as well as to develop a process and list for undertaking work on priorities for land use code revisions.”

The subcommittee first met on August 3, 2020 and has met twice monthly. At the December 15, 2020 Council meeting, there was discussion about members of the Planning Commission and City Council resigning from the subcommittee. Based on these discussions, the status of the joint subcommittee is unclear.

**ATTACHMENTS:**



Department of Planning and Community Development

## Memorandum

Date: December 30, 2020  
To: City Council  
From: Heather Wright, AICP  
Planning Director  
Subject: Joint Land Use Subcommittee, Legislative Update

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### I. BACKGROUND

On June 22, 2020, the City Council formed a City Council and Planning Commission joint land use subcommittee (subcommittee) consisting of Councilmembers Carr, Hytopoulos, and Pollock and Planning Commissioners Bill Chester, Kim McCormick-Osmond and Lisa Macchio.

The City Council directed the subcommittee to “provide recommendations to the Council on a process to clarify an approach for affordable housing initiatives as well as to develop a process and list for undertaking work on priorities for land use code revisions.”

After beginning their bi-monthly meetings in August 2020, the Joint City Council/Planning Commission land use subcommittee presented a list of recommended priority code changes to the Council on October 13, 2020. The Council approved the list and recommended it be forwarded to the Commission for immediate legislative work, with only item #13 related to site-specific rezones not endorsed for immediate work (See attached Background Memos in council packet dated October 13, 2020).

The subcommittee requested, with the Council's approval, that the Planning Commission complete its piece of the required legislative work as follows:

1. Miscellaneous code revisions December 31, 2020
2. Major projects decision criteria January 31, 2021
3. MFTE program December 31, 2020

The Council passed their motion approving the list of recommended changes without a discussion with staff about the feasibility of completing this work in the anticipated timeline. At the Council meeting on January 5, 2021, City staff will provide the Council an update on the work that has been done to date and present a suggested timeline with a brief discussion on the impact that this work may have on other legislative items.

## II. MISCELLANEOUS CODE REVISIONS

The Planning Commission first discussed the code changes at their meeting on October 29, 2020. The Planning Commission recommended separating the list of changes into two categories (see attached Triage Phase 1 & 2, Planning Commission comments in the council packet) as follows:

1. Disparate Code changes identified by the Joint subcommittee as "Triage" or housekeeping changes will move forward with Planning Commission review in a Phase 1 "Triage" ordinance. Code changes are described by the Joint subcommittee in the attached Planning Commission work plan. Draft Ordinance No. 2020-40 makes these Phase 1 changes.

2. Code changes that relate to the nature and order of meetings and requirements that occur prior to applying for a land use permit (i.e. conceptual meeting, design guidance, preapplication conference). The Code changes focus on how and when the Design Review Board and Planning Commission are involved in these early meetings. Representatives from the Planning Commission are discussing these issues with the Design Review Board and staff. This work would then be integrated into a 2nd "triage" ordinance, or Phase 2.

The Commission discussed the two-phase workplan again at the November 12 Planning Commission meeting, and confirmed that the Phase 1 changes should be integrated into a draft ordinance. The Planning Commission then reviewed Draft Ordinance No. 2020-40 on November 19, and forwarded the ordinance to a public hearing on December 10, 2020. The public hearing was held on December 10, 2020 and the Planning Commission made a unanimous recommendation of approval.

Phase 2 code changes are specific to the pre-application process. The Design Review Board (DRB) formed a subcommittee with the Planning Commission to ensure that the changes requested by the DRB were captured. A member of the Planning Commission presented a draft table to the Planning Commission at their November 19, 2020 meeting. Following the meeting, the table was distributed to planning staff for comment and two meetings were held with the members of the DRB, PC and Staff. The Planning Commission continued their discussion about proposed staff suggestions on December 17, 2020.

For reference, the pre-application process was amended on December 19, 2018. That process lasted 10 months and included input from the Design Review Board, Planning Commission, staff and the City Council.

## III. MAJOR PROJECTS DECISION CRITERIA

The subcommittee identified that the decision criteria for major conditional use permits and preliminary subdivisions is in need of revisions. For reference, the decision criteria for conditional use permits were recently revised on December 10, 2019 via Ordinance 2019-24, as part of the Development Moratorium work plan by the Planning Commission and City Council. The adoption process took approximately 5 months.

Staff has not had any formal discussions on this topic with the Planning Commission outside of the first introduction on this item on October 29, 2020 due to our continued work on the miscellaneous code revisions and other scheduled planning commission items.

#### IV. MULTIFAMILY TAX EXEMPTION PROGRAM (MFTE), 12 YEAR

The subcommittee recommended that the City Council adopt a 12-year multi-family tax exemption (MFTE) program by the end of 2020. The subcommittee noted that the MFTE program may lead to more affordable units or “deeper” affordability when used in tandem with inclusionary zoning.

Staff first introduced this item to the Planning Commission on October 29, 2020. An affordable housing subcommittee of the Planning Commission drafted an Ordinance that was discussed with the Planning Commission on December 17, 2020.

There are multiple policy decisions and administrative actions that must occur to adopt a MFTE program as outlined below, including the following:

1. Determination of Local Designation Area: The residential target area where the MFTE is available needs to be determined. The determination of this area requires a public hearing and specific noticing requirements in state law and requires substantial public outreach.
2. Determination of Project Threshold: Under state law (RCW 84.14.030), a project must create at least 4 multifamily units in order to be eligible to apply for the MFTE program. Other jurisdictions have raised this threshold in their local regulations, including Bremerton, which has a threshold of 10 units.
3. Determination of Rental vs Occupancy: Should home ownership projects be able to participate in the MFTE program? Or should it only be available for rental?
4. Determine the cost of the application review fee: This will require research into the fees of other jurisdiction fees and a proposal to Council.
5. Determine City staff support of administration requirements: MFTE application forms and annual compliance forms are required as well as annual reporting to the state.

Staff proposes to have the Planning Commission provide a recommendation to the City Council on the first three items before scheduling a public hearing on the local designation area with the Council. Note: The MFTE program will be in Title 3 of the Bainbridge Island Municipal Code and will therefore require a public hearing by the City Council.

#### V. TIMING AND FURTHER COUNCIL CONSIDERATIONS

The MFTE program would be a significant addition to the City's code. Implementing this new program, with steps including those listed above and likely others as more research is completed, will require focus from several staff members, including senior staff and department directors in Planning and Finance, as well as legal support. Staff expects that this will be included in a larger review of the department's 2020 progress and 2021 work plan, which will be scheduled early in 2021.

Examples of how adding this program to the work plan could affect ongoing work include:

- 1) Continuing to defer City staff work on the sign code
- 2) Continuing to defer City staff work on code enforcement

- 3) Acknowledging that a next step for the ongoing work related to the Shoreline Master Program (SMP) periodic review will include a staff discussion with the Planning Commission about the SMP in late January and early February 2021. The SMP timeline is set by the state and will require prioritizing time for these discussions on the Planning Commission agenda;

The order in which these proposals should be addressed is also an important consideration and decision point. Staff suggests continuing their work on the MFTE program and Phase 2 Triage Ordinance before addressing the major project decision criteria. However, the Planning Commission would like to see the decision criteria for major project and MFTE program go forward at the same time based on concern that projects in the pipeline will be reviewed under the existing criteria.

If Council supports these assumptions, staff proposes the following timeline as a potential starting point, to be considered with the larger work plan discussion in early 2021, as follows:

|                                 | Council Requested Time period for Planning Commission to complete their work on these items | Staff Anticipated Date for adoption |
|---------------------------------|---|-------------------------------------|
| Phase I Triage Ordinance        | December 31, 2020   | (Q1 2021)                           |
| Phase 2 Triage Ordinance        | December 31, 2020   | (Q1/Q2 2021)                        |
| MFTE Program                    | December 31, 2020   | (Q2 – Q4 2021)                      |
| Major Project Decision Criteria | January 31, 2021  | (Q3/Q4 2021)                        |



CITY OF  
BAINBRIDGE ISLAND

City council and planning commission  
joint land use sub-committee

## Memorandum

Date: October 13, 2020  
To: City Council  
From: City Council and Planning Commission Joint Land Use Subcommittee  
Subject: Initial Recommendations for Land Use Code Revisions

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### I. Introduction

This memorandum presents the joint land use subcommittee's recommendations on priorities for land use code revisions and requests that the City Council forward them to the Planning Commission for immediate legislative work. The recommendations are grouped into three focus areas: miscellaneous code revisions, major projects decision criteria, and adoption of a multi-family tax exemption program. Additional detail about these recommendations and the joint land use subcommittee's work in general is provided below.

### II. Background

On June 22, 2020, the City Council formed a City Council and Planning Commission joint land use subcommittee (subcommittee) consisting of Councilmembers Carr, Hytopoulos, and Pollock. The Planning Commission selected commissioners Bill Chester, Kim McCormick-Osmond and Lisa Macchio to serve on the subcommittee. The City Council directed the subcommittee to "provide recommendations to the Council on a process to clarify an approach for affordable housing initiatives as well as to develop a process and list for undertaking work on priorities for land use code revisions."

The subcommittee meets twice monthly on Mondays from noon – 2 pm via Zoom. The subcommittee first met on August 3, 2020 and has met a total of five times.

In general, the subcommittee is approaching its work in two phases:

- Short-term revisions to the land use code: This work addresses the City Council's direction to provide a "process and list for undertaking work on priorities for land use code revisions." These

are items almost all of which have been previously identified by City Council members and/or the Planning Commission as specific provisions of the land use code that are urgent, and that can be addressed relatively quickly. Many of these items have been discussed at one or more Planning Commission (and/or Design Review Board) meetings as a result of their role in major project review, including conditional use permits (CUPs).

- Long-term approach to revisions to the land use code, in particular affordable housing initiatives and associated policy and regulatory tools: This work addresses the City Council's direction to "provide recommendations to the Council on a process to clarify an approach for affordable housing initiatives." The "approach for affordable housing initiatives" is understood to include a broad suite of policy and regulatory tools associated with affordable housing initiatives, including inclusionary zoning, MFTE program, floor area ratio (FAR), TDR program, agricultural resource lands (ARL) designation, and Winslow Master Plan.

This memorandum provides an overview of the subcommittee's recommendations for short-term revisions to the land use code.

### III. Overview of Short-Term Recommendations for Land Use Code Revisions

This work responds to the Council's direction to provide a list of priorities for land use code revisions. The subcommittee's recommendations fall into three categories:

#### 1. Miscellaneous code revisions

The subcommittee is recommending a number of revisions to the municipal code that can be addressed relatively quickly. As noted above, most have been previously identified through the City's review of major projects. These proposed revisions are shown in Attachment A. The revisions focus on specific provisions of four subsections of the municipal code:

- Land use review procedures (weight of decisions; sequence of review) – BIMC 2.16
- Hearing Examiner rules (clarity of remand) – BIMC 2.14
- Permitted use table (hotel in certain zoning districts) – BIMC 18.09
- Affordable housing (duration of affordability) – BIMC 18.21

Proposed revisions to the municipal code are grouped by "issue." For each issue, the goal and rationale for the revision(s) is provided. In some cases, a brief background and/or example is included to provide additional context from the subcommittee's discussion. Each issue has one or more specific code sections proposed for revision.

#### 2. Major projects decision criteria

During discussions on these short-term items, the subcommittee identified two additional items to be addressed: decision criteria for major conditional use permits and preliminary long subdivisions (BIMC 2.16.110.F and BIMC 2.16.125.F, respectively). The subcommittee considers these items to be urgent but recognizes that they make take longer to address. While decision criteria for major projects were revised relatively recently, recent project review by the Planning Commission has demonstrated that they warrant further review, clarification, and potential additions.

### 3. Multi Family Tax Exemption Program

The subcommittee recommends that the City Council adopt a 12-year multi-family tax exemption (MFTE) program. This was a recommendation of the Affordable Housing Task Force in 2018 and the Planning Commission in 2019. The subcommittee recognizes that a MFTE program may achieve more affordable units or “deeper” affordability when used in tandem with inclusionary zoning. That said, it is a stand-alone program that could produce affordable units on its own. Given the low complexity of adopting a MFTE program, there is little benefit to further delay.

#### IV. Next Steps

The subcommittee is requesting that the City Council forward the recommendations herein to the Planning Commission and to direct the Planning Commission to complete its piece of the required legislative work as follows:

|                                     |                   |
|-------------------------------------|-------------------|
| 1. Miscellaneous code revisions     | December 31, 2020 |
| 2. Major projects decision criteria | January 31, 2021  |
| 3. MFTE program                     | December 31, 2020 |

The subcommittee anticipates that the process for this work will follow the typical legislative review process as articulated in BIMC 2.16.180 (Legislative review of land use regulations and area-wide rezones). This process includes review by the Planning Commission, including a public hearing. The Planning Commission’s written recommendation on the proposed amendments will be forwarded to the City Council. The City Council has the option to hold a public hearing. The City Council may approve the revisions (through adoption of an ordinance) or return the matter to the subcommittee, City staff, or Planning Commission for further review.

Once these items are forwarded to the Planning Commission, the subcommittee will pivot to its second phase of work (Long-term approach to affordable housing initiatives and associated land use policy and regulatory tools).

Attachment A  
 City Council/Planning Commission Joint Subcommittee on Land Use  
 Recommended Short-Term Land Use Code Revisions – DRAFT for October 13, 2020 City Council Meeting

| Item  | Code Reference  | Recommendation  |
|---|---|---|
| <p>**Note: If specific new/revised language is being proposed, <u>it is underlined</u>.</p> |   |   |
| ISSUE   | Revisions to Chapter 2.16 regarding <u>Land Use Review Process</u>  |   |
| GOAL  | Provide comprehensive early review of proposed projects to identify potential Comprehensive Plan consistency issues and provide clarity to role of PC in review and weight given to PC recommendations by decisionmakers  |   |
| RATIONALE   | The intent of these proposed changes to the review process is to alert project applicants at an early stage of project development to the potential for Comprehensive Plan consistency issues, thereby reducing the amount of time and money spent on proposed project elements that may have Comp Plan issues/problems. The intent of proposed changes to the weight given to PC recommendations is to provide clarity to the decisionmaker with respect to those recommendations, including a recommendation of denial. |   |
| 1   | 2.16.020.I.5  | Preapplication Procedure – Revise the two-step preapplication process for projects where DRB review and a preliminary application conference are required to make the first step a joint meeting with the DRB and PC to discuss design concept and comprehensive plan consistency, with the second step to be a preapplication conference.  |
| 2   | 2.16.020.I.6  | Preapplication Procedure – move public participation meeting (PPM) for long subdivision, major site plan and design review permits and major conditional use permits to follow the preapplication conference.<br><br>Background: PPM happens after first conceptual design meeting with DRB; trying to cut down number of times applicant has to go back to advisory body/meeting; want PPM to be as meaningful as possible; project can change significantly after PPM with the current review procedure |
| 3   | 2.16.020.S  | Remove or revise Housing Design Demonstration Projects section to conform with revisions to the HDDP program  |
| 4   | 2.16.030  | Revise Administrative Review section to conform with proposed changes to order of meetings re DRB/PC/Staff and Preapplication conference  |
| 5   | 2.16.030.D.3  | Administrative Review decision procedures – PC recommendation – revise last sentence ( <u>underlined below</u> ) to state “The planning commission’s written recommendation and other documents upon which its decision is  |

| Item  | Code Reference | Recommendation  |
|---|----------------|---|
| <p>**Note: If specific new/revised language is being proposed, <u>it is underlined</u>.</p> |                |   |
|   |                | based shall be immediately transmitted to the director <u>and shall be given substantial weight by the director in making a decision.</u> "   |
| 6   | 2.16.040.D     | Site plan and design review – Review Procedures – Proposal stage. Make changes consistent with earlier suggestions for joint DRB/PC initial meeting and PC participation in Preapplication Conference.  |
| 7   | 2.16.040.E.5.e | Review procedures – application stage. Review and Recommendation by PC – add <u>"The planning commission's recommendation shall be given substantial weight by the director in making a decision."</u>  |
| 8   | 2.16.040.E.6   | <p>Review and Approval by the Director – add the following subsection c.: <u>"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."</u></p> <p>Background: This proposed new language is same as existing code language for approval/approval with conditions; this adds same standard for denial.</p> |
| 9   | 2.16.040.F.1   | <p>Decision Criteria – revise to read as follows: <u>"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."</u></p> <p>Background: Want to verify that we can require consistency with Comprehensive Plan, subarea plans, and master plans when there is not a specific provision in municipal code. Is this proposed language the correct way to do it? Need clarity/legal opinion.</p>   |
| 10  | 2.16.110.D, E  | Major Conditional Use Permit Review Procedures – revise to conform with proposed changes to order of meetings re DRB/PC/Staff and preapplication conference, substantial weight to be given to PC recommendation by Director. Add: <u>"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."</u>       |
| 11  | 2.16.110.E.5   | Review and public hearing with Hearing Examiner: Add: <u>"The hearing examiner shall adopt a planning commission recommendation of denial of an application unless the hearing examiner concludes that the</u>  |

| Item  | Code Reference  | Recommendation   |
|---|-----------------|--|
| **Note: If specific new/revised language is being proposed, <u>it is underlined</u> . |                 |  |
|   |                 | <u>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."</u>   |
| 12  | 2.16.125.D, E   | Preliminary long subdivisions – Review Procedures – revise to conform with proposed changes to order of meetings re DRB/PC/Staff and preapplication conference, substantial weight to be given to PC recommendation by Director. Add: <u>"The hearing examiner shall adopt a planning commission recommendation of denial of an application unless the hearing examiner 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."</u> |
| 13  | 2.16.140.C      | Site specific rezones – no PC or DRB review or recommendation currently required. (see item 13 above)  |
| 14  | 2.16.190.G, H   | Legislative comprehensive plan amendments – review process and decision criteria – revise to add PC to preapplication conference to provide early identification of potential Comp Plan consistency issues; review decision criteria for additions/revisions   |
|   |                 |  |
| ISSUE   |                 | Hearing Examiner rules do not specify when the HEX is required or authorized to remand a decision  |
| GOAL  |                 | Clarify Hearing Examiner remand  |
| RATIONALE   |                 | The Hearing Examiner rules need clarification on remand  |
| 15  | BIMC 2.14.030   | Add language specifying when HEX is required or authorized to remand a decision.   |
|   |                 |  |
| ISSUE   |                 | Hotels of any size are allowed by conditional use permit in the Central Core, Gateway, and Ferry Terminal zoning districts   |
| GOAL  |                 | Prohibit hotels in Central Core, Gateway, and Ferry Terminal zoning districts  |
| RATIONALE   |                 | As currently defined, hotels in these districts are not consistent with the Comprehensive Plan   |
| 16  | Table 18.09.020 | In the short-term, hotels should be prohibited in these zoning districts while review of definition and use-specific standards is completed to determine if/how hotels within these zoning districts is a use consistent with the Comprehensive Plan.  |
|   | Definition      |  |

| Item  | Code Reference | Recommendation  |
|---|----------------|---|
| <p>**Note: If specific new/revised language is being proposed, <u>it is underlined&gt;</u>.</p> |                |   |
|   | 18.36.030      |   |
| ISSUE   |                | No minimum duration of affordability for home ownership units specified; ownership affordable housing available as affordable only once, then can be sold at market rate  |
| GOAL  |                | Create long-term affordable housing for home ownership units in perpetuity (or 99 years?)   |
| RATIONALE   |                | Period of affordability needed to justify the added density   |
| 17  | 18.21.020.B.2  | <p>Revise code language to specify duration of affordability for home ownership units. Ensure consistency with BIMC 18.12 cross-references.</p> <p>Background: This is a stop-gap until broader AH program completed and specific questions answered, such as: What is mechanism to allow for some value capture/return on investment at sale for owner? Look into HRB Ferncliff Village – CLT model. Do we need to recommend the CLT model? Or create mechanism within City?</p> <p>Example: See BIMC 2.16.020.S.4.a.iii (HDDP program) -- 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.</p> |
| 18  | 18.21.020.B    | <p>Existing code: Rental Units. Affordable rental housing units created as a result of the provisions of this chapter shall remain affordable for a period of 30 years from the time of first occupancy and shall be secured by recorded agreement and covenant running with the land, binding all the assigns, heirs and successors of the applicant.</p> <p>Should the current code for rental units be changed from 30 to 50 years to be consistent with state law? Need legal review of duration of affordability for rental units to ensure consistency with RCW 36.70A.540 (minimum 50 year affordability required; does this apply?)</p>   |

City Council/Planning Commission Joint Subcommittee on Land Use  
 Recommended Short-Term Land Use Code Revisions Confirmed by City Council on October 13, 2020

| Item   | Code Reference | Joint City Council/Planning Commission Recommendation   | 10/29/20 Planning Commission Workplan Discussion & Staff Notes   |
|--|----------------|---|--|
| <p><b>**Note:</b> If specific new/revised language is being proposed, <u>it is underlined</u>.</p> |                |   |  |
| ISSUE  |                | Revisions to Chapter 2.16 regarding Land Use Review Process   |  |
| GOAL   |                | Provide comprehensive early review of proposed projects to identify potential Comprehensive Plan consistency issues and provide clarity to role of PC in review and weight given to PC recommendations by decisionmakers  |  |
| RATIONALE  |                | The intent of these proposed changes to the review process is to alert project applicants at an early stage of project development to the potential for Comprehensive Plan consistency issues, thereby reducing the amount of time and money spent on proposed project elements that may have Comp Plan issues/problems. The intent of proposed changes to the weight given to PC recommendations is to provide clarity to the decisionmaker with respect to those recommendations, including a recommendation of denial. |  |
| 1  | 2.16.020.I.5   | Preapplication Procedure – Revise the two-step preapplication process for projects where DRB review and a preliminary application conference are required to make the first step a joint meeting with the DRB and PC to discuss design concept and comprehensive plan consistency, with the second step to be a preapplication conference.  | Planning Commission will meet with the Design Review Board (full DRB or representatives) to review and discuss proposed changes to the early phases of development review. DRB and PC will confirm what code changes are necessary to achieve more effective feedback and participation by the right land use body at the right time during the early phase of development review, with a goal of reducing the total number of early meetings that an applicant needs to attend. |
| 2  | 2.16.020.I.6   | <p>Preapplication Procedure – move public participation meeting (PPM) for long subdivision, major site plan and design review permits and major conditional use permits to follow the preapplication conference.</p> <p>Background: PPM happens after first conceptual design meeting with DRB; trying to cut down number of times applicant has to go back to advisory body/meeting; want PPM to be as meaningful as possible; project can change significantly after PPM with the current review procedure</p>          | <p>These changes will be combined into a 2<sup>nd</sup> “Triage” ordinance once the DRB and PC are done with their review/discussion.</p>  |

| Item  | Code Reference | Joint City Council/Planning Commission Recommendation  | 10/29/20 Planning Commission Workplan Discussion & Staff Notes  |
|---|----------------|--|---|
| **Note: If specific new/revised language is being proposed, <u>it is underlined</u> . |                |  |   |
| 3   | 2.16.020.S     | Remove or revise Housing Design Demonstration Projects section to conform with revisions to the HDDP program   | No Code Change Needed. Staff clarification at meeting that HDDP program relies on underlying land use permits (e.g. Site Plan and Design Review or Preliminary Subdivision ,see BIMC 2.16.020.S.3). |
| 4   | 2.16.030       | Revise Administrative Review section to conform with proposed changes to order of meetings re DRB/PC/Staff and Preapplication conference   | For 2 <sup>nd</sup> "Triage" ordinance, see #1 and #2 above   |
| 5   | 2.16.030.D.3   | Administrative Review decision procedures – PC recommendation – revise last sentence (underlined below) to state "The planning commission's written recommendation and other documents upon which its decision is based shall be immediately transmitted to the director <u>and shall be given substantial weight by the director in making a decision.</u> "  | Consider for 1 <sup>st</sup> Triage Ordinance   |
| 6   | 2.16.040.D     | Site plan and design review – Review Procedures – Proposal stage. Make changes consistent with earlier suggestions for joint DRB/PC initial meeting and PC participation in Preapplication Conference.   | For 2 <sup>nd</sup> "Triage" ordinance, see #1 and #2 above   |
| 7   | 2.16.040.E.5.e | Review procedures – application stage. Review and Recommendation by PC – add " <u>The planning commission's recommendation shall be given substantial weight by the director in making a decision.</u> "   | Consider for 1 <sup>st</sup> Triage Ordinance   |
| 8   | 2.16.040.E.6   | Review and Approval by the Director – add the following subsection c.: " <u>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.</u> "<br><br>Background: This proposed new language is same as existing code language for approval/approval with conditions; this adds same standard for denial. | Consider for 1 <sup>st</sup> Triage Ordinance   |

| Item   | Code Reference | Joint City Council/Planning Commission Recommendation  | 10/29/20 Planning Commission Workplan Discussion & Staff Notes   |
|--|----------------|--|--|
| <p><b>**Note:</b> If specific new/revised language is being proposed, <u>it is underlined</u>.</p> |                |  |  |
| 9  | 2.16.040.F.1   | <p>Decision Criteria – revise to read as follows: <u>“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.”</u></p> <p>Background: Want to verify that we can require consistency with Comprehensive Plan, subarea plans, and master plans when there is not a specific provision in municipal code. Is this proposed language the correct way to do it? Need clarity/legal opinion.</p>  | <p>Consider for 1<sup>st</sup> Triage Ordinance. In adding reference to the design guidelines, comprehensive plan and other applicable plans to section F.1, the same reference to consistency for design guidelines (section F.6) and comp plan/other plans (section F.8) can be deleted.</p> |
| 10   | 2.16.110.D, E  | <p>Major Conditional Use Permit Review Procedures – revise to conform with proposed changes to order of meetings re DRB/PC/Staff and preapplication conference, substantial weight to be given to PC recommendation by Director. Add: <u>“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.”</u></p> | <p>Consider for 1<sup>st</sup> Triage Ordinance; additional legal review necessary.</p> <p>Section D or E may have to be updated again in 2<sup>nd</sup> round.</p>  |
| 11   | 2.16.110.E.5   | <p>Review and public hearing with Hearing Examiner: Add: <u>“The hearing examiner shall adopt a planning commission recommendation of denial of an application unless the hearing examiner 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.”</u></p>  | <p>Consider for 1<sup>st</sup> Triage Ordinance, additional legal review necessary</p>   |

| Item  | Code Reference | Joint City Council/Planning Commission Recommendation  | 10/29/20 Planning Commission Workplan Discussion & Staff Notes   |
|---|----------------|--|--|
| **Note: If specific new/revised language is being proposed, it is underlined. |                |  |  |
| 12  | 2.16.125.D, E  | Preliminary long subdivisions – Review Procedures – revise to conform with proposed changes to order of meetings re DRB/PC/Staff and preapplication conference, substantial weight to be given to PC recommendation by Director. Add: “ <u>The hearing examiner shall adopt a planning commission recommendation of denial of an application unless the hearing examiner 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.</u> ” | Consider for 1 <sup>st</sup> Triage Ordinance, additional legal review necessary.<br><br>Section D or E may have to be updated again in 2 <sup>nd</sup> round. |
| 13  | 2.16.140.C     | Site specific rezones – no PC or DRB review or recommendation currently required. NOTE: 10/13 City Council Meeting Recommended NOT moving this forward.  | Do not move forward at this time.  |
| 14  | 2.16.190.G, H  | Legislative comprehensive plan amendments – review process and decision criteria – revise to add PC to preapplication conference to provide early identification of potential Comp Plan consistency issues; review decision criteria for additions/revisions   | Consider for 1 <sup>st</sup> Triage Ordinance PC to Review Decision Criteria on 11/12  |
|   |                |  |  |
| ISSUE   |                | Hearing Examiner rules do not specify when the HEX is required or authorized to remand a decision  |  |
| GOAL  |                | Clarify Hearing Examiner remand  |  |
| RATIONALE   |                | The Hearing Examiner rules need clarification on remand  |  |
| 15  | 2.14.030       | Add language specifying when HEX is required or authorized to remand a decision.   | Consider for 1 <sup>st</sup> Triage Ordinance, Pending additional legal review necessary.  |
|   |                |  |  |
| ISSUE   |                | Hotels of any size are allowed by conditional use permit in the Central Core, Gateway, and Ferry Terminal zoning districts   |  |
| GOAL  |                | Prohibit hotels in Central Core, Gateway, and Ferry Terminal zoning districts  |  |

| Item  | Code Reference                                | Joint City Council/Planning Commission Recommendation   | 10/29/20 Planning Commission Workplan Discussion & Staff Notes |
|---|---|---|--|
| **Note: If specific new/revised language is being proposed, <u>it is underlined</u> . |   |   |  |
| RATIONALE   |   | As currently defined, hotels in these districts are not consistent with the Comprehensive Plan  |  |
| 16  | Table<br>18.09.020<br>Definition<br>18.36.030 | In the short-term, hotels should be prohibited in these zoning districts while review of definition and use-specific standards is completed to determine if/how hotels within these zoning districts is a use consistent with the Comprehensive Plan.   | Consider for 1 <sup>st</sup> Triage Ordinance                  |
| ISSUE   |   | No minimum duration of affordability for home ownership units specified; ownership affordable housing available as affordable only once, then can be sold at market rate  |  |
| GOAL  |   | Create long-term affordable housing for home ownership units in perpetuity (or 99 years?)   |  |
| RATIONALE   |   | Period of affordability needed to justify the added density   |  |
| 17  | 18.21.020.B.2                                 | <p>Revise code language to specify duration of affordability for home ownership units. Ensure consistency with BIMC 18.12 cross-references.</p> <p>Background: This is a stop-gap until broader AH program completed and specific questions answered, such as: What is mechanism to allow for some value capture/return on investment at sale for owner? Look into HRB Ferncliff Village – CLT model. Do we need to recommend the CLT model? Or create mechanism within City?</p> <p>Example: See BIMC 2.16.020.S.4.a.iii (HDDP program) -- 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.</p> | Consider for 1 <sup>st</sup> Triage Ordinance                  |

| Item   | Code Reference | Joint City Council/Planning Commission Recommendation   | 10/29/20 Planning Commission Workplan Discussion & Staff Notes |
|--|----------------|---|--|
| <p><b>**Note:</b> If specific new/revised language is being proposed, <u>it is underlined</u>.</p> |                |   |  |
| 18   | 18.21.020.B    | <p>Existing code: Rental Units. Affordable rental housing units created as a result of the provisions of this chapter shall remain affordable for a period of 30 years from the time of first occupancy and shall be secured by recorded agreement and covenant running with the land, binding all the assigns, heirs and successors of the applicant.</p> <p>Should the current code for rental units be changed from 30 to 50 years to be consistent with state law? Need legal review of duration of affordability for rental units to ensure consistency with RCW 36.70A.540 (minimum 50 year affordability required; does this apply?)</p> | Consider for 1 <sup>st</sup> Triage Ordinance.                 |

# Joint Land Use Subcommittee Update

Heather Wright, AICP

Director PCD

Joint City  
Council/Planning  
Commission Land  
Use  
Subcommittee

- Formed in June 2020
- Started meeting in August 2020
- Legislative Work Plan approved in October 2020

# Legislative Work Plan

- Miscellaneous code revisions December 31, 2020
- Major projects decision criteria January 31, 2021
- MFTE program December 31, 2020

# Miscellaneous Code Revisions

- October 29, 2020: Introduction of Item to PC
- PC recommended separating the list into 2 categories
  - Phase 1: Housekeeping
  - Phase 2: Pre-application Process

## Phase 1:

- Planning Commission Meetings: November 12 & 19 and December 10, 2020
- Public Hearing on Phase 1 on December 10 with unanimous recommendation of approval

# Phase 2: Pre- application Process

- DRB/PC subcommittee formed
- Draft table: November 19 PC Meeting
- Staff Comment: December 4
- PC/DRB/Staff Meetings: December 9 & 16
- Note: Last amended on December 19, 2018;  
Review Time: 10 months

# Major Project Decision Criteria

- October 29, 2020: Introduction of Item to PC
- December 10: No formal direction from subcommittee
- Note: Major Conditional Use criteria last amended on December 10, 2019; Review Time: 5 months

# Multifamily Tax Exemption Program, 12 Year

- October 29, 2020: Introduction of Item to PC
- Briefly discussed with PC: December 17
- Staff Research
  - Conclusion: 2 hearings to be held by the City Council:
    - Designation Area
    - Adoption of the Chapter

# Policy & Administrative Decisions

## POLICY:

- Local Designation Area\*
- Project Threshold\*
- Rental v/s Occupancy\*

## ADMINISTRATIVE:

- Cost of application
- Staff support

\*Staff suggests PC Input on these items before PH with Council

# Timing and Council Consideration

## Impacts to the Work Plan

- 1) Defer City staff work on the sign code
- 2) Defer City staff work on code enforcement

## Considerations:

- 1) Shoreline Master Program (SMP) periodic review will include a staff discussion with the Planning Commission about the SMP in February 2021.
- 2) Island Center

# Staff Anticipated Timeline

|                                 | Council Requested Time period for Planning Commission to complete their work on these items | Staff Anticipated Date for adoption |
|---------------------------------|---|-------------------------------------|
| Phase I Triage Ordinance        | December 31, 2020   | (Q1 2021)                           |
| Phase 2 Triage Ordinance        | December 31, 2020   | (Q1/Q2 2021)                        |
| MFTE Program                    | December 31, 2020   | (Q2 – Q4 2021)                      |
| Major Project Decision Criteria | January 31, 2021  | (Q3/Q4 2021)                        |



CITY OF  
BAINBRIDGE ISLAND

## City Council Study Session Agenda Bill

**MEETING DATE:** January 5, 2021

**ESTIMATED TIME:** 30 Minutes

**AGENDA ITEM:** (7:35 PM) Policy Options for Lots Less than 12,500 Square Feet in the R-1, R-2 & R-0.4 Zoning District - Planning,

**SUMMARY:** Staff will provide a discussion of the options presented in the memo from Councilmember Carr dated November 24, 2020. It is expected that the Council will provide direction related to development policies for these smaller lots. Depending on the preferred option, there may be a need for additional legal, planning, and/or financial analysis.

**AGENDA CATEGORY:** Discussion

**PROPOSED BY:** City Council

**RECOMMENDED MOTION:** I move to direct the City Manager to add development regulation alternatives for small lots to the Planning and Community Development work plan.

**STRATEGIC PRIORITY:** Green, Well-Planned Community

**FISCAL IMPACT:**

|                                    |  |
|------------------------------------|--|
| <b>Amount:</b>                     |  |
| <b>Ongoing Cost:</b>               |  |
| <b>One-Time Cost:</b>              |  |
| <b>Included in Current Budget?</b> |  |

**BACKGROUND:** The attached "Council Member Carr Small Lots Regulatory Options Memo" from Councilmember Carr and the preliminary response from Planning staff (CC Staff Memo Small lots) provide background for this agenda item.

**ATTACHMENTS:**

[Council Member Carr Small Lots Regulatory Option Memo](#)

[Staff Memo Small Lots](#)

[Small Lots Discussion PPT](#)

**FISCAL DETAILS:**

**Fund Name(s):**

**Coding:**

## Background and Regulatory Options for Small Lot Development in the Conservation Areas (R-0.4, R-1, and R-2 zoning districts)

What are “small lots”?

The City’s Comprehensive Plan includes a “conservation area,” which includes its R-0.4, R-1, and R-2 zoning districts. These zoning districts are the less dense, more rural residential areas of the island, and areas with the most potential for aquifer recharge. They represent approximately 80 percent of the island’s geographic area. “Small lots” can generally be considered those that are less than the minimum lot size for the underlying zoning district as required by BIMC 18.09 -- R-0.4 (100,000 square feet), R-1 (40,000 square feet), and R-2 (20,000 square feet). These are “legal lots;” that is, development in accordance with the underlying zoning district is allowed even though they are “nonconforming” with regard to lot size.

It is important to note that the island has 100s of “nonconforming” lots with regard to minimum lot size. The City developed its minimum lot standard decades after, in many cases, these lots were created. Given this discrepancy, the City is left with a “legacy” of many nonconforming lots, many of which are “substandard” relative to minimum size as required by the City’s municipal code. The City’s zoning code allows for development on these lots, subject to applicable land use, building, and zoning regulations.

What does the Comprehensive Plan say about development in the “conservation areas”?

A number of Comprehensive Plan goals and policies address development within the conservation areas, including (emphasis added):

- Policy LU 4.10 Lands shown on Fig. LU-3 as “Conservation Areas” are appropriate for residential, recreational, agricultural, habitat and open space uses. The City will use a variety of conservation tools, including public acquisition of certain properties, regulatory protection of critical areas and innovative tools such as aquifer conservation zoning and conservation villages to minimize the development footprint within these Conservation Areas.
- Policy LU 4.11 To the greatest degree practical, prohibit clearcutting and grading of the natural landscape.
- GOAL LU-14 Develop context-sensitive regulations for residential development in areas designated R-2, R-1 or R-0.4, in order to limit clearing, soil disturbance, promote low impact development and reconcile development and conservation.
- Policy EN 19.3 In pre-application conferences and as part of the review of development applications, encourage property owners to maximize the preservation of trees and to maintain and enhance the cohesive quality of tree groves through appropriate site design and construction methods as well as open space dedication of areas that contain these resources. Incentives such as a building height bonus could be used to encourage tree preservation greater than the preservation required by code during site design.

How does the aquifer recharge protection area fit in?

In 2018, the City adopted a new “aquifer recharge protection area” (ARPA) provision as part of the critical areas ordinance (CAO) update, that applies only to the R-0.4, R-1, and R-2 zoning districts. The ARPA is intended to provide a mechanism for the purpose of ensuring sufficient groundwater recharge,

defined as maintaining 100 percent of the annual average pre-construction groundwater recharge volume for the site. ARPA development standards include the following: "The ARPA shall include all existing native vegetation on a site, up to a maximum of 65 percent of the total site area. A lower percentage is allowed if necessary to achieve a development area of at least 12,500 square feet on a parcel" (see BIMC16.20.100.E.2.b). The 12,500 square foot "development area" – the area of a lot dedicated to construction and related site improvements – allowed regardless of the parcel size.

Recently, there have been instances where lots less than 12,500 square feet have been described as "exempt" from the ARPA requirement. This is an accurate application of the ARPA regulations, because a 12,500 square foot development area is allowed regardless of parcel size. In these cases, most – if not all – of the existing vegetation has been cleared/removed from the site. In the "conservation area" zoning districts (R-0.4, R-1 and R-2), there are no regulations requiring a reduction/minimization in site disturbance and/or tree retention associated with new development (Note: applicants may chose, but are note required, to minimize site disturbance or tree removal to meet stormwater requirements and tree retention may be required for developed or vacant lots when not associated with new development.)

What are recent issues associated with small lot development?

As noted above, lots in the R-0.4, R-1, and R-2 zoning districts (the island's conservation area) less than 12,500 square feet in size do not require an ARPA because the ARPA provisions allow for a 12,500 square foot development area. This means that lots less than 12,500 square feet can be clear cut. Property line to property line, there is no restriction to cutting down every tree. City staff identified a significant number of parcels where this could occur in the future.

Additional problems associated with small lot development have been identified, and fall into several sections of the municipal code; e.g.: tree retention, home size, and notification of pending development. It is important to consider these issues separately before launching into a "one size fits all" approach to solving perceived problems with "small lot development." Based on community input, the following issues related to small lot development have been identified to date:

- Too many trees cut down
- Too much site disturbance
- House/s too big/out of scale or character with neighborhood
- Lack of buffer between new development and established/existing open space (e.g., parks)
- Neighbors not notified
- Insufficient consistency/coordination with City/County regulations

What are potential solutions?

There are a number of regulatory options that could address the identified problems with small lot development. They should be considered based on their relative ability to address the full suite of identified problems (degree of impact) vs. any identified issues with implementation (degree of ease/difficulty).

One or more of the following regulatory options could be considered. In addition, a "small lot" section of the zoning code could be created to provide clarity and specificity for these parcels. The section could

include a menu of regulatory options to provide flexibility for site development while meeting Comprehensive Plan goals and polices (e.g. reconcile development and conservation). Potential regulatory options include, in no particular order:

1. Do not allow significant tree (by size) removal unless maximum lot coverage cannot be achieved or primary structure cannot achieve a minimum width, to be determined
2. Require documentation of mitigation sequencing (first avoid, then minimize) before allowing significant tree removal – City can ask for development relocation/reconfiguration to avoid tree removal/protect retained trees
3. Allow encroachment into required yard setbacks only to accommodate tree retention (maximum encroachment to be determined; cannot exceed area of tree protection zone)
4. Lower 12,500 square foot ARPA threshold for small lots based on sliding scale
5. Allow only one (or no) variances from zoning standards
6. Allow increase in maximum height to accommodate tree protection
7. Reconsider maximum lot coverage based on sliding scale (percentage of minimum lot size)
8. Consider maximum home size
9. Require 300-foot notification per BIMC 2.16
10. Require administrative land use review (vs. only a construction permit)
11. Require planted landscape buffers on small lot perimeter
12. Require replacement trees to achieve prior tree canopy

Additionally, from a business practice standpoint, the City could:

1. Revisit its communication/coordination practices with Kitsap Public Health District to identify potential areas for improvement and increased efficiencies related to on-site sewage systems
2. Review site development sequencing – from pre-development tree removal allowances, site assessment review (SAR), demolition permit, to construction permit and permit inspections – to maximize tree retention and context sensitive design

Next steps

If the City Council would like to address identified issues with small lot development, next steps might include:

- Determining its priority among other 2021 work plan items
- Refer to a future study session for additional general Council discussion
- Remove “non-starters” from the list of potential regulatory options, above
- Request staff support for exploring effectiveness and feasibility of different regulatory options, including development engineer (stormwater regulations), planner, and arborist
- Identify immediate, short-term code fixes
- Request input from the Environmental Technical Advisory Committee (ETAC)
- Other steps as recommended by staff and/or suggested by councilmembers



Department of Planning and Community Development

## Memorandum

Date: December 29, 2020  
To: City Council  
From: Heather Wright, AICP  
Planning Director  
Nick Snyder  
Arborist  
Subject: Considerations for Regulating Small Lot Development in R-0.4, R-1 and R-2

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### I. LEGISLATIVE HISTORY: CRITICAL AREAS AND THE TREE REMOVAL, FOREST STEWARDSHIP AND VEGETATION MAINTENANCE ORDINANCES

In 2018, the City of Bainbridge Island updated its critical areas ordinance and created a new chapter for a critical area known as the Aquifer Recharge Area (BIMC 16.20.100). The entirety of Bainbridge Island is classified as an aquifer recharge area to preserve the volume of recharge available to the aquifer system and to protect groundwater from contamination.

Under this new chapter, any development that required a Site Assessment Review (SAR) in the R-1, R-2 and R-0.4 zoning districts require the designation of an Aquifer Recharge Protection Area (ARPA). The City's regulations allow for some exceptions to the 65% standard when a lower percentage is necessary to guarantee a development area of at least 12,500 square feet, or if the site has less than 65% native vegetation.

Shortly after this new regulation, the City also updated its tree and vegetation Chapter 16.18 (Tree Removal, Forest Stewardship and Vegetation Maintenance) (formally known as 'Clearing' and 'Vegetation Management' Chapters). With the new critical areas ordinance vegetation protections through the ARPA in the R-1, R-2 and R-0.4 zones, the tree and vegetation regulations provided protections that were limited to the R-2.9, R-3.5 and R-4.3 zones requiring at least 30 tree units per acres or at least as many tree units as the property had on October 31, 2018.

A recent clearing activity on two abutting R-1 lots off of Olympic View Drive brought attention to the fact that lots less than 12,500 square feet in the R-1 zoning district (and the R-2, and R-0.4 districts) could potentially be completely cleared if there are not any underlying critical areas as ARPA and tree unit requirements do not apply to such properties.

## II. IMPACTED PROPERTIES

A query of the City's parcel database indicates that there are a total of 990 parcels in the R-1, R-2 and R-0.4 zoning districts that are less than 12,500 square feet and of those, 361 are undeveloped. That means that there are an estimated 361 undeveloped parcels that could potentially be developed and such parcels would not be subject to ARPA or any tree unit requirements, totaling 51.99 acres and including 35.23 acres of forested area for an average canopy of 67.8%.

City Staff also identified 635 developed lots in this size class totaling 128.36 acres and including 46.68 acres of forested land. Average canopy coverage for these developed lots is 36.4%.

To analyze the trends and differences in developed vs. undeveloped lots the two data sets were compared and evaluated against each other. The difference in average canopy cover was evaluated to determine the extent of clearing that could be expected as undeveloped lots are built upon. The difference in average forest cover between developed and undeveloped lots equates to roughly 31% of the average site being cleared during development. Or stated another way, about 46% less canopy cover exists on developed lots vs. undeveloped lots in this size class (<12,500 square feet).

For further clarification, the remaining undeveloped lots have an average lot size of about 0.15 acres (6,534 square feet) and the average lot includes roughly 0.1 acres (4,356 square feet) of forested area. If one can expect an average of 46% canopy loss on the site, that would equal on average, about 2,000 square feet of canopy loss per lot as development proceeds.

Extrapolating that to the entire cohort of the 361 undeveloped lots, would give us an expected canopy loss of roughly 16.2 acres of forested land if all lots were developed. This is roughly equivalent to the same clearing we could see as a result of only 20 development projects on fully forested parcels in the R-0.4 zoning district where a full 65% ARPA was retained on standard 100,000 square foot lots and the remaining 35% was cleared for development

This analysis does not take into account protections provided by the SMP or CAO which both factor heavily into tree protection and retention, and may be a factor in why certain lots have not been developed, and may in fact render some lots undevelopable.

### III. TREE REGULATION UPDATE: BACKGROUND AND COUNCIL'S DIRECTION

Concurrent with the recent example of clearing on Olympic View Drive, the City's Arborist was working on the tree and vegetation updates that are a continuation of the Landmark Tree Ordinance work plan. While the focus on those regulations is primarily limited to BIMC Chapters 16.18 (Tree Removal, Forest Stewardship and Vegetation Maintenance), 18.15 (Development Standards and Guidelines) and 16.32 (Protection of Landmark Trees), there are also some minor housekeeping changes proposed in the critical area chapter. This update proposed to address the small lot development issue utilizing the existing tree unit paradigm in BIMC 18.15.010 (Landscaping, screening, and tree retention, protection and replacement).

At the request of the City Council, staff presented the issue of small lot clearing on October 20, 2020 at a Council Study Session. Staff provided background on the Olympic View clearing near Fairy Dell Trail and briefly outlined a potential proposal to address the issue with the existing tree unit language. The Council directed staff to not address this issue with the tree unit paradigm, but to explore other options for achieving tree retention on nonconforming lots in the R-0.4, R-1, and R-2 districts. Based on that direction, staff has removed all proposed language that utilizes tree units in the less dense zoning districts from the current tree and vegetation regulation update process.

Staff also began internal conversations around this issue and was informed that Councilmember Carr would provide options for consideration. Staff received a Small Lots Regulatory Options memo from Councilmember Carr on November 24<sup>th</sup>, 2020.

For the Council's consideration of this topic, Staff is providing responses to the options proposed by Councilmember Carr for consideration, as well as identification of considerations for each (see Table 2 below).

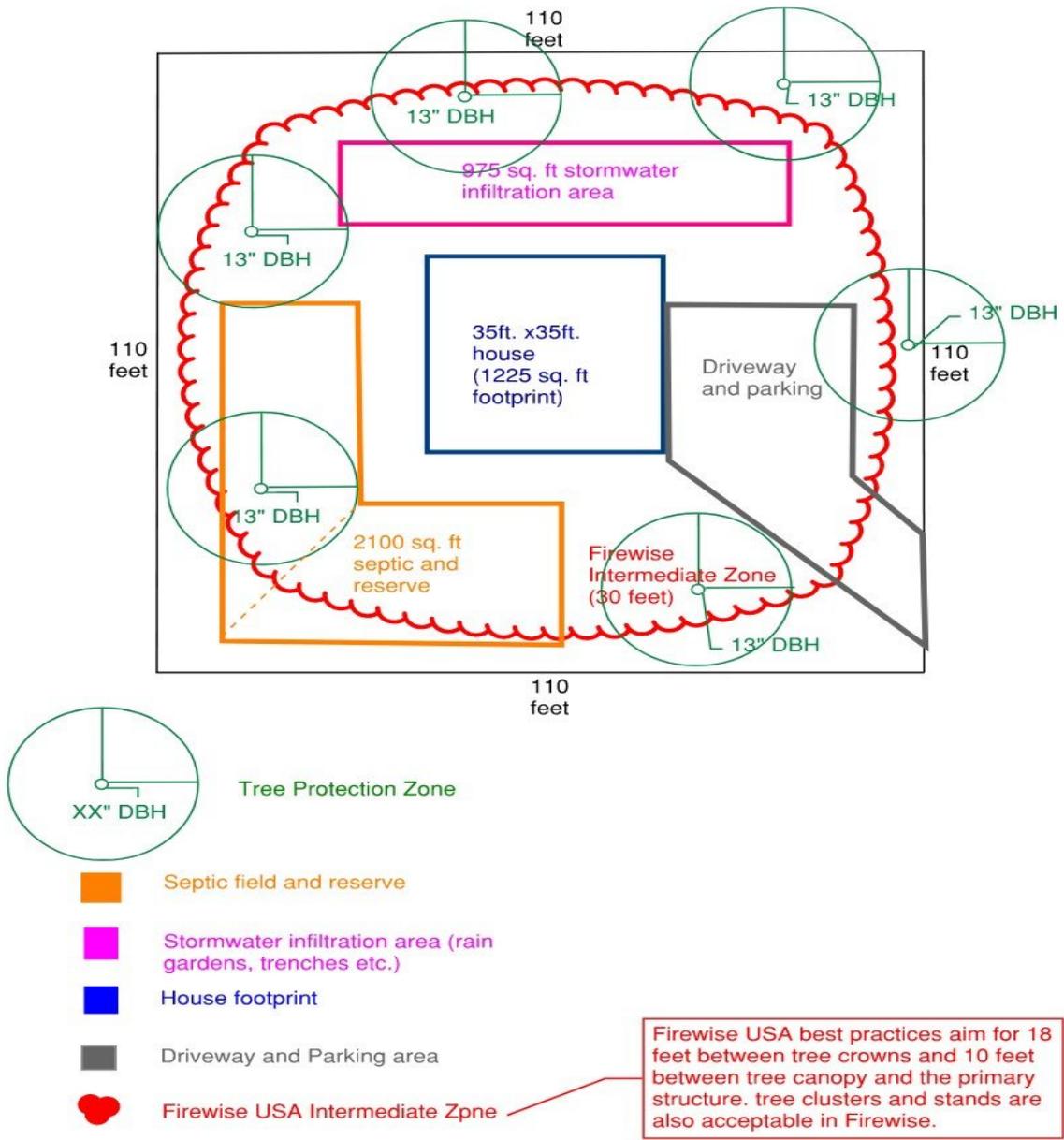
Staff used the following diagram in Figure 1 below to determine rough minimum areas needed for development in response to the regulatory options presented. The data in Figure 1 are

independently-generated numbers and details and are not meant to depict any actual existing development but rather serve as a tool to visualize site needs. Please note that FireWise guidelines are not mandated by the development code, but that they are recommended by our Fire District and included as a priority action in the Bainbridge Island Climate Action Plan (6.A.3.b).

Single Family Residential Development

12,100 square foot lot

(Figure 1)



#### IV. POTENTIAL SOLUTIONS AND RESPONSE TABLE

Below is the table provided from Councilmember Carr that has been modified to include a staff response column.

Potential Solutions and Response (Table 2)

| Regulatory Options from Nov. 24, 2020 memo from Councilmember Carr   | Initial Staff Response   |
|--|--|
| <p>1. Do not allow significant tree (by size) removal unless maximum lot coverage cannot be achieved, or primary structure cannot achieve a minimum width (to be determined).</p>  | <p>Dimensional standards (lot coverage and lot width) do not appear to be the only cause for site clearing. The site requirements of septic, stormwater, access, etc. (see figure 1 above) also contribute to tree removal in these small lots. This option would need to include consideration for these other appurtenances.</p>   |
| <p>2. Require documentation of mitigation sequencing (first avoid, then minimize) before allowing significant tree removal – City can ask for development relocation/reconfiguration to avoid tree removal/protect retained trees.</p> | <p>Tree prioritization guidelines exist and could be modified to apply to these zoning districts:</p> <p>“b. In determining which trees will be retained on a property to meet the tree unit requirements of subsection G.4 of this section, an applicant shall attempt to retain trees greater than 15 inches, trees in tree stands, and trees adjacent to tree stands on adjacent properties, unless such retention would prevent reasonable use of a property and no other alternative is feasible.”</p> <p>This may work well if combined with options 10, 11 and 12 to ensure that the trees that are able to be retained are the most significant.</p> |
| <p>3. Allow encroachment into required yard setbacks only to accommodate tree retention (maximum encroachment to be determined; cannot exceed area of tree protection zone) .</p>  | <p>The variance chapter has been applied to allow encroachment for the protection of landmark trees.</p>   |
| <p>4. Lower 12,500 square foot ARPA threshold for small lots based on sliding scale</p>  | <p>Current Code Language:<br/>The ARPA shall include all existing native vegetation on a site, up to a maximum of 65 percent of the total site area. A lower percentage is allowed if necessary to achieve a development area of at least 12,500 square feet on a parcel.</p> <p>Even if the APRA threshold is adjusted as proposed, Staff is concerned that the amount of space necessary to construct a single-family residence and normal appurtenances (see Figure 1) may not result in the ability to require an ARPA area that meets the existing ARPA design standards.</p>   |

|   |  |
|---|--|
| <p>5. Allow only one (or no) variances from zoning standards</p>                                  | <p>This appears to conflict with 3 above. Variances have been allowed for the protection of landmark trees. However, the Code could be modified to prohibit a variance from lot coverage.</p>  |
| <p>6. Allow increase in maximum height to accommodate tree protection</p>                         | <p>Maximum building height is 30' in the R-0.4 and R-1 zoning districts and 25' in the R-2 zoning district.</p> <p>The aesthetic impacts of increasing height in a neighborhood would need to be evaluated. Concerns include: creating large, imposing walls and competition for solar access on neighboring properties.</p>   |
| <p>7. Reconsider maximum lot coverage based on sliding scale (percentage of minimum lot size)</p> | <p>Lot coverage is 10% in R-0.4, 15% in R-1 and 20% in R-2. These lots generally provide for a small home size because they are less than 12,500 square feet.</p> <p>This means the largest footprints allowed are between 1,250 and 2,500 square feet if the lot is 12,500 square feet, and less if the lot is smaller.</p> <p>The space requirements for septic, driveway, stormwater and building footprint may not provide much remaining area for the long-term protection of existing trees.</p> |
| <p>8. Consider maximum home size</p>  | <p>Home size is currently a standard that applies when a lot is subdivided in the R-8, R-14, NC and MUTC and HS Road zoning districts. In those districts, the maximum home size is 1,600 square feet.</p> <p>Staff would need to perform analysis to support a maximum home size in these zoning districts as this hasn't been contemplated or applied to existing lots that aren't subdividing or located in these zoning districts.</p>   |
| <p>9. Require 300-foot notification per BIMC 2.16</p>   | <p>If this becomes an administrative approval, then staff could require noticing as part of the process.</p>   |
| <p>10. Require administrative land use review (vs. only a construction permit)</p>                | <p>If this option is preferred, decision criteria could include some of the options discussed in this memo (i.e. mitigation sequencing, noticing, increase in height, no variance for lot coverage),</p>   |
| <p>11. Require planted landscape buffers on small lot perimeter</p>                               | <p>This option may be preferable for incentivizing solar or if strictly addressing aesthetics rather than environmental impacts. The code could be added to the existing tree retention and landscaping perimeter language in 18.15.010, which addresses screening between residential projects. Consider combining with #2 and #12.</p>   |

|  |   |
|--|---|
| 12. Require replacement trees to achieve prior tree canopy | This option could be a deviation of the existing tree unit paradigm in BIMC 18.15.010, which includes replanting standards for trees removed during development. Consider combining with #2 and #11 for a comprehensive approach. |
|--|---|

## V. ANALYSIS AND DISCUSSION

The area necessary to support the septic, stormwater and access needs for a single-family home reduce the number of trees that can be preserved on these small lots. Therefore, staff recommends that the focus be on preserving some of the most valued, existing trees, if possible, while also requiring landscape buffering to lessen the impacts of these developments on neighboring properties.

However, acknowledging that this Council is seeking as much tree protection as possible in these small lots, staff suggests consideration of further options, including one which is introduced below.

### Staff Proposal 1, Combining Options:

Staff identified items #2, #11, and #12 (and potentially #10) above as being closely linked, and as potentially very effective if combined. If those suggestions were merged into a cohesive set of regulations for small lot development, such a set of revised regulation could provide a reasonable and effective approach that addresses many of the problems identified by the public. Much of the required language for these regulations is already existing in some form within the Tree Unit regulations in BIMC 18.15.010 and newly revised regulations as described above could be based on text and approaches from that code section. Under this proposed approach, applicants would be required to show proper sequencing, or to use some (to be determined) tree prioritization protocol to select trees that are possible to retain. After tree retention is determined, tree units would be applied and any required replanting would be documented and conditioned to the permit. Landscaping buffer requirements could also be applied through the existing language in BIMC 18.15.010 where development creates aesthetic concerns.

From staff's perspective, such an approach could be executed relatively expeditiously given that the language and methodology exist within the existing code. While staff was aiming to complete their legislative work on the tree and vegetation standards with the Planning Commission by December 17, 2020, a change in approach may push out the completion of such regulations until February 2021 based on other legislative items already planned. Under this approach, it is anticipated that the topic would come to the Council in Q1, 2021.

### Staff Proposal 2, Consider other preservation options:

Given the site constraints for development of a single family residence on these small sites (less than or equal to 12,500 square feet), staff believes the actual amount of trees that can preserved may be low. Additionally, given recent trends in development it seems reasonable to assume that the future will likely see most, if not all developable lots being built on. Staff could provide options for council to consider ensuring long term preservation of these lots; including changes to our nonconforming standards, conservation easements, or other approaches.

## VI. CONCLUSION

Based on our analysis, there are 361 undeveloped lots totaling an area of 51.99 acres, of which 35.23 acres are forested. It is assumed that in the event these lots develop, there will be a loss of 16.2 acres of forest if the lots are developed similarly to the 635 developed, nonconforming lots in the same zoning designation.

With this information, staff has the following question for Council:

How and when does Council want staff to address these lots?

Staff has identified that some of the options provided in the November 24, 2020 memo could be considered for implementation in 2021, however others will take additional legal, planning and/or financial analysis.

It would be helpful for the Council to articulate the policy goal(s) that the options are intended to support so that staff can consider different implementation approaches and bring back additional options and background information for Council consideration.

We look forward to continuing to support the policy development and regulatory implementation.

# Small Lots Discussion

Heather Wright, AICP  
Director PCD

Nick Snyder, Arborist

# A Look Back:

- Tree protection regulations
- Recent clearing activity

# How many parcels are impacted?

361 undeveloped parcels less  
than 12,500

99.28 acres or 0.24% of the  
island's total land area  
(41,591.2 acres)

35 acres are forested

Average Canopy: 67.8%

# Undeveloped Lot Analysis

- Average lot size: .15 acres (6,534 square feet)
- Average amount of forest per lot: .1 acres (4,356 square feet)
- Anticipated Canopy Loss: 2,000 sq ft per lot
- Anticipated Canopy loss for all lots: 16.2 acres
- Comparison: 20 developments in the R-0.4 zoning district

# Council Discussion

- Tree Unit Discussion: October 24
- Council Member Carr memo: November 24

# Policy options

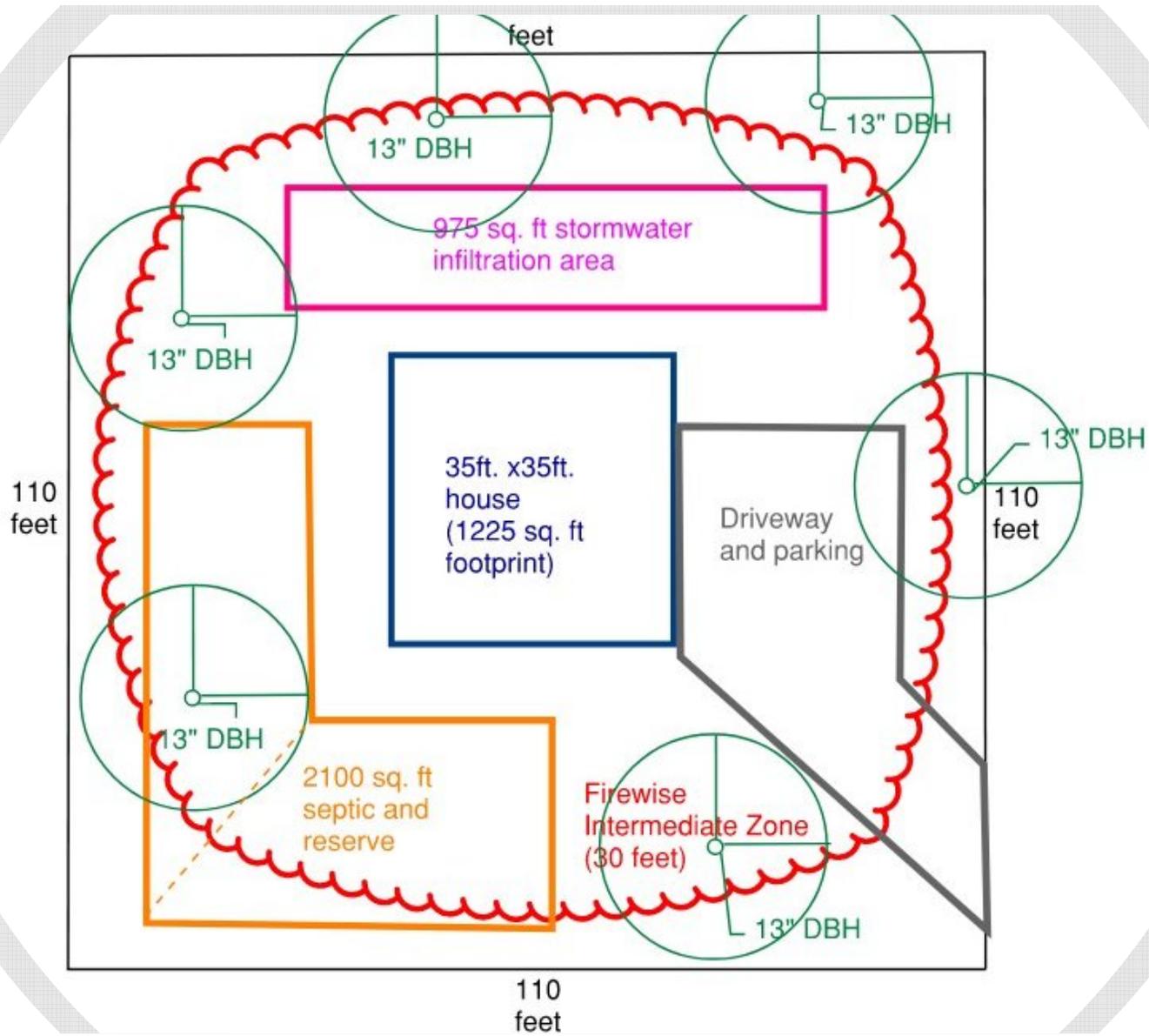
- Impose a new development standard: Limit the size of the homes
- Vary existing development standards (setbacks, height, buffers)
- Change the review process (noticing, administrative approval)

# Constraints

- Septic
- Stormwater
- Well radius

Firewise

Other Consideration:  
Solar access  
Expansion over time



# Analysis

- Combine Options (2, 10, 11, 12):
  - Mitigation sequencing
  - Landscape Buffer
  - Replanting
  - Admin Review
- Consider other options:
  - Nonconforming status
  - Conservation easement

# Policy Direction

- How and when to regulate these lots
  - (Determining its priority among other 2021 work plan items)
- Refer to a future study session for additional general Council discussion
- Remove “non-starters” from the list of potential regulatory options, above
- Request staff support for exploring effectiveness and feasibility of different regulatory options, including development engineer (stormwater regulations), planner, and arborist
- Identify immediate, short-term code fixes
- Request input from the Environmental Technical Advisory Committee (ETAC)
- Other steps as recommended by staff and/or suggested by councilmember



CITY OF  
BAINBRIDGE ISLAND

## City Council Study Session Agenda Bill

**MEETING DATE:** January 5, 2021

**ESTIMATED TIME:** 20 Minutes

**AGENDA ITEM:** (8:05 PM) Review Council Liaison Appointments to Local and City Committees - Council,

**SUMMARY:** The City Council will review the attached matrix of Council liaison appointments following the appointment of Councilmember Fantroy-Johnson to the North Ward Council vacancy.

**AGENDA CATEGORY:** Appointment

**PROPOSED BY:** City Council

**RECOMMENDED MOTION:** Discussion and potential appointments for vacant assignments.

**STRATEGIC PRIORITY:** Good Governance

**FISCAL IMPACT:**

|                                    |  |
|------------------------------------|--|
| <b>Amount:</b>                     |  |
| <b>Ongoing Cost:</b>               |  |
| <b>One-Time Cost:</b>              |  |
| <b>Included in Current Budget?</b> |  |

**BACKGROUND:**

**ATTACHMENTS:**

[2020 Council Assignments.docx](#)

**FISCAL DETAILS:**

**Fund Name(s):**

**Coding:**

LOCAL AND REGIONAL BOARD / COMMITTEE ASSIGNMENTS

| Group  | Meeting Date                                 | Time                         | Location                 | 2020 Assignments |
|--|--|------------------------------|--------------------------|------------------|
| Alliance for Youth (formerly Bainbridge Island Healthy Youth Alliance) | Quarterly                                    |                              | Bainbridge               | Schneider        |
| Hwy 305 Task Force   | As called                                    |                              | Suquamish, usually       | Schneider, Deets |
| Housing Kitsap Board   | 1 <sup>st</sup> and 3 <sup>rd</sup> Tuesdays | 3:15 pm/<br>11:00 am         | Bremerton                | Deets            |
| Intergovernmental Work Group   | Quarterly; 3 <sup>rd</sup> Monday            | 5:30 PM                      | Bainbridge               | Carr, Deets      |
| Kitsap 911 Policy Board  | 1 <sup>st</sup> Tuesday (some)               | 12:30 pm                     | Bremerton                | Deets            |
| Kitsap Economic Development Alliance                                   | 3 <sup>rd</sup> Thursday on quarterly basis  | 3:00 – 6:00 p.m.             | Various county locations | Deets            |
| Kitsap Emergency Management Council                                    | 1 <sup>st</sup> Tuesday (some)               | 12:30 pm<br>2:00 pm          | Bremerton                | Deets            |
| Kitsap Public Health District Board                                    | 1 <sup>st</sup> Tuesday                      | Varies; 10:30 am or 12:30 pm | Bremerton                | Deets            |

LOCAL AND REGIONAL BOARD / COMMITTEE ASSIGNMENTS

| Group  | Meeting Date   | Time       | Location  | 2020 Assignments            |
|--|--|------------|-----------|-----------------------------|
| Kitsap Regional Coordinating Council (KRCC) Executive Board                              | 1 <sup>st</sup> Tuesday  | 10:15 a.m. | Bremerton | Deets, Schneider            |
| KRCC Transportation Policy Board (TransPOL)  | 3 <sup>rd</sup> Thursday (not every month)                         | 3:15 p.m.  | Bremerton | Schneider, Carr (alternate) |
| KRCC Land Use Policy Board (PlanPOL)   | 3 <sup>rd</sup> Tuesday (not every month)                          | 1:30 p.m.  | Bremerton | Nassar                      |
| Kitsap Transit Board   | 1 <sup>st</sup> and 3 <sup>rd</sup> Tuesdays                       | 8:30 am    | Bremerton | Deets                       |
| Puget Sound Clean Air Agency Advisory Council  | 2 <sup>nd</sup> Wednesdays (5-8 meetings a year)                   | 9:00 am    | Seattle   | Pollock                     |
| Puget Sound Regional Council Transportation Policy Board <sup>1</sup>                    | 2 <sup>nd</sup> Thursday   | 9:30 am    | Seattle   | Pollock                     |
| Puget Sound Regional Council Growth Management Policy Board <sup>2</sup>                 | 1 <sup>st</sup> Thursdays with occasional 2 <sup>nd</sup> Thursday | 10:00 am   | Seattle   | Pollock                     |
| West Central Local Integrating Organization  | Varies   | Varies     | Bremerton | Deets                       |
| West Sound Partners for EcoSystem Recovery (also known as West Sound Watersheds Council) | 2 <sup>nd</sup> Tuesday every other month                          | 9:30 am    | Varies    | Deets                       |

<sup>1</sup> Council selects nominee; KRCC approves recommendation and notifies PSRC of representative to PSRC Transportation Policy Board.

<sup>2</sup> Council selects nominee; KRCC approves recommendation and notifies PSRC of representative to PSRC Growth Management Policy Board

|                     |           |  |           |        |
|---------------------|-----------|--|-----------|--------|
|                     |           |  |           |        |
| West Sound Alliance | As called |  | Bremerton | Nassar |

CITY OF BAINBRIDGE ISLAND ADVISORY COMMITTEES AND COMMISSIONS

| Group   | Meeting Date                                | Time      | 2020 Assignments                        |
|---|---|-----------|---|
| Climate Change Advisory Committee   | 3 <sup>rd</sup> Wednesday                   | 6:15 p.m. | Hytopoulos, Deets                       |
| Cultural Funding Advisory Committee – Council member acts as liaison and non-voting Chair                     | Summer/autumn 2019                          | TBD       | Nassar (Chair), Schneider (Co-chair)    |
| Design Review Board   | 1 <sup>st</sup> /3 <sup>rd</sup> Mondays    | 2:00 PM   | Schneider                               |
| Environmental Technical Advisory Committee  | 2 <sup>nd</sup> Thursday                    | 3:00 pm   | Carr                                    |
| Historic Preservation Commission  | 1 <sup>st</sup> Thursday                    | 2:00 pm   | Hytopoulos                              |
| Human Services Funding Task Force   | Summer/autumn 2020                          |           | Schneider, Carr                         |
| Island Center Subarea Plan Steering Committee   | 1 <sup>st</sup> /3 <sup>rd</sup> Wednesdays | 6:00 p.m. | Pollock, Carr                           |
| LEOFF 1 Disability Board – 2 Council members are members  | TBD   | TBD       | TBD                                     |
| Lodging Tax Advisory Committee – Council member acts as Chair; second Council member is non-voting Vice-Chair | Spring/Summer                               |           | Carr (Chair)<br>Hytopoulos (Vice Chair) |
| Planning Commission   | 2 <sup>nd</sup> /4 <sup>th</sup> Thursdays  | 7:00 pm   | Carr                                    |
| Public Art Committee  | ??  | ??        | Schneider                               |
| Salary Commission   | TBD   | TBD       | Schneider, Nassar, Pollock              |
| Utility Advisory Committee  | 2nd Wednesday                               | 5:00 pm   | Nassar                                  |
| Race Equity Advisory Committee – Council members are liaisons   | 1 <sup>st</sup> Thursday                    | 6:30 p.m. | Nassar, Hytopoulos                      |

CITY COUNCIL AD HOC COMMITTEES

| Group                                 | Meeting Date | Time | 2019 Assignments      | 2020 Assignments          |
|---------------------------------------|--------------|------|-----------------------|---------------------------|
| Youth Mental Health Workshop Proposal |              |      | Deets, Tirman, Nassar | Deets, Carr, Nassar       |
| Economic Recovery                     |              |      |                       | Deets, Schneider          |
| Mask Ordinance                        |              |      |                       | Carr, Hytopoulos, Pollock |
| Safe Streets                          |              |      |                       | Deets, Pollock            |
| Public Farmland                       |              |      |                       | Hytopoulos, Deets, Nassar |

CITY OF BAINBRIDGE ISLAND TASK FORCES

| Group                                 | Meeting Date | Time | 2019 Assignments | 2020 Assignments |
|---------------------------------------|--------------|------|------------------|------------------|
| Green Building Task Force             | TBD          | TBD  | N/A              | Deets, Pollock   |
| Sustainable Transportation Task Force | TBD          | TBD  | N/A              | Carr, Schneider  |

JOINT SUBCOMMITTEE

| Group  | Meeting Date                                | Time  | 2019 Assignments | 2020 Assignments  |
|--|---|-------|------------------|---|
| Joint Planning Commission and City Council Land Use Subcommittee | 2 <sup>nd</sup> and 4 <sup>th</sup> Mondays | 12:00 |                  | Hytopoulos, Pollock, Chester, McCormick-Osmond, Macchio |
|  |   |       |                  |   |