



CITY OF  
BAINBRIDGE ISLAND

**SPECIAL CITY COUNCIL MEETING  
THURSDAY, FEBRUARY 11, 2021**

REMOTE MEETING ON ZOOM

PLEASE CLICK THE LINK BELOW TO JOIN THE WEBINAR:  
[HTTPS://BAINBRIDGEWA.ZOOM.US/J/91296938248](https://bainbridgewa.zoom.us/j/91296938248)  
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WEBINAR ID: 912 9693 8248

**AGENDA**

1. **CALL TO ORDER/ROLL CALL - 5:00 PM**
2. **APPROVAL OF AGENDA/CONFLICT OF INTEREST DISCLOSURE - 5:05 PM**
3. **PUBLIC COMMENT**
  - 3.A **(5:10 PM) Instructions for Providing Public Comment - City Clerk**, 10 Minutes  
[Instructions for Providing Public Comment at Remote Meetings.docx](#)
4. **NEW BUSINESS**
  - 4.A **(5:20 PM) Consider Adoption of Ordinance No. 2021-11 relating Joint City Council/Planning Commission Land Use Subcommittee Recommendation Relating to the Duration of Affordability**  
20 Minutes  
[Ordinance No 2021-11.docx](#)  
[ORD 2020-40 Planning Commission Recorded Motion 121020](#)  
[Background Planning Commission Workplan for Joint Land Use Subcommittee Recommendations](#)  
[Background Joint Land Use Subcommittee Memorandum Initial Recommendations](#)  
[Background Joint Land Use Subcommittee Attachment A Table](#)
5. **FOR THE GOOD OF THE ORDER - 5:40 PM**
6. **ADJOURNMENT - 5:50 PM**

**GUIDING PRINCIPLES**

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

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

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

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

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

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

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

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



**City Council meetings are wheelchair accessible. Assisted listening devices are available in Council Chambers. If you require additional ADA accommodations, please contact the City Clerk's Office at 206-780-8604 or [cityclerk@bainbridgewa.gov](mailto:cityclerk@bainbridgewa.gov) by noon on the day preceding the meeting.**



CITY OF  
BAINBRIDGE ISLAND

## Special City Council Meeting Agenda Bill

**MEETING DATE:** February 11, 2021

**ESTIMATED TIME:** 10 Minutes

**AGENDA ITEM:** (5:10 PM) Instructions for Providing Public Comment - City Clerk,

**SUMMARY:** The attached instructions explain how to provide public comment in a remote Zoom meeting.

**AGENDA CATEGORY:** Discussion

**PROPOSED BY:** Executive

**RECOMMENDED MOTION:** Information only.

**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:**

[Instructions for Providing Public Comment at Remote Meetings.docx](#)

**FISCAL DETAILS:**

**Fund Name(s):**

**Coding:**



CITY OF  
BAINBRIDGE ISLAND

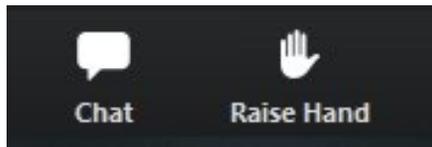
OFFICE OF THE CITY CLERK

SEPTEMBER, 2020

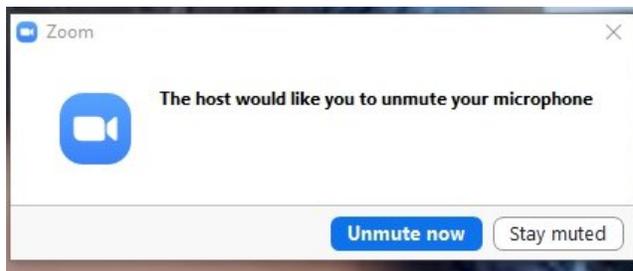
Members of the public are encouraged to submit written public comment to the City Council at any time by emailing Council at [council@bainbridgewa.gov](mailto:council@bainbridgewa.gov) or the City Clerk at [cityclerk@bainbridgewa.gov](mailto:cityclerk@bainbridgewa.gov). Members of the public who wish to provide public comment during the remote meeting should follow the instructions outlined below.

INSTRUCTIONS FOR PROVIDING PUBLIC COMMENT IN REMOTE MEETINGS

1. Attendees who wish to provide public comment sign in to Zoom with their name.
2. Meeting Chair will indicate when it is time for public comment.
3. Attendee indicates desire to speak by clicking on "Raise Hand" option at the bottom of the screen:



4. Attendee clicks button "Unmute now" after they are called to speak by Meeting Chair.



5. Attendee will appear on screen with other panelists, but without video, just name.

**IMPORTANT NOTE:** If you do not have the latest version of Zoom, the Clerk will promote you to panelist. You will then appear with video enabled. Look for the video icon in the bottom left-hand corner of the screen to turn off your video.

6. Attendee provides their comment.
7. A timer on the screen will track your time.

8. Stop speaking when the timer reaches the 3-minute mark.
9. Attendee is returned to attendee group, and microphone is muted.
10. As always, public comment is simply received by the Council, with no response.



CITY OF  
BAINBRIDGE ISLAND

## Special City Council Meeting Agenda Bill

**MEETING DATE:** February 11, 2021

**ESTIMATED TIME:** 20 Minutes

**AGENDA ITEM:** (5:20 PM) Consider Adoption of Ordinance No. 2021-11 relating Joint City Council/Planning Commission Land Use Subcommittee Recommendation Relating to the Duration of Affordability

**SUMMARY:** The City Council has previously identified improving access to affordable housing as a high priority for the City. Therefore, the Council has decided to consider adoption on a high-priority basis regulations to increase the duration of affordability described in BIMC 18.21.020.B from 30 years to 50 years for rental units and 99 years for home-ownership units. The Council is removing this code change from Ordinance No. 2021-03 (formerly 2020-40) to approve the change in a stand-alone ordinance.

**AGENDA CATEGORY:** Ordinance

**PROPOSED BY:** Planning & Community Development

**RECOMMENDED MOTION:** I move approve Ordinance No. 2021-11.

**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:** 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 list of recommended priority code changes from the Joint City Council/Planning Commission land use subcommittee was presented to the Council on October 13, 2020 and recommended to 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 Joint Land Use Subcommittee Recommendations). 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 Planning Commission discussed the code changes forwarded from the City Council at their meeting on October 29, 2020. The Planning Commission recommended separating the list of changes into two categories (see attached Planning Commission Workplan document):

1. Disparate Code changes identified by the Joint subcommittee as "Triage" or housekeeping changes will move forward with Planning Commission review in a 1st phase "Triage" ordinance. Prohibiting new hotels in the MUTC Central Core, Gateway, and Ferry Terminal districts is also part of Phase 1 - hotels are currently a conditional use in these zones. Code changes are described by the Joint subcommittee in the attached Planning Commission work plan. Draft Ordinance No. 2021-03 (formerly 2020-40) proposes 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) and how and when the Design Review Board and Planning Commission are involved in these early meetings. Representatives from the Commission have been discussing these issues with representatives from Design Review Board and staff. This work would then be integrated into a 2nd "triage" ordinance. 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 Commission then reviewed DRAFT Ordinance No. 2021-03 (formerly 2020-40) on November 19, and forwarded the ordinance to a public hearing on December 10, 2020. After closing the public hearing, the Planning Commission voted to recommend approval of DRAFT Ordinance No. 2021-03 (formerly 2020-40) to the City Council.

**ATTACHMENTS:**

[Ordinance No 2021-11.docx](#)

[ORD 2020-40 Planning Commission Recorded Motion 121020](#)

[Background Planning Commission Workplan for Joint Land Use Subcommittee Recommendations](#)

[Background Joint Land Use Subcommittee Memorandum Initial Recommendations](#)

[Background Joint Land Use Subcommittee Attachment A Table](#)

**FISCAL DETAILS:**

**Fund Name(s):**

**Coding:**

**ORDINANCE NO. 2021-11**

**AN ORDINANCE** of the City of Bainbridge Island, Washington, adopted pursuant to RCW 35A.13.190; amending BIMC 18.21.020 related to the duration of affordability for designated affordable housing units; authorizing interpretative authority; providing for severability; declaring an emergency; and establishing an immediate effective date.

**WHEREAS**, on June 22, 2020, the City Council formed a City Council and Planning Commission joint land use subcommittee (“subcommittee”) directed by the Council to, among other things, develop a process and list for undertaking work on priorities for land use code revisions; and

**WHEREAS**, the subcommittee’s first phase of work included identifying urgent land use code changes; and

**WHEREAS**, the City Council endorsed the Planning Commission beginning work on this first phase of work at their meeting on October 13, 2020; and

**WHEREAS**, the subcommittee’s recommendations were wide-ranging, including revisions to permit processes, decision criteria, and increasing the duration of required affordability for housing units designated affordable through the provisions of Chapter 18.21 BIMC; and

**WHEREAS**, the Planning Commission considered the proposed changes, including in proposed Ordinance No. 2020-40, on October 29, November 12, and November 19, 2020; and

**WHEREAS**, the Planning Commission held a public hearing on Ordinance No. 2020-40 on December 10, 2020, and after closing the public hearing, made a recommendation of approval of Ordinance No. 2020-40, to the City Council; and

**WHEREAS**, on February 9, 2021, the City Council considered proposed Ordinance No. 2021-03 (formerly Ordinance No. 2020-40) and desires to enact the affordability provisions of that ordinance on a priority basis and allow for additional time for consideration related to the other provisions of Ordinance No. 2021-03, based on the Council’s concern about the limited number of affordable housing units on Bainbridge Island; and

**WHEREAS**, increasing the amount of affordable housing and improving housing affordability generally are goals that permeate several elements of the Comprehensive Plan, notably the Land Use, Housing, and Economic Elements; and

**WHEREAS**, to achieve the affordable housing goals and policies in the Comprehensive Plan, the City Council created a short-term Affordable Housing Task

Force (“AHTF”) in 2017 to assist the City in prioritizing a variety of affordable housing actions; and

**WHEREAS**, the AHTF issued a final report in 2018 with a number of recommendations, including recommending permanent affordability for designated affordable housing units (see Recommendation 1.A), and the City Council has endorsed moving forward to implement the recommendations; and

**WHEREAS**, the City Council wants to ensure that future affordable housing units remain affordable as long as possible; and

**WHEREAS**, the existing code requirement for affordable units for sale is that the units are to be sold to income-qualified households for the first sale only; and

**WHEREAS**, the existing affordability duration period in the City’s affordable housing provisions for rental units is 30 years; and

**WHEREAS**, Policy HO 7.2 of the Housing Element of the Comprehensive Plan supports increasing the affordability period to at least 50 years for designated affordable rental housing; and

**WHEREAS**, an emergency exists necessitating adoption of this ordinance to increase the duration of affordability of the for sale units and for rent units that are subject to this ordinance in order to preserve and protect public health, safety, property, and/or welfare; and

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

**WHEREAS**, the regulations imposed herein promote the public good and are necessary for the protection of public health, property, safety, property, and/or welfare; and

**WHEREAS**, the City Council now determines that a public emergency exists requiring that this regulation become effective immediately upon adoption.

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

**Section 1. Findings of Fact.** The recitals set forth above are hereby adopted as the City Council’s findings of fact in support of the regulations established by this ordinance.

**Section 2. Regulations Imposed.** As authorized by the police powers of the City as set forth, for example, in Article XI, Section 11, of the Washington State Constitution,

and pursuant to statutory authority set forth, for example, in RCW 35A.13.190, the City hereby imposes this regulation, as described in this Section 2, as follows:

Section 18.21.020.B of the Bainbridge Island Municipal Code is hereby amended to read as follows:

**B. Duration of Affordability.**

1. **Rental Units.** Affordable rental housing units created as a result of the provisions of this chapter shall remain affordable for a period of ~~30~~ at least 50 years from the time of first occupancy and shall be secured by a recorded agreement and covenant running with the land, binding all the assigns, heirs, and successors of the applicant.
2. **Home Ownership Units.** All affordable home ownership units created as a result of the provisions of this chapter shall be initially sold to income-qualified households and thereafter subject to a mechanism that is specified in an appropriate administrative procedure adopted by resolution by the city council allowing the city to capture a share of the appreciation when the unit is sold at market rate, shall remain affordable for a period of 99 years from the time of first occupancy and shall be secured by a recorded agreement and covenant running with the land, binding all the assigns, heirs and successors of the applicant. The city's share of the proceeds shall be placed in its housing trust fund.
3. A unit that is owned or sponsored by a public or private nonprofit agency that already restricts benefit and resale is exempt from the provisions of subsections B.1 and B.2 of this section.

**Section 3. Effect on Vested Rights.** The regulations imposed under this ordinance shall be in effect as of the effective date of this ordinance. However, nothing in this ordinance shall be construed to extinguish, limit, or otherwise infringe on any property owner's or property leaseholder's vested development rights as defined by state law and City of Bainbridge Island regulations.

**Section 4. Interpretive Authority.** The City of Bainbridge Island Director of Planning and Community Development, or designee, is hereby authorized to issue official interpretations arising under or otherwise necessitated by 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. Declaration of Emergency; Effective Date.** This ordinance, which the City Council hereby regards as a public emergency ordinance necessary for the protection of the public health, public safety, public property, and/or public peace, shall take effect and be in full force immediately upon its adoption. Pursuant to *Matson v. Clark County Board of Commissioners*, 79 Wn. App. 641 (1995), non-exhaustive underlying facts necessary to support this emergency declaration are included in the “Whereas” clauses above, all of which are adopted by reference as findings of fact as if fully set forth herein. 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 11<sup>th</sup> day of February, 2021.

APPROVED by the Mayor this 11<sup>th</sup> day of February, 2021.

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Rasham Nassar, Mayor

ATTEST/AUTHENTICATE:

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Christine Brown, CMC, City Clerk

FILED WITH THE CITY CLERK:	February 10, 2021
PASSED BY THE CITY COUNCIL:	February 11, 2021
PUBLISHED:	_____, 2021
EFFECTIVE DATE:	February 11, 2021
ORDINANCE NUMBER:	2021-11



# PLANNING COMMISSION RECORDED MOTION

<b>Planning Commission Meeting Date:</b>	<b>December 10, 2020</b>
<b>Ordinance:</b>	<b>Ordinance 2020-40 - Joint City Council/Planning Commission Land Use Subcommittee Phase I "Triage" Code Changes</b>
<b>Decision Maker:</b>	<b>City Council</b>

**Planning Commission Role and Responsibility:** Pursuant to [BIMC 2.16.180](#), Planning commission review and recommendation is required for amendments to BIMC Chapter 2.16, and BIMC Titles [16](#), [17](#), and [18](#), area-wide rezones initiated by the city, or area-wide rezones associated with a privately initiated amendment to the comprehensive plan.

**Planning Commission Action:**

1. In making a recommendation, the planning commission shall consider applicable decision criteria of this chapter, all applicable law, the comprehensive plan, public comment, and any necessary documents and approvals.
2. The planning commission shall issue a written recommendation that contains (a) a statement recommending that the proposed amendment be approved, approved as amended, or denied, and (b) a statement of facts upon which the recommendation is based and the conclusions derived from those facts.
3. The planning commission's written recommendation and other documents upon which its decision is based shall be immediately transmitted to the city council and department director.

**Findings of Fact and Reasons for Action**

Most of the code changes proposed by Ordinance 2020-40 fall into 3 categories:

1. Clarifies that the Planning Director and Hearing Examiner should give substantial weight to Planning Commission recommendations on land use permits, including recommendations of denial.
2. Prohibits new hotels in the Central Core, Gateway and Ferry Terminal zoning districts.
3. Increases the duration of required affordability for designated affordable housing from 30 years to 50 years for rentals and 99 years for homeownership.

The intent of the proposed changes to the weight given to Planning Commission recommendations is to:

- Provide clarity to the decision maker with respect to the treatment of a Planning Commission denial and whether a decision can be remanded by the Hearing Examiner;
- Provide durations of affordability for rental and homeownership projects under Section 18.21.020.B; and
- Prohibit hotels in the referenced zoning districts while review of definition and use standards is completed to determine if and how hotels within these zoning districts are a use consistent with the comprehensive plan. (Table 18.09.020 and Definition 18.36.030.)

**Recommendation:**

The Planning Commission recommends the City Council:

- Approve the ordinance.  
 Approve the ordinance as amended.



# PLANNING COMMISSION RECORDED MOTION

	Deny the ordinance.
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**Recorded motion on December 10, 2020:**

I will move to recommend that this Ordinance draft be sent forward to the City Council and prepared for their deliberation and decision.  
 Quitslund/McCormick Osmond

**Planning Commission Record of Vote:**

Commissioner	Support	Oppose	Absent	Abstain
Chester	X			
McCormick Osmond	X			
Quitslund	X			
Macchio	X			
Paar	X			
Blossom	X			
Mathews	X			
<b>Total</b>	<b>7</b>			

**CITY OF BAINBRIDGE ISLAND PLANNING COMMISSION**

  
 Chair

Date: 12/15/20

  
 Administrative Specialist, Planning and Community Development

Date: 12/16/20

**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
<b>**Note: If specific new/revised language is being proposed, it is underlined.</b>			
<b>ISSUE</b>		<b>Revisions to Chapter 2.16 regarding Land Use Review Process</b>	
<b>GOAL</b>		<b>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</b>	
<b>RATIONALE</b>		<b>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.</b>	
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><i>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</i></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
<b>**Note: If specific new/revised language is being proposed, it is underlined.</b>			
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> "  <i>Background: This proposed new language is same as existing code language for approval/approval with conditions; this adds same standard for denial.</i>	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
<b>**Note: If specific new/revised language is being proposed, it is underlined.</b>			
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><i>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.</i></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
<b>**Note: If specific new/revised language is being proposed, it is underlined.</b>			
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.  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
<b>ISSUE</b>			
		<b>Hearing Examiner rules do not specify when the HEX is required or authorized to remand a decision</b>	
<b>GOAL</b>			
		<b>Clarify Hearing Examiner remand</b>	
<b>RATIONALE</b>			
		<b>The Hearing Examiner rules need clarification on remand</b>	
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.
<b>ISSUE</b>			
		<b>Hotels of any size are allowed by conditional use permit in the Central Core, Gateway, and Ferry Terminal zoning districts</b>	
<b>GOAL</b>			
		<b>Prohibit hotels in Central Core, Gateway, and Ferry Terminal zoning districts</b>	

Item	Code Reference	Joint City Council/Planning Commission Recommendation	10/29/20 Planning Commission Workplan Discussion & Staff Notes
<b>**Note: If specific new/revised language is being proposed, it is underlined.</b>			
<b>RATIONALE</b>		<b>As currently defined, hotels in these districts are not consistent with the Comprehensive Plan</b>	
16	Table 18.09.020 Definition 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
<b>ISSUE</b>		<b>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</b>	
<b>GOAL</b>		<b>Create long-term affordable housing for home ownership units in perpetuity (or 99 years?)</b>	
<b>RATIONALE</b>		<b>Period of affordability needed to justify the added density</b>	
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><i>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?</i></p> <p><i>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.</i></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
<b>**Note: If specific new/revised language is being proposed, it is underlined.</b>			
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.



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><b>**Note: If specific new/revised language is being proposed, it is underlined.</b></p>		
<b>ISSUE</b>	<b>Revisions to Chapter 2.16 regarding Land Use Review Process</b>	
<b>GOAL</b>	<b>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</b>	
<b>RATIONALE</b>	<b>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.</b>	
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.  <i>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</i>
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 (underlined below) to state “The planning commission’s written recommendation and other documents upon which its decision is

Item	Code Reference	Recommendation
<p><b>**Note: If specific new/revised language is being proposed, it is underlined.</b></p>		
		<p>based shall be immediately transmitted to the director <u>and shall be given substantial weight by the director in making a decision.</u>"</p>
6	2.16.040.D	<p>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.</p>
7	2.16.040.E.5.e	<p>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></p>
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><i>Background: This proposed new language is same as existing code language for approval/approval with conditions; this adds same standard for denial.</i></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><i>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.</i></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>
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</u></p>

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<b>**Note: If specific new/revised language is being proposed, it is underlined.</b>		
		<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
<b>ISSUE</b>		
<b>Hearing Examiner rules do not specify when the HEX is required or authorized to remand a decision</b>		
<b>GOAL</b>		
<b>Clarify Hearing Examiner remand</b>		
<b>RATIONALE</b>		
<b>The Hearing Examiner rules need clarification on remand</b>		
15	BIMC 2.14.030	Add language specifying when HEX is required or authorized to remand a decision.
<b>ISSUE</b>		
<b>Hotels of any size are allowed by conditional use permit in the Central Core, Gateway, and Ferry Terminal zoning districts</b>		
<b>GOAL</b>		
<b>Prohibit hotels in Central Core, Gateway, and Ferry Terminal zoning districts</b>		
<b>RATIONALE</b>		
<b>As currently defined, hotels in these districts are not consistent with the Comprehensive Plan</b>		
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><b>**Note: If specific new/revised language is being proposed, it is underlined.</b></p>		
	18.36.030	
<b>ISSUE</b>		<b>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</b>
<b>GOAL</b>		<b>Create long-term affordable housing for home ownership units in perpetuity (or 99 years?)</b>
<b>RATIONALE</b>		<b>Period of affordability needed to justify the added density</b>
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><i>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?</i></p> <p><i>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.</i></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>