



CITY OF BLACK DIAMOND  
PLANNING COMMISSION MEETING AGENDA  
June 8, 2010 7:00 PM  
25510 Lawson Street, Black Diamond, Washington

- 1) CALL TO ORDER, ROLL CALL
- 2) PUBLIC COMMENTS: Individuals wishing to address the Planning Commission regarding any item not on this meeting's agenda may do so at this time.
- 3) APPROVAL OF MINUTES – May 11, 2010
- 4) CONTINUED PUBLIC HEARING ON POTENTIAL AMENDMENTS TO BDMC 18.08, CONCERNING VARIOUS ADMINISTRATIVE PROCEDURES (TESTIMONY CLOSED)
- 5) WORKSESSION ON OTHER MISCELLANEOUS CODE AMENDMENTS
- 6) COMPREHENSIVE PLAN AMENDMENT DOCKET
- 7) DEPARTMENT REPORT
- 8) ADJOURNMENT

**BLACK DIAMOND  
PLANNING COMMISSION  
MINUTES OF MAY 11, 2010 MEETING**

**CALL TO ORDER**

Chairman Bob Kaye called the meeting to order at 7:08 p.m. with the introduction of the role and duties of the Planning Commission.

**ROLL CALL**

Present: Commissioners Bob Kaye, Keith Watson, Greg Thesenvitz, Darryl Buss,  
Absent: Ron Taylor; Sheri Roth; Pam O'Brien  
Staff: Community Development Director Steve Pilcher; Bob Sterbank, Kenyon  
and Disend

**APPROVAL OF MINUTES**

**Moved by Commissioner Watson, seconded by Commissioner Buss, to approve the minutes of the April 6, 2010 meeting as drafted. Passed 4-0.**

**PUBLIC COMMENTS**

None.

**PUBLIC HEARING REGARDING POTENTIAL AMENDMENTS TO BLACK DIAMOND MUNICIPAL CODE 18.08 CONCERNING APPLICATION PROCEDURES**

Mr. Pilcher noted there are two major areas of changes included in the proposal: 1) making Development Agreements a Type 6 decision, which allows the City Council to conduct an open record hearing; and 2) eliminating all references to the SEPA process, as these are otherwise addressed in BDMC 19.04. He stated that during the MPD process, both members of Council and the public had expressed frustration with the constraints placed upon communications. By taking the Hearing Examiner out of the Development Agreement process, the Council will be able to conduct the required open record hearing, thereby allowing citizens to directly communicate their concerns. Mr. Pilcher further noted that since Chp. 19.04 was amended in January 2010, there is now language that makes it clear that the provisions of that chapter supersede those found in Chp. 18.08.

Mr. Pilcher provided the Commission with a copy of a letter submitted from Yarrow Bay Holdings, received late that afternoon. In the letter, Yarrow Bay states they were not the proponent of the proposed changes and that they are not taking a position regarding their potential adoption.

Chairman Kaye stated that individuals were asked to come forward, state their name and address for their record, and to please limit their comments to three minutes.

Prior to receiving testimony, some Commission members stated their packets were missing page 8 of the proposal. Staff stated that page 8 consisted primarily of the former

Table 18-1, which is proposed to be eliminated in favor of a simplified version found on page 9.

Cindy Proctor, 718 Griffin Ave. Enumclaw, stated she is concerned with a series of code amendments that have occurred over the past 2 years in response to a specific proposal. She stated her satisfaction with the MPD hearing process, noting the Hearing Examiner issued his recommendation on The Villages MPD earlier today, which includes a framework for the future Development Agreement. She stated there was not a need to make a change at this time and doesn't understand the reason behind the recommended change. She felt the Hearing Examiner should be allowed to rule on a proposed Development Agreement.

Mr. Pilcher clarified that under the existing framework, the City Council still has the final authority to enter into a Development Agreement.

Ms. Proctor re-iterated there isn't a need to change from the current process and stated her skepticism of the Council being able to make a good decision without the input of the Examiner.

Vicki Harp, 32508 – 236<sup>th</sup> Ave. SE Black Diamond, stated that during the long MPD process, everyone has had to follow the process and it is not fair to change the rules at this point in the process.

Peter Rimbo, 19711 241<sup>st</sup> Ave SE, Maple Valley, Greater Maple Valley Community Council, urged the Commission to reject the staff's recommended change to take the Hearing Examiner out of the Development Agreement process. He stated the MPD closed record hearings process provided plenty of opportunity for public input, which was appreciated. The public wants the Hearing Examiner involved.

Mr. Sterbank clarified that the Hearing Examiner had conducted the open record hearing and it is the City Council will now be conducting the closed record hearing on the MPDs.

Mr. Pilcher clarified that the MPD code requires a Development Agreement be entered into before any implementing permits can be issued. The Development Agreement does not provide the opportunity to alter any conditions of approval of the MPD; instead, it will include greater specificity and address such issues as building setbacks, timing of infrastructure improvements, etc.

Mr. Rimbo stated that it is not necessary to have an open record hearing with the City Council, as all issues were vetted with the Hearing Examiner.

Sheri Miller, 23210 – 312<sup>th</sup> St. SE Black Diamond, stated that the citizens do not trust the City Council, but trust the Hearing Examiner to make a good decision.

Richard Ostrowski, 31314 293<sup>rd</sup> Pl. SE Black Diamond, stated he is opposed to the proposed change regarding the Development Agreement process. He favors keeping the Hearing Examiner in the process.

Cynthia Wheeler, 30221 – 234<sup>th</sup> Ave. SE Black Diamond, noted that the Development Agreement is the 3<sup>rd</sup> phase of the MPD process. She stated the whole process has been very complicated and that the City Council lacks the expertise of the Hearing Examiner. She doesn't see the need to remove the Examiner, who has lots of experience in land use matters, from the Development Agreement process.

Erika Morgan, 33624 Abrams Rd. Black Diamond, noted she attended all the MPD hearings and that the Hearing Examiner has great expertise. He should be allowed to remain a part of the Development Agreement.

Judith Carrier, 24305 SE Green Valley Rd. Auburn, stated she did not understand the proposed changes. She noted all the technical data is hard to understand and the expertise of the Hearing Examiner would be useful in the Development Agreement process.

Melanie Gauthier, 25565 Baker St. Black Diamond, stated she thought it is odd to propose a change to the MPD process at this point. She feels the Hearing Examiner needs to remain involved due to his technical background on the issues.

Mr. Rimbo stated some technical issues of concern in the Hearing Examiner's recommendation.

Ms. Wheeler stated that the Examiner's decision provides a framework for the Development Agreement, not a draft of an agreement.

Tim Nickson, 25565 Baker St. Black Diamond, stated he is opposed to the change to remove the Hearing Examiner from the Development Agreement process. He indicated that making a change may leave the city open to a potential lawsuit.

Ms. Proctor stated that the City has not demonstrated a benefit that would result from the proposed change.

Jack Sperry, 29051 – 229<sup>th</sup> Ave. SE Black Diamond, stated he felt the Hearing Examiner did a good job in receiving testimony during the MPD and FEIS process and should remain in the Development Agreement process.

Joe May, 29611 – 236<sup>th</sup> Ave. SE Black Diamond, stated the Hearing Examiner should be allowed to participate in the Development Agreement process. He urged the Commission to read pages 208-267 of his recommendation concerning The Villages MPD.

Dennis Boxx, 32517 – 2<sup>nd</sup> Ave Black Diamond, said that he concurs with keeping the Hearing Examiner in the process.

Commissioner Thesenvitz asked the public if their only concerns were with the Development Agreement process.

Ms. Proctor stated she also had concerns regarding the proposed deletions of all references to the SEPA process. She asked if this would apply retroactively to the MPD EISes.

Mr. Sterbank stated that yes, the changes would apply retroactively.

Ms. Wheeler stated that she felt by retaining the language in 18.08.020 Supersedence, which would resolve any potential conflicts with Chp. 19.04.

Ms. Harp stated that the City Council is still learning about land use processes and noted that a lot of good people were involved in the FEIS appeals/MPD process.

Ryan Kohlmann, Yarrow Bay Holdings 10220 NE Points Dr. Kirkland, stated that the SEPA process is best located in Chp. 19.04 and described the proposed changes as being “housekeeping” in nature. He stated that Yarrow Bay did not ask for or is an advocate of the proposed changes.

Mr. Rimbois reiterated his concern to keep the Hearing Examiner in the Development Agreement process.

At 8:35 p.m., Chairman Kaye closed the hearing to further public testimony.

Commissioner Watson stated he felt it best for the Commission to table the matter, which would give them the opportunity to review the MPD process.

Commissioner Thesenvitz noted the proposal includes other housekeeping items besides the Development Agreement.

Chairman Kaye noted that the SEPA changes would be consistent with Chp. 19.04.

Commissioner Buss indicated that the issue deserves more time and thought.

The Commission indicated it would like additional information regarding the retroactivity issue. Mr. Pilcher indicated staff could provide a copy of a legal analysis done by interim City Attorney Yvonne Ward concerning the relationship of Chp. 19.04 to 18.08.

Chairman Kaye suggested the Commission may wish to consider a special meeting prior to its next regularly scheduled meeting of June 8. However, the remainder of the Commission did not support this concept and agreed the matter can be considered at its June 8 meeting.

**ADJOURNMENT**

**Moved by Watson, seconded by Thesenvitz, to adjourn. Passed 4-0.**

**The meeting adjourned at 8:47 p.m.**

ATTEST:

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Bob Kaye, Chairman

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Planning Commission Secretary



CITY OF BLACK DIAMOND  
PLANNING COMMISSION  
25510 Lawson Street, Black Diamond, Washington

**M E M O R A N D U M**

Date: June 2, 2010

To: Planning Commission

From: Steve Pilcher

Re: Continued Public Hearing on Proposed Amendments to BDMC 18.08

At your last meeting on May 11, 2010, the Commission conducted a public hearing on a series of proposed amendments to Chapter 18.08 of the Zoning Code. Numerous individuals testified at the hearing, with the majority expressing their concern to potentially have consideration of proposed Development Agreements bypass the Hearing Examiner and instead, be directly considered by the City Council.

Another major area of proposed changes was to eliminate references to the SEPA process from this chapter of code, as earlier this year, Council had taken action to indicate that the provisions of Chapter 19.04 were to supersede.

At the conclusion of public testimony, the Commission decided to table this matter until its June meeting to allow for more time for thought and discussion.

**Staff recommendation**

Staff continues to recommend the Commission make any suggested modifications to the proposal and then forward it on to the City Council with a recommendation of adoption. If that action is taken, this would first proceed to the Planning & Community Services Committee of the Council before it would appear on a regular Council agenda. That being the case, it would most likely not be in front of the Council until one of its July meetings.



CITY OF BLACK DIAMOND  
PLANNING COMMISSION  
25510 Lawson Street, Black Diamond, Washington

**M E M O R A N D U M**

Date: June 2, 2010  
To: Planning Commission  
From: Steve Pilcher  
Re: Miscellaneous Code Amendments

In June 2009, the City adopted a new Zoning Code. After one year's experience with the new Code, staff is suggesting a series of amendments intended to address a number of issues. These include such minor considerations such as incorrect cross-references from one section of the code to another to policy choices as to whether have Site Plan Review require Hearing Examiner approval. Consider this sort of an "annual check-up" for the Code.

Attached to this memo is a 30-page listing of potential amendments; it does not include the many pages where the only recommended change is to correct a cross-reference. Within the document, comments are provided in ***bold italic*** to address the reason for recommended change.

One chapter that is not included is 18.16, which concerns the Site Plan Review process. Currently, this is identified as a Type 3 (Hearing Examiner) approval, with the Director being authorized to approve minor amendments to a previously approved site plan as a Type 2 decision. Prior to the adoption of the Hearing Examiner system, the Planning Commission had responsibility for site plan approval.

The difficulty with having this being a Type 3 process is that there is little discretionary criteria. 18.16.040, Criteria for approval, simply notes that a site plan must be consistent with the Comp Plan and comply with all applicable development regulations, codes and other requirements. Based upon staff's experience, it is therefore problematic as to what conditions of approval an Examiner could add that would not otherwise be feasible for staff to accomplish through an administrative review process. Plus, since this process applies to uses that are already allowed outright within a zone district, requiring a public hearing adds additional time to the development process, which to a great number of developers, would appear to be an impediment.

Also attached to this memorandum is a 4-page series of amendments being proposed to Chapter 19.04, the City's SEPA regulations. (You may recall this being initially introduced in

April; it was inadvertently left off of the public hearing package presented in May). These amendments:

1. clarify that the Responsible Official will be the Community Development Director or whatever other individual may be appointed by the Mayor (19.04.040);
2. clarify the public notice process for SEPA actions (19.04.180.C & D);
3. clarify application fees for both environmental checklists and EISes (19.04.300).

**Desired action**

Schedule these for public hearing at your July meeting.

## Chapter 18.08

### ADMINISTRATION: PROCEDURES, NOTICE & APPEALS

*Sections:*

- 18.08.010 Purpose
- ~~18.08.020 Supersedence~~
- 18.08.030 Decision Types
- 18.08.040 Ministerial Decisions – Type 1
- 18.08.050 Administrative Decisions – Type 2
- 18.08.060 Quasi-Judicial Decisions – Type 3
- 18.08.070 Quasi-Judicial Decisions – Type 4
- 18.08.080 Legislative Decisions – Type 5
- 18.08.090 ~~Quasi-Judicial~~ City Council Decisions – Type 6
- 18.08.100 Application
- 18.08.110 Determination of Completeness
- 18.08.120 Notice of Application
- 18.08.125 Notice Requirements Table
- 18.08.130 Consolidated Permit Process
- 18.08.150 Public Notice of Decision.
- 18.08.180 Notice of Public Hearing.
- 18.08.190 Effective Date of Decision
- 18.08.200 Appeal Structure
- 18.08.210 Administrative Appeals
- 18.08.220 Appeal Process
- 18.08.230 Judicial Review

**18.08.010 Purpose.**

The purpose of this chapter is to establish standard procedures; for public notification and the timing of development decisions made by the City of Black Diamond. These procedures are intended to:

- A. Promote timely and informed public participation;
- B. Eliminate redundancy in the application, permit review, and appeals processes;
- C. Process permits equitably and expediently;
- D. Balance the needs of permit applicants with ~~project neighbors~~ interested citizens;
- E. Ensure that decisions are made consistently and predictably; and
- F. Result in development that furthers City goals, objectives and policies as set forth in the Comprehensive Plan.

~~18.08.020 Supersedence.~~

~~The provisions of this chapter supersede all other procedural requirements that may exist in other sections of the City Code. Where conflicts occur between provisions of this~~

~~chapter and/or between this chapter and other City regulations, the requirements of this chapter shall apply.~~

**18.08.030 Decision types.**

There are six types of decisions, ~~actions, or permit applications~~ that ~~are reviewed~~may be made under the provisions of this title. The types are based on who makes the decision, the amount of discretion exercised by the decision making individual or body, the level of impact associated with the decision, the amount and type of public input sought, and the type of appeal opportunity. This chapter sets forth procedural requirements for applications, decisions, and appeals. Decision criteria and additional standards for specific permit types and for GMA legislative decisions are set forth in chapter 18.12. Decision types are summarized below; not all permits are listed. -

<b>Decision Type</b>	<b>Decision Maker(s)</b>	<b>Types of Permits</b>
Type 1 – Ministerial	Director	Boundary line adjustment Building permit Final short plat Shoreline exemptions Temporary use permits Use interpretation
Type 2 – Administrative	Director <del>or SEPA Responsible Official</del>	Accessory dwelling unit Administrative conditional use Administrative variance Binding site plan Sensitive area <del>buffer reduction and</del> reasonable use exception Formal code interpretation <del>SEPA threshold determination</del> Preliminary short plat Site plan minor amendment
Type 3 – Quasi-Judicial	Hearing Examiner	Conditional use permit Plat alteration or vacation Preliminary plat Shoreline substantial development, conditional, use or variance Variance Site Plan Review Site plan major amendment <u>Sensitive Areas exceptions</u>

*STAFF SUGGESTED AMENDMENTS  
FOR PLANNING COMMISSION HEARING*

Type 4 – Quasi-Judicial	Hearing Examiner/City Council	<del>Development agreements</del> Master Planned Development Rezoning (site specific)
Type 5 – Legislative	Planning Commission/ City Council	Comprehensive Plan amendments (text or map) Area-wide rezoning Zoning Code text amendments
Type 6 – <del>Quasi-judicial</del> City Council	City Council	Final Plat <del>acceptance</del> <u>Development Agreement</u>

If a proposal requires multiple permits with decisions of different types (e.g., site plan approval and conditional use permit, Type 2 and Type 3), the higher type process applies to the entire proposal. Refer to 18.08.130.

**18.08.040 Ministerial decisions – Type 1.**

- A. Type 1 decisions are based on compliance with specific, nondiscretionary and/or technical standards that are clearly enumerated in the ~~City~~ Code. These decisions are made by the director, are exempt from notice requirements, and are final actions. Type 1 decisions ~~of the director~~ may be appealed to the Hearing Examiner and then to Superior Court (~~excepting building permits and related technical code decisions~~).
- B. The following decisions, actions and permit applications require a Type 1 decision:
  - 1. Building permits and related technical code applications referenced in BDMC Title 15 (fire, mechanical, plumbing, etc)
  - 2. Boundary Line Adjustments
  - 3. Use interpretation
  - 4. Shoreline exemptions
  - 5. Final short plat
  - 6. Temporary use permit

**18.08.050 Administrative decisions – Type 2.**

- A. The Director makes Type 2 decisions based on standards and clearly identified criteria. Type 2 decisions require written documentation that the proposal meets all applicable City standards or is appropriately conditioned to meet requirements. The supporting documentation may be in the form of a checklist, letter, staff report, or combination of forms, reports and checklists.
- B. Type 2 decisions require public notice as set forth in Section 18.08.120.
- C. Type 2 decisions are subject to an administrative appeal to the Hearing Examiner unless specifically modified or excluded pursuant to this Section.
- ~~D. Shoreline substantial development permits and shoreline variances may be appealed only to the State Shorelines Hearings Board.~~
- ~~E. Administrative appeals of SEPA threshold determinations of significance (DS) are not allowed.~~

- ~~F. Administrative appeals of the adequacy of an environmental impact statement are not allowed.~~
- ~~G. Appeal of a SEPA decision associated with a Type 5 legislative action is allowed only in conjunction with appeal of the decision to the Growth Management Hearings Board.~~
- ~~H. The following decisions, actions and permit applications require a Type 2 decision:
  1. ~~SEPA threshold determinations / Use approval with SEPA~~
  2. Preliminary short plat
  3. Accessory dwelling unit
  4. Administrative Conditional Use Permit (ACUP)
  5. Administrative Variance
  6. Critical Sensitive Areas Reasonable Use Exception
  7. Formal code interpretation
  8. Binding site plan
  9. Site plan minor amendment~~

**18.08.060 Quasi-judicial decisions – Type 3.**

- A. Type 3 decisions are made by the Hearing Examiner following an open record public hearing and involve the use of discretionary judgment in the review of each specific application.
- B. Type 3 decisions require public notice as set forth in Sections 18.08.120.
- C. For each Type 3 decision, the Department will forward a recommendation to the Hearing Examiner regarding whether the proposal is consistent with applicable City regulations and policies and whether the proposal should be approved, approved with modifications or conditions, or denied. The Examiner will issue a written decision including findings, conclusions, and conditions, if any.
- D. The Department Director may require an applicant to participate in a public meeting to provide information and take public comment before the department forwards a recommendation to the Hearing Examiner.
- ~~E. Any administrative appeal of a SEPA threshold determination of non-significance (DNS), mitigated determination of non-significance (MDNS) or other Type 2 decision shall be consolidated with the open record public hearing on a Type 3 proposal.~~
- F. A Type 3 decision may be appealed to ~~the~~ Superior Court, except that a Type 3 decision on a shoreline application may be appealed only to the State Shorelines Hearings Board. (See also 18.08.200 regarding consolidated permit processing and appeals).
- G. The following decisions, actions, and permit applications require a Type 3 decision:
  1. Preliminary plat)
  2. Conditional Use Permit
  3. Shoreline, substantial development, conditional use permit or variance
  4. Plat alteration or vacation
  5. Site plan approval or major amendment
  6. Variance
  7. Sensitive Areas Exceptions

**18.08.070 Quasi-judicial decisions – Type 4.**

- A. Type 4 decisions are made by the City Council following a closed record hearing based on a recommendation from the Hearing Examiner. Type 4 decisions proceed in the same way as Type 3 decisions, except that:
1. The Hearing Examiner makes a recommendation to the City Council rather than making a decision.
  2. The City Council holds a closed record hearing to consider the recommendation from the Hearing Examiner. Only parties of record who testified at the Hearing Examiner hearing may speak at the closed record hearing; however, testimony is limited to discussion about the recommendation from the Hearing Examiner. All argument and discussion must be based on the factual record developed at the Hearing Examiner open record hearing.
  3. The City Council ~~will shall~~ decide the application by motion and ~~will shall~~ adopt formal findings and conclusions approving, denying, or modifying the proposal.
  4. Appeal of the City Council decision is to Superior Court. ~~There is no administrative appeal.~~
- B. Type 4 decisions require public notice as set forth in Sections 18.08.120.
- C. The following decisions, actions and permit applications require a Type 4 decision:
1. Rezone (site specific)
  2. ~~Development agreement~~
  3. Master Planned Development

**18.08.080 Legislative decisions – Type 5.**

- A. Type 5 decisions are legislative, non-project decisions made by the City Council under its authority to establish substantive policies and regulations pursuant to the Growth Management Act. Type 5 decisions do not include legislation of a procedural nature such as the adoption of fee ordinances or technical issues such as adoption of building codes, engineering standards and related matters.
- B. Type 5 decisions require public notice as set forth in Section 18.08.120 and a public hearing before the ~~City-Planning Commission,~~ who-which will make a recommendation to the City Council, ~~and broad public outreach prior to a decision by the City Council.~~
- C. There is no administrative appeal of Type 5 decisions, but they may be appealed to the Washington State Growth Management Hearings Board.
- D. The following actions require a Type 5 decision:
1. Comprehensive Plan Amendment (text or future land use map)
  2. Sub-area plan adoption or amendment
  3. Area-wide rezone
  4. Amendment of the Zoning ~~code~~ Code or other development regulations.

**18.08.090 ~~Quasi-judicial~~ City Council decisions - Type 6.**

- A. Type 6 decisions are quasi-judicial decisions or other decisions, not necessarily requiring the filing of a project permit application, made by the ~~city~~ City council ~~Council~~ following a recommendation by staff.
- B. Type 6 decisions include, but are not limited to, the following ~~project applications:~~
1. Final plat approval;

- 2. Development Agreement approval; and
- 3. Final assessment roll hearings for local improvement districts and utility local improvement districts.
- C. Prior to taking action, the City Council shall conduct at least one open record public hearing on a proposed Development Agreement.

**18.08.100 Application.**

- A. Who may apply:
  - 1. The property owner or an agent of the owner with authorized proof of agency may apply for a Type 1, 2, 3, ~~or 4~~ or 6 decision. Eligibility and procedures for amending the comprehensive plan are found in BDMC Title 16., ~~or for a site-specific Comprehensive Plan Amendment.~~
  - 2. The Mayor, Planning Commission, or City Council may initiate a site-specific rezone (a Type 4 decision) for City-owned or managed property, or an area-wide rezone, a Comprehensive Plan Amendment, or an amendment to the text of the Zoning Code (Type 5 decisions).
  - 3. Any person may propose a text or map amendment to the Comprehensive Plan or request that the City initiate an area-wide rezone, or amendments to the text of the Zoning Code. Procedures for amending the Comprehensive Plan are outlined in BDMC 16.30.
- B. All applications for Type 1, 2, 3, 4, 5 or 6 decisions, actions, or permits shall be submitted on official forms or as prescribed and provided by the Department and be accompanied by the required filing fee.
- C. The Department shall establish, and may revise from time to time, submittal requirements for each type of application.
  - 1. Individual submittal requirements may be waived by the Director, in writing, only if the applicant can demonstrate that normally required information is not relevant to the proposed action and is not required to show that an application complies with applicable City codes and regulations.
  - 2. For project permit applications, the submittal requirements established by the Director shall include a target turn-around period for initial review and an estimate of average turn-around times for permit issuance. Such time periods shall be established administratively and included in application submittal requirements available to the public, but shall not exceed one hundred twenty (120) days.

**18.08.110 Determination of completeness.**

- A. An application for a Type 1, 2, 3, ~~4 or 4 or 6~~ decision shall be determined complete when all information required in the applicable submittal requirements has been provided in a manner sufficient for processing the application. Additional information may be required by the City even though an application has been determined to be complete for processing.
- B. The City may, at its discretion and at the applicant's expense, retain a qualified professional to review and confirm the applicant's reports, studies and plans.

- C. If an application is determined to be incomplete, the City will mail written notification to an applicant of what information or material must be submitted to make the application complete. Notice that an application is not complete shall be mailed within 28 days of receiving the application.
- D. The City may choose to notify an applicant by mail, telephone or email that an application is complete. If the City does not notify the applicant of completeness or incompleteness within 28 days of submitting the application, the application shall be considered complete on the 29th day.

**18.08.120 Notice of application.**

- A. Within 14 days of the determination of completeness, the City shall issue a notice of application for all Type 2, 3, and 4 applications.
- B. The notice of application shall include the following information:
  - 1. The dates of application, determination of completeness, and the date of the notice of application;
  - 2. The location and description of the project;
  - 3. A list of project permits included in the application and identification of other required permits, to the extent known by the department;
  - 4. The identification of existing environmental documents that evaluate the proposal and the location where the application and any other relevant materials can be reviewed;
  - 5. The date, time, and place of an open record hearing, if one is required and has been scheduled;
  - 6. The name of the applicant or project contact and the name of the City staff person assigned to the project, along with City staff contact information;
  - 7. A statement of the public comment period, which shall be 14 days, except for shoreline substantial development, shoreline variance, or shoreline conditional use permit applications, which shall have a 30-day comment period for notice of application;
  - 8. A statement of the rights of individuals to comment on the application, receive notice, participate in any hearings, request a copy of the decision (once made) and a summary of any appeal rights; and
  - 9. Any other information the City determines to be appropriate.
- C. The notice of application shall be made available to the public by one or more of the following methods, as specified for each permit application type in Table 18-1:
  - 1. Mail. Mailing to owners of real property located within 300 feet of the subject property. If the owner of the property that is the subject of the application owns other real property adjacent to the subject property, then the 300-foot measurement shall be taken from the boundary of any such adjacently located parcels. This distance shall be increased to 500 feet for a Master Planned Development; ~~;~~
  - 2. Publish. Publishing in the official City newspaper of record.
  - 3. Post. Posting the property with a sign or placard as required by the department.
  - 4. Online. Publishing or posting on the City's website a notice of the application. If online method is used, the Department will either establish a specific calendar for

online publishing or will maintain an email distribution list to alert interested parties that a new proposal has been applied for.

5. Other. Other methods of notice are supplementary to some primary method and may include press releases, notices to community newspapers, notifying public or private groups known to have an interest in an area or certain type of proposal.

**18.08.125 Notice requirements table.**

A. Notice shall be provided using the following methods for each decision type. Specific applications with unique noticing requirements are noted individually.

**Table 18-1**

Application	Process Type	Mail	Publish	Post	Online	Other
<del>SEPA Threshold Determination / Use Approval with SEPA, Draft and Final EIS/SEIS publication</del>	Type 2	X	X	X	X	
<del>Short Subdivision</del>	Type 2	X	X	X	X	
<del>Variance</del>	Type 2	X	X	X	X	
<del>Shoreline Variance</del>	Type 2	X	X	X	X	
<del>Shoreline Substantial Development Permit</del>	Type 2	X	X	X	X	
<del>Administrative Conditional Use</del>	Type 2	X	X	X	X	
<del>Critical Areas Reasonable Use Exception</del>	Type 2	X	X	X	X	
<del>Formal Code Interpretation</del>	Type 2		X		X	X
<del>Binding site plan approval</del>	Type 2	X	X	X	X	
<del>Site plan minor amendment</del>	Type 2	X	X	X	X	
<del>Preliminary Subdivision (Plat)</del>	Type 3	X	X	X	X	
<del>Plat Alteration or Vacation</del>	Type 3	X	X	X	X	
<del>Conditional Use Permit</del>	Type 3	X	X	X	X	
<del>Shoreline Conditional Use Permit</del>	Type 3	X	X	X	X	
<del>Site plan approval, or major amendment</del>	Type 3	X	X	X	X	
<del>Master Planned Development</del>	Type 4	X	X	X	X	X
<del>Rezone</del>	Type 4	X	X	X	X	
<del>Development Agreement</del>	Type 4	X	X		X	X
<del>Comprehensive Plan Amendment (map or text)</del>	Type 5	X	X	X	X	X
<del>Zoning Code Text Amendment</del>	Type 5	X			X	X

*STAFF SUGGESTED AMENDMENTS  
FOR PLANNING COMMISSION HEARING*

<u>Decision Type</u>	<u>Mail</u>	<u>Publish</u>	<u>Post</u>	<u>Online</u>	<u>Other</u>
<u>Type 1</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>Type 2</u> <ul style="list-style-type: none"> <li>• <u>Formal code interpretation</u></li> <li>• <u>Site Plan minor amend</u></li> </ul>	<u>X</u>  <u>X</u>	<u>X</u>  <u>X</u>	<u>X</u>  <u>X</u>	<u>X</u>  <u>X</u>	  <u>X</u>  <u>X</u>
<u>Type 3</u> <ul style="list-style-type: none"> <li>• <u>Site Plan major amend</u></li> </ul>	<u>X</u>  <u>X</u>	<u>X</u>  <u>X</u>	<u>X</u>  <u>X</u>	<u>X</u>  <u>X</u>	  <u>X</u>
<u>Type 4</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Type 5</u> <ul style="list-style-type: none"> <li>• <u>Zoning Code text amend.</u></li> </ul>	<u>X</u>	<u>X</u>  <u>X</u>	<u>X</u>	<u>X</u>  <u>X</u>	  <u>X</u>
<u>Type 6</u> <ul style="list-style-type: none"> <li>• <u>Final Plat</u></li> <li>• <u>Dev. Agmnt.</u></li> <li>• <u>Other</u></li> </ul>	  <u>X</u>  <u>X</u>	  <u>X</u>  <u>X</u>	  <u>X</u>  <u>X</u>	  <u>X</u>  <u>X</u>	  <u>X</u>  <u>X</u>

**18.08.130 Consolidated permit process.**

- A. If a project requires more than one type of land use application, the applications shall be processed concurrently unless the ~~applicant-director determines~~demonstrates that separate processing will result in a more efficient or effective review process. ~~The Director may, however, require consolidated processing when concerns exist about cumulative impacts, inappropriate piece-mealing of the project, or when decision makers need clarity about later phases of a final development proposal.~~
- B. Type 5 applications may not be consolidated with related project permit applications.
- C. Consolidation of review processes shall modify decision making authority and appeal procedures only as follows.
1. When review of a Type 1 application is consolidated with a Type 2 or higher application, no change in decision making or appeal processes will occur. The

effective date of the Type 1 decision shall be no sooner than the date of final City action on the related Type 2 or higher application.

2. When a Type 2 application is consolidated with a Type 3 or Type 4 application, no change in decision making or appeal processes will occur, except that shoreline applications (variance or substantial development permits) shall be decided by the higher level decision maker. Appeals of Type 2 decisions shall be consolidated into the required open record public hearing for the Type 3 or Type 4 decision.
3. When a Type 3 application is consolidated with a Type 4 application, the Type 3 decision shall be made as part of the Type 4 application.

**18.08.150 Public notice of decision.**

- A. Each Type 2, 3, or 4 decision shall be made in writing. The form of a Type 2 decision may be a checklist, annotated checklist, letter, report, memo, or combination of forms. Type 3 and Type 4 decisions shall include findings and conclusions in support of the decision.
- B. Notice of each Type 2, 3, or 4 decision shall be mailed to:
  1. The applicant and applicant's contact person;
  2. Each person who submitted a comment on the proposal during the public comment period;
  3. Each person who spoke at any required public hearing; and
  4. Each person who requested notice of the decision or who has requested notification of all permit decisions.
- C. Notice of a decision shall include a description of how to appeal the decision.

**18.08.180 Notice of public hearing.**

Notice of the time and place of an open record hearing for Type 3 and 4 applications shall be provided by the Department no less than 14 days prior to the hearing, through use of the same methods indicated for notice of application. See 18.08.120 and 18.08.125.

**18.08.190 Effective date of decision.**

Type 1 decisions shall be effective on the date the decision is made. Type 2 and 3 decisions shall be effective at the close of the appeal period, or if appealed, on the date of final City action on the appeal. Type 4 decisions are effective on the date final findings and conclusions are adopted by the City Council. Type 5 and 6 decisions are effective on the date of passage of the ordinance or resolution regarding the application by the City Council, or on a later date as may be specified in the resolution or ordinance.

**18.08.200 Appeal structure.**

Table 18.08.200-1 provides a summary of the appeal structure for Type 1- 5 applications.

**Table 18.08.200-1 Summary of Appeal Structure**

<b>Process Type</b>	<b>Decision maker</b>	<b>Appeal to</b>	<b>Further appeal</b>
Type 1, <del>except building permit appeals</del>	Director	Hearing Examiner	n.a.
Type 2, <del>except shoreline applications</del>	Director	Hearing Examiner	Court
Type 3, except shoreline applications	Hearing Examiner	Superior Court	Court
Type 4 <u>and 6</u>	City Council	<u>Superior</u> Court	n.a.
Type 5	City Council	Growth Management Hearings Board (GMHB)	Court
<del>Type 2 Shoreline applications</del>	<del>Director</del>	<del>Shorelines Hearings Board</del>	<del>Court</del>
Type 3 Shoreline application	Hearing Examiner	Shorelines Hearings Board	Court

Note that a consolidated permit process may change the initial decision maker for Type 2 shoreline applications and for Type 3 applications consolidated with Type 4 applications.

**Table 18.08.200-2 ~~SEPA Appeal Structure~~**

<b><del>SEPA Action</del></b>	<b><del>Decision maker</del></b>	<b><del>Appeal to</del></b>	<b><del>Further Appeal</del></b>
<del>a. Determination of Non-Significance (DNS), Mitigated Determination of Non-significance (MDNS) for:</del>			
<del>Type 1, 2, 3, 4 decisions</del>	<del>Director/Responsible Official</del>	<del>Court</del>	
<del>Type 5 decisions</del>	<del>Director/Responsible Official</del>	<del>GMHB</del>	<del>Court</del>
<del>B. EIS Adequacy:</del>			
<del>Type 1, 2, 3 decisions</del>		<del>Court</del>	
<del>Type 4 or 5 decisions</del>		<del>City Council</del>	<del>GMHB and/or Court</del>

**18.08.210 Administrative appeals.**

- A. Who may appeal. Any aggrieved party of record may file an administrative appeal of a Type 1, 2 or ~~Type~~-3 decision.
- B. Time and place to appeal. Appeals of a Type 1, 2 or 3 decision shall be addressed to the hearing examiner and filed in writing with the department within 14 calendar days of the notice of decision, except for shoreline appeals ~~and appeals associated with a SEPA comment DNS.~~
- C. Shoreline appeals. Appeals of a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance decision shall be filed with the state shorelines hearing board pursuant to RCW 90.58.180.
- ~~D. SEPA Determination of Nonsignificance (DNS) or Mitigated Determination of Nonsignificance (MDNS). When a SEPA DNS or MDNS is issued pursuant to WAC 197-11-340 or 350, appeals of the DNS/MDNS and any associated Type 2 decision shall be filed within 14 days of the notice of decision.~~
- E. Fees. Each appeal filed on a non-shoreline decision shall be accompanied by a filing fee in the amount established in the City's schedule of fees.
- F. Form of appeal. A person appealing a Type 1 decision must file a written statement setting forth:
  - 1. Facts demonstrating that the person is aggrieved by the decision;
  - 2. A concise statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria. ~~An appeal of a SEPA environmental document shall describe any alleged inadequacy in the threshold determination with respect to evaluation of a specific environmental element;~~
  - 3. The specific relief requested; and
  - 4. Any other information reasonably necessary to make a decision on appeal.
- G. Limitation on new appeal issues. No new substantive appeal issues may be raised or submitted after the close of the time period for filing of the original appeal. The hearing examiner may allow an appellant not more than 15 days to perfect an otherwise timely filed appeal.

**18.08.220 Appeal process.**

- A. Within 14 calendar days following timely filing of an administrative appeal, the department shall mail notice of the date, time and place for the appeal hearing to all parties who received notice of the decision.
- B. Appeals shall be heard and decided within 90 days from the date the appeal is filed, unless the hearing examiner determines by written findings that a specified amount of additional time is necessary because the matter is of unusual complexity or scope or for other good cause shown. The period of time for hearing and deciding an appeal shall be excluded in calculating the 120 period for permit issuance established pursuant to BDMC 18.08.100 or state law.
- C. The hearing shall be limited to the issues included in the written appeal statement. Participation in the appeal shall be limited to the City, the applicant, and those

persons or entities which have timely filed complete written appeal statements and paid the appeal fee.

- D. The appellant shall carry the burden of proof in the appeal. The burden of proof shall be met by a preponderance of the evidence in order for the appellant to prevail;  
~~provided that in any appeal of a SEPA decision, the decision of the department shall be given substantial weight and may be overturned only if it is clearly erroneous.~~

**18.08.230 Judicial review.**

- A. No person may seek judicial review of any decision of the City, unless that person first exhausts the administrative remedies provided by the City.
- B. Any judicial appeal shall be filed in accordance with State law. If there is not a statutory time limit for filing a judicial appeal, the appeal shall be filed within 21 calendar days after a final decision is issued by the City.

**18.04.120 Building permit required.**

No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the director. No building permit shall be issued unless the use:

- A. Conforms to the requirements of this title; or
- B. Has been approved by the director as a *similar or related* use as described in the several zoning districts; or
- C. Has been approved by the hearing examiner as a conditional ~~or special~~ use as defined in Chapter 18.28 of this title; or
- D. Has been granted a variance by the hearing examiner.

*Comment: There are no “special uses” or “special use permit” in the code.*

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**18.04.130 Enforcement and violations.**

- A. Enforcement. The director shall administer and enforce this title. If the director finds that any of the provisions of this title are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall take any action authorized by this title to insure compliance with or to prevent violation of its provisions.

~~B. B.—Violation-Penalty. Whoever violates any of the provisions of this title shall be fined not more than five hundred dollars for each offense. Each day a violation continues may be considered as a separate offense. A violation of this title shall constitute a misdemeanor. In the event an individual or legal entity does not correct the violation within thirty days of receiving notice of the violation, and in addition to the misdemeanor and potential fine, the city, at its discretion, shall seek to stop the violation through civil action in the appropriate courts in the state. In the event a civil action is necessary to abate the violation, the violator shall be responsible for reimbursing the city for all costs including legal fees and court expenses incurred by the city due to the necessity of bringing the action. In addition, the city shall have a lien for any criminal or civil penalty or cost of any work of abatement, against the real property on which the civil penalty was imposed and against any works performed. The civil penalty and/or criminal penalty and cost as set forth herein shall also be the personal obligation of the property owner. The city attorney for the city, on behalf of the city, may collect the civil penalty and criminal penalty and the costs of abatement by use of all appropriate legal remedies. No lien created by this title shall bind the property subject to the lien for a period longer than three years after the claim has been filed with the King County department of records and elections unless an action is commenced in the proper court within that time to enforce the lien. The lien provided for in this section may be foreclosed and enforced by civil action in a court having jurisdiction. Any violation of any of the provisions of this title shall be subject to code enforcement action pursuant to BDMC 8.02.~~

*Comment: Recommend deferring code enforcement provisions to BDMC 8.02, which already addresses the code enforcement process..*

## Chapter 18.12 DECISION CRITERIA FOR PERMITS

*Sections:*

**18.12.010** Conditional Use & Administrative Conditional Use Permits

**18.12.020** Zoning Reclassification (Rezone)

**18.12.030** Variances

~~**18.12.040** Preliminary plats & Short plats~~

~~**18.12.060** Development Agreements~~

~~**18.12.070** Comprehensive Plan Amendments~~

~~**18.12.010** Conditional use & administrative conditional use permits.~~

*Comment: Preliminary plat & short plat criteria is located in Title 17; the Development Agreement criteria isn't really decision criteria and is otherwise addressed in the Dev. Agreement chapter of the Code; Comprehensive Plan amendment criteria is addressed in Title 16; 18.12.010 is a typographical error.*

- A. Purpose. Conditional uses, which are identified in various zones in this Title, are those uses which require additional review and special conditions to ensure that they are compatible with their site and surrounding area. This chapter sets forth the criteria that the City will use to review such proposals.
- B. Criteria. The City, whether the director or the hearing examiner in the appropriate case, will consider the following criteria in reviewing conditional use permit applications, and may only approve an application if the applicant demonstrates that all of the criteria are met:
1. The proposal is consistent with the goals and policies of the Comprehensive Plan;
  2. Environmental and operational impacts associated with the use can be adequately mitigated through the imposition of reasonable conditions;
  3. The use is designed so as to be compatible with the character of the surrounding area;
  4. The location, size and height of buildings, structures, walls and fences and screening vegetation for the conditional use will not hinder permitted development or discourage the use of neighboring properties;
  5. The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;
  6. It is not in conflict with the health and safety of the community;
  7. Pedestrian and vehicle traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood; and
  8. The conditional use will be supported by adequate public services and facilities, including any services and facilities that the applicant funds or provides.

- C. Process. Consideration of conditional use and administrative conditional use permit applications shall follow the procedures in Chapter 18.08.
- D. Essential Public Facilities. In addition to the criteria set forth in Chapter 18.58, essential public facilities are also subject to the criteria of this section.

**18.12.020 Zoning reclassification (rezone) & zoning text amendments.**

- A. Purpose. A reclassification of property or rezone is a mechanism through which the City can ensure that development occurs consistent with the Comprehensive Plan. It also recognizes that conditions applicable to individual properties may change over time in response to new or differing land use needs or practices, or new land use policies. A zoning text amendment is a mechanism for ensuring consistency between the Comprehensive Plan and development regulations, and a means to recognize new land use policies, implementing techniques, or land use practices.
- B. Criteria – Map Amendments. The City will consider the following criteria in reviewing applications for zoning reclassifications, and may only approve an application if the applicant demonstrates that all of the criteria are met:
  1. The proposal is consistent with the goals and policies of the Comprehensive Plan, and with the Future Land Use Map;
  2. The subject property is suitable for development in conformance with the standards applicable to the requested zoning designation.
  3. ~~Environmental impacts associated with the use can be adequately mitigated through the imposition of reasonable conditions;~~  
*Comment: SEPA addresses environmental impacts; does not need to be repeated here. Also, this would imply there might be site-specific conditions of approval imposed, which are difficult to track over time and generally, should not be needed.*
  4. The proposal will not be materially detrimental to properties in the immediate vicinity or the community based on the range of uses allowed in the proposed zoning classification;
  5. Adequate services and facilities, including transportation facilities, will be available to serve the range of uses permitted in the proposed zoning classification;
  6. The proposed reclassification is warranted because of a change in circumstances, or because of a demonstrated need for additional land within the proposed zoning classification;
  7. The reclassification does not reflect special treatment of the subject property; and
  8. The reclassification will promote the general health, safety and welfare of the community.
- C. Criteria – Text Amendments. The City will review proposed amendments to the text of the zoning code using the following criteria:
  1. The amendment is consistent with and furthers the goals and policies of the Comprehensive Plan;
  2. Amendment of the text of the code would not render the zoning code internally inconsistent;
  3. The amendment corrects an error or omission in the text of the code; and/or

4. The amendment does not result in the grant of a special privilege to an individual property owner.
- D. Process. Consideration of reclassification and text amendment applications shall follow the procedures in Chapter 18.08.

**18.12.030 Variances.**

- A. Purpose. A variance is a mechanism whereby the City may allow variations to the provisions of the zoning code applicable to a specific property where unique conditions exist and make compliance with zoning standards impractical or an unnecessary hardship. A variance is not appropriate, and shall not be granted, to change a use or to allow establishment of a use that is not otherwise permitted in the zone in which the proposal is located.
- B. Criteria. The City will consider the following criteria in reviewing applications for variances, and may only approve an application if the applicant demonstrates that all of the criteria are met:
1. Granting of the proposed variance would not allow a use which is not classified as a permitted, accessory, or conditionally permitted use in the applicable zoning district;
  2. The variance is necessary because of special circumstances relating to the unique size, shape, topography, location or surroundings of the subject property;
  3. The need for the variance and the special circumstances applicable to the subject property are not the result of deliberate actions of the applicant or property owner;
  4. Strict enforcement of the requirements of this title creates an unnecessary hardship to the property owner or would deprive the property owner of the rights commonly enjoyed by others in the same area;
  5. The variance does not create health or safety problems, will not be injurious to the public welfare, and does not grant a special privilege to the property owners;
  6. The variance from height or setback requirements does not infringe upon or interfere with the requirements of any easement or covenant; and
  7. The variance is the minimum necessary to grant relief to the applicant.
- C. Administrative Variance. An administrative variance may be granted if the application complies with the following criteria:
1. The variance would not decrease by more than twenty (20) percent any required front, side or rear yard between buildings;
  2. The variance would not increase by more than ten (10) percent any permitted projection of cornices, sills, eave projections, fences or structures, maximum permitted lot coverage, and unenclosed and uncovered decks into a front, side or rear yard; or
  3. The variance would not increase by more than ten (10) percent the permitted height of a structure.
  4. Strict enforcement of the requirements of this title creates an unnecessary hardship to the property owner or would deprive the property owner of the rights commonly enjoyed by others in the same area;
  5. The variance would not create health or safety problems, will not be injurious to the public welfare, and does not grant a special privilege to the property owner;

6. The variance is the minimum necessary to grant relief to the applicant.
- D. Granting of a variance shall not relieve an applicant from complying with any other standard or requirement of this Title unless and only to the extent that such standard or requirement is specifically addressed as part of the decision on the requested variance.
- E. Process. Consideration of variance requests shall follow the procedures in Chapter 18.08.

**~~18.12.040 — Preliminary plats & short plats.~~**

- ~~A. The City will consider the following criteria in reviewing applications for preliminary plats and short plats, and may only approve an application if the applicant demonstrates that all of the criteria are met:~~
- ~~1. The proposal is consistent with the goals, policies and map designations of the Black Diamond Comprehensive Plan;~~
  - ~~2. The proposed lots sizes are consistent with those allowed within the applicable zoning classification and is consistent with applicable development standards and requirements of this title;~~
  - ~~3. The subdivision or short subdivision adequately provides for the following facilities: open spaces, drainage ways, streets, roads, alleys, other public ways, transit stops (where applicable), potable water supplies, sanitary wastes, parks and recreation, playgrounds, sites for schools and school grounds, fire protection, other public facilities and utilities, and consideration of other relevant factors;~~
  - ~~4. The layout of lots, and their size and dimensions take into account topography and vegetation on the site, and the presence of regulated critical areas;~~
  - ~~5. The preliminary plat or short plat promotes the public health, safety, and general welfare;~~
  - ~~6. The proposal satisfies the requirements of Title 17 BDMC and any other criteria properly considered by the decision maker.~~
- ~~B. Consideration of proposed preliminary plats and short plats shall follow the procedures of BDMC 18.08.~~

**~~18.12.060 — Development agreements.~~**

- ~~A. Purpose. RCW 36.70B.170 et seq authorizes the City to enter into development agreements with property owners. Development agreements are intended to be used to address and establish development standards, mitigation requirements, vesting provisions and review procedures that will apply to and govern large, complex and/or phased development proposals located within the City during the term of any agreement.~~
- ~~B. Development Standards Subject to Agreement. Any development agreement shall be consistent with applicable City development regulations except as such regulations may be modified in the development agreement. For purposes of this chapter, “development standards” include but are not limited to:~~
- ~~1. Project elements such as uses, densities and intensities of land uses and buildings;~~
  - ~~2. Mitigation measures, conditions and other requirements identified pursuant to RCW 43.21C;~~

- ~~3. Design standards such as maximum heights, setbacks, landscaping and other development features;~~
  - ~~4. Road and sidewalk standards;~~
  - ~~5. Affordable housing;~~
  - ~~6. Water, sewer, storm drainage, water quality, and other infrastructure and utility requirements;~~
  - ~~7. Parks and open space preservation, and recreation facilities;~~
  - ~~8. Phasing of development and construction;~~
  - ~~9. Development review processes, procedures and standards for implementing decisions, including methods of reimbursement to the city for review processes;~~
  - ~~10. A build-out or vesting period for applicable development standards;~~
  - ~~11. A process for amending the development agreement; and~~
  - ~~12. Any other appropriate development requirement or procedure.~~
- ~~C. Conformity with Standards. During the term specified in the development agreement, a development permit or approval issued by the City for the subject property shall be consistent with the standards contained in such agreement. The standards contained in the development agreement shall govern during the term of the agreement and may not be subject to an amendment of City development standards or regulations adopted after the effective date of the development agreement. Provided, that the development agreement shall reserve to the City the authority to impose new or different regulations to the extent required by a serious threat to public health and safety.~~
- ~~D. A development agreement shall be recorded with the real property documents of King County. During the term of the agreement, it shall be binding on the parties and their successors, including a city that assumes jurisdiction through incorporation or annexation of the area or property subject to the development agreement. Unless terminated, the agreement shall be enforceable by a party to the agreement.~~
- ~~E. A development agreement shall be reviewed and adopted following a public hearing pursuant to the procedures and requirements set forth in Chapter 18.08.~~

**18.12.070 — Comprehensive plan amendments.**

- ~~A. Decision Criteria. The Planning Commission and City Council shall consider the following criteria in their review of proposed map or text amendments to the Comprehensive Plan:~~
- ~~1. Consistency with the Growth Management Act;~~
  - ~~2. Consistency with the King County Countywide Planning Policies and other regional or inter-jurisdictional plans or agreements;~~
  - ~~3. Consistency with the policies of the Comprehensive Plan, particularly land use, natural environment, transportation, capital facilities, public service and utilities;~~
  - ~~4. Furtherance of the Plan's vision statement;~~
  - ~~5. Compatibility with adjacent land uses and Land Use Map designations;~~
  - ~~6. Impacts to the natural environment; and~~
  - ~~7. Whether adopted development regulations will address anticipated impacts of the proposed amendment, or whether additional conditions or regulations are necessary.~~
- ~~B. Process. Additional requirements and procedures related to Comprehensive Plan amendments are contained in Chapter 18.08~~

## Chapter 18.30

### SINGLE-FAMILY RESIDENTIAL DISTRICTS – R4 & R6

#### *Sections:*

- 18.30.010 Intent.**
- 18.30.020 Permitted uses.**
- 18.30.030 Conditional uses.**
- 18.30.040 Development standards.**
- 18.30.050 Additional requirements**

#### **18.30.010 Intent.**

It is the intent of this chapter to:

- A. Enhance the residential quality of the city by providing a high standard of development for single-family residential areas.
- B. Designate certain areas in which single-family structures on individual lots are the predominant type of dwelling unit.
- C. Guide residential development to those areas where public sewers are in place or can be extended efficiently at reasonable cost.
- D. Guide development of residential areas in such manner as to assure availability of public services and community facilities such as utilities, police and fire protection, schools, parks and recreation.

#### **18.30.020 Permitted uses.**

- A. Residential.
  - 1. Single-family detached structures on individual lots
  - 2. Manufactured housing as provided in Chapter 18.90.
- B. Other or Related Uses.
  - 1. Accessory buildings or structures as provided in Chapter 18.50.
  - 2. Temporary uses as provided in Chapter 18.52.
  - 3. Home occupations as provided in Chapter 18.54.
  - 4. Accessory dwelling units as provided in Chapter 18.56.
  - Comment: Helpful cross-reference.*
  - 45. Utilities, under-ground.
  - 5-6 Child day care for up to 12 children.

#### **18.30.030 Conditional uses.**

The following uses not allowed as permitted uses in Section 18.30.020 may be allowed by approval of a Conditional Use Permit in accordance with Chapters 18.08 and 18.12:

- A. Child care for more than 12 children, including nursery schools, day care centers and preschools.
- B. Utilities, above-ground
- C. Public uses/ facilities
- D. Religious institutions, not to exceed 10,000 sq. ft. gross floor area.
- E. Bed and breakfast.

*Comment: Since a B&B would typically occur within a single family home, it makes sense to include here.*

**EF.** Duplexes, subject to the following criteria:

1. The minimum lot size for a duplex shall be 1.5 times that required for a single family detached structure. Only one duplex shall be permitted per lot which meets this standard;
2. A lot on which a duplex is proposed shall not be located within 300 feet of any other lot on which a duplex or multiple unit structure is found (accessory dwelling units excluded), or constitute more than ten percent (10%) of the dwelling units in a single block;
3. Duplexes shall be subject to design standards to ensure their compatibility in terms of bulk, scale and architectural style with the surrounding neighborhood.

**FG.** Private schools, K-12.

## Chapter 18.32

### MEDIUM DENSITY RESIDENTIAL DISTRICT – MDR8

#### *Sections:*

- 18.32.010 Intent.**
- 18.32.020 Permitted Uses.**
- 18.32.030 Conditional Uses.**
- 18.32.040 Development Standards**
- 18.32.050 Additional Requirements**

#### **18.32.010 Intent.**

It is the intent of this section to:

- A. Enhance the residential quality of the city by providing a high standard of development for multi-family residential areas;
- B. Designate appropriate areas in which medium density residential structures on individual lots are the predominant type of dwelling unit;

~~C. Guide medium density residential development to those areas where (i) public sewers are in place prior to building construction, or (ii) where sewers can be extended at minimal cost;~~

*Comment: This is more of a Comp Plan policy statement and, since a developer will bear the cost of sewer extension, costs are a moot point from a City perspective.*

**DC.** Guide the development of multi-family residential dwellings to such areas and in such manner as to assure availability of public services and community facilities such as utilities, police and fire protection, schools, parks and recreation, and convenient access to public transportation consistent with City level of service standards;

**ED.** Encourage the preservation of critical areas and other significant places identified in the City's Transfer of Development Rights Program (BDMC 19.24) by allowing increased densities when the TDR mechanism is used; and

**FG.** Apply appropriate guidelines to ensure that structures developed for medium density residential use are well designed.

**18.32.020 Permitted uses.**

A. Residential:

1. Single-family structures on individual lots, whether attached or detached.
2. Multi-family residential structures, provided that no individual structure shall contain more than six dwelling units.
3. Cottage Housing, as provided in Chapter 18.88.
4. Manufactured Housing as provided in Chapter 18.90.
5. Accessory dwelling unit, as provided in Chapter 18.56.

*Comment: Helpful cross-reference.*

B. Other or Related Uses.

1. Accessory buildings or structures as provided in Chapter 18.50.
2. Temporary uses as provided in Chapter 18.52.
3. Home occupations as provided in Chapter 18.54.
4. Utilities, under-ground.
5. Child day care for up to 12 children.

**18.32.030 Conditional uses.**

The following uses not allowed as permitted uses in Section 18.32.020 may be allowed by Conditional Use Permit in accordance with Chapters 18.08 and 18.12:

- A. Child care including nursery schools, day care centers and preschools for more than 12 children;
- B. Utilities, above-ground;
- C. Public uses/ facilities;
- D. Religious institutions, not to exceed 10,000 square feet gross floor area.
- E. Bed and breakfast;
- F. Senior housing;
- G. Elderly housing – assisted;
- H. Manufactured home parks;
- I. Group homes;
- J. Private schools, K-12.

**18.32.040 Development standards.**

A. Site area and dimensional standards

1. Maximum density: Eight (8) dwelling units per acre without Transfer of Development Rights; twelve (12) dwelling units per acre with Transfer of Development Rights.
2. Minimum Lot Area:
  - a. Multi-family structures: seven thousand two hundred (7,200) square feet;
  - b. Single-family structures on individual lots: three thousand six hundred (3,600) square feet.
3. Minimum Lot Width: Fifty (50) feet.
4. Minimum Lot Depth: Seventy (70) feet.
5. Minimum Front Yard:

- a. On minor street: Twenty (20) feet.
- b. On major street: Twenty-five (25) feet.
- 6. Minimum Side Yards:
  - a. Minimum on interior lot lines: Seven (7) feet.
  - b. Minimum on a flanking street: Ten (10) feet.
- 7. Minimum Rear Yard: Ten (10) feet.
- 8. Maximum Building Coverage: Fifty percent (50%).
- 9. Maximum Building Height:
  - a. Main building: Thirty-five (35) feet.
  - b. Accessory buildings: The height of the primary building(s) or twenty-six (26) feet, whichever is less.
- 10. Structure separation: On lots containing more than one structure, there shall be a distance of not less than ten (10) feet, between all buildings, including accessory buildings.

- 11. Bonus Density. The inclusion of senior or elderly-assisted housing within a project may be granted a bonus density as follows:
  - a. The additional density may be one percent for each one percent of total project dwelling units dedicated to senior or elderly-assisted housing;
  - b. The bonus shall be calculated on the total units dedicated, regardless of type; and
  - c. The maximum bonus density shall not exceed 20% for a project.

*Comment: The bonus density factor in this section doesn't make a lot of sense, as it is very low. Staff is looking for Commission guidance on how much (if any) density bonus to grant to projects including senior housing.*

- B. Parking. Off-street parking shall be provided in accordance with Chapter 18.80.
- C. Landscaping.
  - 1. Landscaping shall be planned and provided in accordance with Chapter 18.72.
  - 2. Development shall also comply with the tree preservation requirements of BDMC 19.30.
- D. Signs. Regulation of signs is provided in Chapter 18.9282.
- E. Lighting. Lighting shall comply with the requirements of Chapter 18.70.
- F. Storage and exterior displays.
  - 1. Required landscaping or buffer areas shall not be used for storage of any sort.
  - 2. Storage or parking of motor vehicles for rental income is prohibited.

**18.32.050 Additional requirements.**

- A. All development within the MDR8 zone shall comply with the applicable environmental performance standards of Chapter 18.78, the site plan review requirements of Chapter 18.16, and design review requirements of Chapter 18.74.

**Chapter 18.34**

**SUPPLEMENTAL RESIDENTIAL STANDARDS**

**Sections**

- 18.34.010 Purpose.**
- 18.34.020 Height.**
- 18.34.030 Yards and open space.**
- 18.34.040 Lots.**

**18.34.010 Purpose.**

The purpose of this chapter is to ensure adequate light, air and open space within residential areas, while protecting the rights of owners to attain a reasonable use of their property that would be denied by strict adherence to the development standards of the applicable zone district.

**18.34.020 Height.**

The maximum basic height limitation for all principal and accessory buildings in the various zone districts shall not apply to cupolas that do not extend more than three (3) feet above the roof line, flagpoles, transmission lines, residential antennas, and other similar structures as determined by the director.

**18.34.030 Yards and open space.**

Except as provided in this section, every required yard shall be open and unobstructed from the ground to the sky.

- A. The following may project from a building into a required yard setback no more than two (2) feet:
  - 1. Fireplace structures not wider than eight (8) feet measured in the general direction of the wall of which it is a part;
  - 2. Bay windows and garden windows which do not require a foundation;
  - 3. Enclosed stair landings;
  - 4. Personal television satellite dishes;
  - 5. Cornices, sills, eave projections and awnings without enclosing walls or screening;
  - 6. Planting boxes or masonry planters not exceeding 30 inches in height.
- B. Porches and platforms.
  - 1. Uncovered porches and platforms which do not extend above the floor level of the first floor may project two (2) feet into required side yards, ~~and~~ six (6) feet into required front yards and ten (10) feet into required rear yards;  
*Comment: recommend allowing greater intrusions into these required yards, since these porches/decks won't be very high above the ground.*
  - 2. Covered but enclosed porches and platforms which do not extend above the floor level of the first floor and which are no wider than fifty percent (50%) of the building's frontage may project five (5) feet into a required front yard.
- C. Special Front Yard Depth. If buildings existing on July 17, 1980 occupy more than fifty (50%) or more of the buildings on one side of a street are set back less than the required front yard of the applicable zone district, then in lieu thereof, the depth of the

front yard shall not be less than the average depth of the front yards on that block front, provided that:

1. No building shall be required to set back more than two (2) feet further than a building on an adjoining lot;
  2. No front yard shall be less than twenty (20) feet to a garage, either attached or detached.
- D. Side yard width reductions. In the R4, R6 and MDR8 districts, where there exists a lot on which it is possible to construct a single family dwelling, and the lot has a width of less than forty (40) feet, then the required interior side yard setback may be reduced to three feet for all portions of the structure, including those noted in (A) above.

## **Chapter 18.36**

### **NEIGHBORHOOD CENTER - NC**

#### *Sections*

- 18.36.010 Intent.**
- 18.36.020 Permitted uses.**
- 18.36.030 Conditional Uses**
- 18.36.040 Development Standards**
- 18.36.050 Additional Requirements**

#### **18.36.010 Intent.**

It is the intent of this section to:

- A. Enhance residents' access to goods and services needed daily in a setting that contributes to neighborhood character, encourages pedestrian activity, reduces automobile use, and serves as a focus of neighborhood life;
- B. Create a complementary mix of neighborhood-serving retail, personal service, general office, entertainment/cultural, public service, and residential uses for a range of lifestyles;
- C. Guide the development of multi-family residential dwellings to such areas and in such manner as to assure availability of public services and community facilities such as utilities, police and fire protection, schools, parks and recreation, and convenient access to public transportation consistent with City level of service standards;
- D. Allow mixed use developments that integrate residential uses into neighborhood centers, either within the same building or on the same development site, to enhance living convenience;
- E. Encourage orientation to the street and pedestrian amenities to create a pleasant pedestrian environment; and
- F. Ensure that the nature of development is harmonious with the surrounding single family neighborhood in intensity, scale, quality, and character.
- G. Allow more intensive uses to be maintained and expanded under certain conditions.

**18.36.020 Permitted uses.**

- A. Retail; the following uses only are allowed:
  - 1. Supermarket and grocery stores: limited to not more than 40,000 square feet gross floor area.
  - 2. All other typical neighborhood retail uses: limited to not more than 10,000 square feet gross area for each individual use, whether in a separate building or combined with other uses in one building, not to exceed 100,000 square feet gross floor area in total; and excluding drive-through facilities and automobile fueling stations.
- B. Personal services provided primarily to neighborhood residents: limited to not more than 4,000 square feet gross floor area per business.
- C. General offices: limited to not more than 4,000 square feet gross floor area per business and excluding drive-through facilities.
- D. Entertainment/culture: limited to not more than 5,000 square feet gross floor area or capacity of not more than 100 patrons per business, whichever is greater, and excluding drive-through facilities.
- E. Residential uses in attached structures if included as an element of mixed use site development or on upper floors of a mixed use structure.
- F. Utilities, below-ground
- G. Existing light manufacturing uses, provided no expansion is allowed.
- H. Veterinary clinics and pet stores; no boarding of dogs or outdoor kennels allowed.
- Comment: Staff had a recent contact from a vet looking to locate in the city and realized the code did not address this issue.*
- II. Other or Related Uses:
  - 1. Accessory uses and structures as provided Chapter 18.50.
  - 2. Temporary uses as provided in Chapter 18.52.

**18.36.030 Conditional uses.**

The following uses may be allowed by Conditional Use Permit in accordance with Chapters 18.08 and 18.12:

- A. Bed and breakfast;
- B. Religious institutions;
- C. Drive through facilities, maximum one (1) per property;
- D. Essential public facilities;
- E. Utilities, above-ground;
- F. Public Uses / Facilities;
- G. Senior housing.
- H. Automobile fueling stations.
- I. Any expansion of the space, volume or facilities of any light manufacturing use that existed before June 27, 2009. Any such expansion must be contained within the same lot as the existing use.

**18.36.040 Development standards.**

- A. Dimensional Standards:
  - 1. Bulk limit: For structures without residential uses, floor area ratio (F.A.R.) shall not exceed 1.0 (total gross floor area shall not be greater than total site area); for

- mixed-use structures containing residential uses, F.A.R. shall not exceed 2.0 (total gross floor area shall not be greater than twice total site area).
2. Maximum allowed height: thirty-five (35) feet, without residential on upper floors; fifty (50) feet, with residential on upper floors.
  3. Minimum Lot Area, Width and Depth: None.
  4. Maximum Front Yard Setback: At least 60% of the width of any street façade of a primary use shall be set back no more than ten (10) feet from the front property line, provided that the maximum allowed setback is (fifteen) 15 feet for structures with first floor residential uses.
  5. Minimum Side Yard Setback: Twenty (20) feet if abutting a residential zone plus one foot additional setback for each foot of building height over thirty-five (35) feet.
  6. Minimum Rear Yard Setback: If abutting a residential zone, fifteen (15) feet for a building without residential use and twenty (20) feet for a building with residential use plus one foot additional setback for each foot of building height over thirty-five feet.
  7. Maximum Impervious Surface Coverage: eighty percent (80%).
  8. Maximum residential density:
    - (a) Without bonuses: twelve (12) dwelling units per acre in an exclusively residential building; in a mixed use building, none (only as limited by F.A.R., height, parking and other site development standards).
    - (b) Inclusion of senior housing within a project may be granted a bonus density as follows:
    - (c) A one percent (1%) density bonus for each percent of total project dwelling units dedicated to senior housing;
    - (d) The bonus shall be calculated on the total units dedicated, regardless of type; and
    - (e) The maximum bonus density shall not exceed twenty percent (20%) for a project.

**Comment: Same issue as before.**

9. Maximum Site Area: 10 acres
- B. Parking. Off-street parking shall be provided in accordance with Chapter 18.80.
- C. Landscaping.
1. Landscaping shall be planned and provided in accordance with Chapter 18.72.
  2. Development shall also comply with the tree preservation requirements of BDMC 19.30.
- D. Signs. Regulation of signs is provided in Chapter 18.82.
- E. Lighting. Lighting shall comply with the requirements of Chapter 18.70.
- F. Storage and exterior displays.
1. Required landscaping or buffer areas will not be used for storage of any sort.
  2. There shall be no exterior storage of any items whether or not for sale, other than sidewalk displays of retail items during operating hours only or as otherwise permitted as a temporary use.

## Chapter 18.38

### COMMUNITY COMMERCIAL DISTRICT – CC

#### *Sections:*

- 18.38.010 Intent.**
- 18.38.020 Permitted uses.**
- 18.38.030 Conditional uses.**
- 18.38.040 Development standards.**
- 18.38.050 Additional Requirements**

#### **18.38.010 Intent.**

It is the intent of this section to:

- A. Encourage the development of retail facilities which offer a relatively wide range of goods to consumers within the community and the broader regional marketplace;
- B. Encourage the clustering of such facilities on sites of sufficient size to provide opportunity for attractive design and arrangement of buildings, safe and convenient access and parking;
- C. Limit location of such sites to major arterials or intersections of major traffic ways in order that said sites may serve the entire community and broader region;
- D. Encourage mixed-use developments that integrate residential uses into commercial projects, either within the same building or on the same development site, to enhance living convenience.

#### **18.38.020 Permitted uses.**

- A. Retail, including automobile fueling stations and uses involving outdoor product display or storage;
- B. Personal and professional services
- C. Entertainment / Cultural
- D. Religious institutions
- E. Drive through facilities, including automobile fueling stations.
- F. Hotel, motel, and other visitor lodging
- G. Residential, if developed as an element of mixed use site development, either in separate buildings or on the upper floors of a mixed use building; provided that, residential is not allowed at street level within buildings fronting an arterial street.

H. Veterinary clinics and pet daycare.

*Comment: allow vet clinics with no limitations, also doggie daycare.*

- H. Public Uses / Facilities
- I. Utilities, below-ground; and
- J. Other or Related Uses:
  - 1. Accessory uses and structures as provided Chapter 18.50.
  - 2. Temporary uses as provided in Chapter 18.52.

**18.38.030 Conditional uses.**

The following uses not allowed as permitted uses in Section 18.38.020 may be allowed by Conditional Use Permit in accordance with Chapters 18.08 and 18.12:

- A. Major institutions;
- B. Essential public facilities;
- C. Utilities, above-ground;
- D. ~~Wholesale or retail establishments, or h~~Hybrid wholesale/retail establishments, ~~larger than 50,000 square feet;~~ and

*Comment: Recommend cleaning this up to require some retail sales and to not allow an exclusive wholesale establishment (those are typically only allowed in industrial zones).*

- E. Mini storage facilities.

**Chapter 18.40**

**TOWN CENTER - TC**

*Sections*

- 18.40.010 Intent.**
- 18.40.020 Permitted uses.**
- 18.40.030 Conditional Uses**
- 18.40.040 Development Standards**
- 18.40.050 Additional Requirements**

**18.40.010 Intent.**

It is the intent of this section to:

- A. Encourage a range of retail, service, civic, entertainment, recreation, and residential uses to maintain a town center as the primary district of community activity and social interaction;
- B. Provide opportunities for an integration of living, working, shopping, entertainment, civic and recreation activities to serve a variety of lifestyles;
- C. Insure that new development occurs in a manner that is complementary to surrounding uses and neighborhoods;
- D. Encourage street-oriented store frontages and sidewalk amenities to enhance the pedestrian atmosphere;
- E. Reduce the amount of vehicular travel required of the consumer to access goods and services needed in daily living;
- F. Encourage mixed-use developments that integrate residential uses into commercial projects, either within the same building or on the same development site, to enhance living convenience; and
- G. Create a place that serves as the social and activity heart of the community and is recognized as the central venue of community life.

**18.40.020 Permitted uses.**

- A. Retail
- B. Personal and Professional Services
- C. General Office
- D. Entertainment / Culture
- E. Public Uses / Facilities, limited to general governmental administrative offices.
- F. Residential, if in an attached building and developed as an element of mixed use site development or on the upper floors of a mixed use building; residential is not allowed at street level if fronting an arterial street.
- G. Utilities, below-ground

**18.40.030 Conditional uses.**

The following uses not allowed as permitted uses in Section 18.40.020 may be allowed by Conditional Use Permit in accordance with Chapters 18.08 and 18.12:

- A. Child care including nursery schools and day care centers;
- B. Utilities, above-ground;
- C. Major Institution;
- D. Private clubs, fraternal lodges and similar organizations;
- E. Religious institutions;
- F. Public Uses / Facilities not otherwise permitted in 18.40.020;
- G. Parking structures not associated with a primary, permitted use;
- H. Senior housing.

**18.40.040 Development standards.**

- A. Development within the Town Center District.
  - 1. All new construction and reconstruction of existing buildings shall be designed and built so that the exterior appearance of the finished building complements and enhances the historic character of the district
  - 2. At the time of site plan review, the applicant shall submit a color architectural rendering showing the elevations of the proposed construction including the types of materials to be used.
  - 3. The director shall solicit and ~~the Hearing Examiner shall~~ consider the comments of the Black Diamond Historical Society, and any other agency or entity with expertise, in reaching a decision on the proposed building and site plan.

***Comment: recommend that Site Plan Review be an exclusively administrative process.***

- B. Dimensional Standards:
  - 1. Floor Area Ratio (F.A.R.) limit: For structures without residential uses, F.A.R. shall not exceed 1.0 (total gross floor area shall not be greater than total site area); for mixed-use structures with residential uses, F.A.R. shall not exceed 2.0 (total gross floor area shall not be greater than twice the total site area).
  - 2. Maximum allowed height: thirty-five (35) feet, without residential; fifty (50) feet, with residential.
  - 3. Minimum Lot Area, Width and Depth: None.

4. **Maximum Front Yard Setback:** One hundred percent (100%) of the width of any street façade of a primary use shall set back no more than five (5) feet from the front property line, unless a public plaza or similar amenity is provided between the façade and the street. The maximum allowed setback is ten (10) feet for structures.
  5. **Minimum Side Yard Setback:** Ten (10) feet if abutting a residential zone plus one foot additional setback for each foot of building height over thirty-five (35) feet.
  6. **Minimum Rear Yard Setback:** If abutting a residential zone, ten (10) feet for a building without residential use and fifteen (15) feet for a building with residential use, plus one foot additional setback for each foot of building height over thirty-five (35) feet .
  7. **Maximum impervious surface coverage:** one hundred percent (100%).
  8. **Maximum residential density:** None; only as limited by F.A.R., height, parking and other site requirements. Inclusion of senior housing within a project may be granted a bonus density as follows:
    - (a) Density may be increased by one percent for each one percent of total project dwelling units that are dedicated to senior housing;
    - (b) The bonus shall be calculated on the total units dedicated, regardless of type; and
    - (c) The maximum bonus density shall not exceed twenty percent (20%) for a project.
    - (d). **Parking.** Off-street parking is not required for any use in the Town Center zone.
    - (e) **Landscaping.**
- C. **Landscaping.**
1. Landscaping shall be planned and provided in accordance with Chapter 18.72.
  2. Development shall also comply with the tree preservation requirements of BDMC 19.30.
- D. **Signs.** Regulation of signs is provided in Chapter 18.82.
- E. **Lighting.** Lighting shall comply with the requirements of Chapter 18.70.
- F. **Storage and exterior displays.**
1. Landscaping or buffer areas will not be used for storage of any sort.
  2. There shall be no exterior storage of any items whether or not for sale, other than sidewalk displays of retail items during operating hours only.

**18.40.050 Additional requirements.**

- A. All development within the TC zone shall comply with applicable environmental performance standards of Chapter 18.78, the site plan review requirements of Chapter 18.16, and design review requirements of Chapter 18.74.

## Chapter 18.42

### BUSINESS/INDUSTRIAL PARK – B/IP

*Sections:*

- 18.42.010 Intent.**
- 18.42.020 Permitted Uses.**
- 18.42.030 Conditional Uses.**
- 18.42.040 Development Standards.**
- 18.42.050 Additional Requirements**

**18.42.010 Intent.**

It is the intent of this section to:

- A. Provide areas for the development and growth of non-retail businesses engaged in high technology and software development, research and development, general office, wholesale, distribution and limited manufacturing activities to expand the community's economic and employment base;
- B. Promote concentrated, master-planned developments with cohesive design elements for architecture, landscaping, and circulation; development with high-visual quality and park-like site characteristics; functional and aesthetic compatibility with adjacent uses and neighborhoods; and enhanced opportunities for walking, biking and transit; and
- C. Insure a mix of complementary support uses, including technical consulting, personnel and productivity support services, and limited retail and service uses to support the principal business/industrial uses and reduce off-site vehicle trips to access business support services.

**18.42.020 Permitted uses.**

- A. Office, research and technology and light manufacturing activities that do not create significant noise, emissions, risk of explosion or release of hazardous materials, or air or water pollution ;
- B. General Office, including call centers and other customer service communication centers;
- C. Research and Development;
- D. Technology, biotechnology and medical equipment;
- E. Light Manufacturing, providing all production and storage activity is conducted indoors;
- F. Wholesaling;
- G. Business Support Services, such as technology services and support, copy centers, and eating and drinking establishments to serve the occupants of the business park. The total gross floor area of such uses is not to exceed twenty percent (20%) of the total project gross floor area and a 5,000 gross square feet maximum for any individual use;
- H. Child care, including nursery schools and day care centers, when -integrated within a ~~master-planned~~ development;
- I. Utilities, below-ground;

- J. Private schools; and
- K. Other Uses.

## Chapter 18.44

### INDUSTRIAL DISTRICT – I

#### *Sections*

- 18.44.010 Purpose.**
- 18.44.020 Permitted Uses.**
- 18.44.030 Conditional Uses**
- 18.44.040 Development Standards**
- 18.44.050 Additional Requirements**

#### **18.44.010 Purpose.**

The intents of this section are to:

- A. Provide areas for the development and growth of general manufacturing and other industrial activities to contribute to the community's economic health, provide employment opportunities for residents, and generate tax revenues to support the provision of public services;
- B. Keep industrial activities within reasonable scale and consistent with the character of the city;
- C. Protect industrial areas from such other uses as may interfere with the purpose and efficient functioning of such areas;
- D. Protect residential and other non-industrial areas from adverse or damaging impact of any kind emanating or resulting from industrial areas; and
- E. Provide standards for development of industrial areas.

#### **18.44.020 Permitted Uses**

- A. Heavy manufacturing industry.

**Comment: this is the term used in the definitions section.**

- B. Light Manufacturing,
- C. Research and Development
- D. General office associated with a primary manufacturing use.
- E. Wholesaling;
- F. Warehousing and Distribution;
- G. Business Support Services including eating establishments primarily serving the immediate work force; the total gross floor area of such uses shall not exceed twenty percent (20%) of the total district area and a 5,000 gross square feet maximum area for any individual use;
- H. Utilities;
- I. Public Uses / Facilities;
- J. Private schools; and
- K. Other Uses:
  - 1. Accessory uses as provided in Chapter 18.50.
  - 2. Temporary uses as provided in Chapter 18.52.

## Chapter 18.50

### ACCESSORY USES AND STRUCTURES

*Sections:*

- 18.50.010 Intent.**
- 18.50.020 General provisions.**
- 18.50.030 Residential zones accessory uses and structures.**
- 18.50.040 Commercial zones accessory uses and structures.**
- 18.50.050 Industrial zones accessory uses and structures.**
- 18.50.060 Fences and walls.**

**18.50.010 Intent.**

This chapter recognizes activities and structures that are customarily subordinate and incidental to a principal use of the land or building and that are not otherwise regulated by this Title.

**18.50.020 General provisions.**

- A. Accessory structures shall be complementary to the basic architectural character of the main building on the lot, and appropriate to the nature of the accessory use, and are subject to the applicable design guidelines of Chapter ~~18.76~~18.74.
- B. Required setbacks:
  - 1. Accessory structures shall observe the front, side and rear yard setback requirements of the zone in which they are located, except as provided in this chapter.
- C. Maximum accessory structure height:
  - 1. Residential zones: twenty-six (26) feet or the height of the principal structure, whichever is less.
  - 2. Neighborhood Commercial, Community Business and Town Center zones: twenty-six (26) feet.
  - 3. Business/Industrial Park & Industrial zones: thirty-five (35) feet or the height of the principal use structure, whichever is less.

**18.50.030 Residential zone accessory uses and structures.**

- A. The following accessory uses/activities are allowed in residential zones:
  - 1. The cultivation of flowers, trees or produce intended primarily for personal use or enjoyment.
  - 2. The keeping of animals is permitted in compliance with the Title 6 BDMC.
  - 3. Accessory dwelling units in accordance with Chapter 18.56.
  - 4. Detached garage(s), carport(s), and parking facilities for the residents of the property.
  - 5. ~~Storage sheds not greater than two hundred (200) square feet in gross floor area.~~
  - 6. Playhouses, patios, cabanas, porches, gazebos, swimming pools, workshops, garden sheds and incidental household storage buildings.

7. Common recreational vehicle storage facilities limited to serving the development in which they are located.
  8. Temporary storage containers used during an active construction project.
- B. Detached accessory buildings.
1. For any lot 9600 sq. ft. or less, a detached accessory building not exceeding 26 feet in height may disregard rear and interior side yard setback requirements if such building is no greater than 650 sq. ft. in floor area, is located in the rear thirty percent (30%) of the lot or further than 75 feet from the front lot line, and is no closer than 12 feet from the centerline of an adjacent alley.
  2. The total area of all accessory buildings located within a required rear yard shall not exceed twenty-five percent (25%) of the area of the required rear yard.
  3. Accessory buildings that exceed the building area, height and location standards noted above shall comply with all required yard setbacks.
  4. No accessory building shall be larger than fifty percent (50%) of the ground floor area of the primary structure on any lot; provided that this limitation shall not apply to accessory dwelling units or for agricultural buildings on lots greater than 35,000 sq. ft. in size.

*Comment: This has become an issue with two property owners in town. The intent was to maintain a reasonable scale between the primary use of a lot (the home) and any detached accessory structures. Need input from the Commission on how to proceed.*

**18.50.050 Industrial zone accessory uses and structures.**

The following accessory uses are allowed in the B/IP and I zones:

- A. ~~Caretaker / security guard residence~~ Accessory living quarters.

*Comment: This is the proper term, as it is included in the Definitions chapter.*

- B. Storage buildings.

## Chapter 18.56

### ACCESSORY DWELLING UNITS

*Sections:*

- 18.56.010 Definitions.**
- 18.56.020 Where Authorized.**
- 18.56.030 Performance Standards for Accessory Dwelling Units.**
- 18.56.040 Review Process.**
- 18.56.050 Recognition of Existing Accessory Dwelling Units**

**18.56.010 Definitions.**

- A. "Accessory dwelling unit" - a second dwelling unit either attached to or located on a lot occupied by a single-family detached dwelling. This unit provides a separate and completely independent dwelling unit with facilities for cooking, sanitation and sleeping, and has a separate and independent entry/exit than one utilized for the primary residence.

- B. “Owner occupancy” means a property owner, as reflected in the real estate tax rolls, who makes his or her legal residence at the subject lot, as evidenced by voter registration, vehicle registration, or similar means, and actually resides upon the lot more than six months out of any given year.

**18.56.020 Where authorized.**

Accessory dwelling units shall be permitted within any residential district subject to review and compliance with the standards and requirements of this chapter.

**18.56.030 Performance standards for accessory dwelling units.**

- A. Minimum Lot Size. All performance standards, including minimum yard setbacks and overall building coverage as set forth for the applicable zoning district shall be met with respect to the accessory dwelling unit. An accessory dwelling unit shall not be permitted upon any lot that is nonconforming due to lot size.
- B. Number. No more than one accessory dwelling unit shall be permitted on a lot.
- C. Location in Relation to Principal Residence. The accessory dwelling unit may be either detached or a part of the principal residence or an accessory building.
- D. Zoning/Building Code Compliance. All new construction associated with an accessory dwelling unit shall meet the development standards for the applicable zone, except as modified by this chapter, and shall comply with all applicable city codes, including requirements for an efficiency dwelling unit as set forth in the International Building Code adopted by the city.
- E. Owner Occupancy. An owner of the property for which an accessory dwelling unit permit is requested must occupy at least one dwelling unit located on the property.
- F. Future Subdivision. Parcels upon which an accessory dwelling unit has been approved shall not be subdivided or otherwise segregated in ownership in a manner that would separate the accessory dwelling unit from the principal dwelling.
- G. Maximum Size. An accessory dwelling unit shall not exceed fifty percent (50%) of the size of the primary dwelling on the lot or 800 sq. ft., whichever is less. Accessory dwelling units shall comply with the required site coverage, yard area requirements or building code setbacks as provided within the subject property’s zone.
- H. Scale. A detached accessory dwelling unit or accessory structure containing an accessory dwelling unit shall not exceed the maximum height allowed for a detached accessory building per the underlying zoning district.
- I. Additions. Additions to an existing structure or newly constructed detached structures created for the purpose of creating an accessory dwelling unit, shall be designed in a manner consistent with existing roof pitch, siding and windows for the principal dwelling unit.
- ~~J. Detached Structures. An accessory dwelling unit may be permitted in a detached structure, subject to compliance with the requirements of this chapter.~~
- ~~*Comment: Detached ADUs already allowed by definition.*~~
- K. Parking. At least one off-street parking space in addition to the minimum required off-street parking from the primary dwelling unit shall be provided for an accessory dwelling unit ~~of nine hundred square feet of living area or less. All accessory~~

~~dwelling units greater than nine hundred square feet of living space shall provide the minimum off-street spaces required for a single-family residence.~~

*Comment: leftover from old code; this version will not allow 900+ sq. ft. ADUs.*

- L. Utility Connections. Utility accounts for accessory dwelling units shall be maintained in the name of the property owner. Accessory dwelling units may be served by the same water meter and sewer connection utilized for the primary residence if approved by the city, but shall be assessed a monthly service fee as established by the city's fee schedule or applicable ordinance. The city may require an applicant to provide documentation demonstrating capacity availability prior to allowing a joint connection. The city may require upgrades to a utility connection and the cost of such upgrades shall be borne by the applicant. ~~Accessory dwelling units having nine hundred square feet or greater of living area shall pay for the cost of a separate single-family water and sewer service connection in accordance with the city's adopted fee schedule regardless of whether separate physical connections are required.~~ If water or sewer service is not provided by the city, then the rules of the water or sewer district shall apply as to whether an additional hook-up and connection fees are required. Any water or sewer service as referenced in this section is subject to water or sewer availability.

*Comment: leftover from old code; this version will not allow 900+ sq. ft. ADUs.*

~~M. Number Permitted. A maximum of one accessory dwelling unit shall be permitted on a lot otherwise meeting the requirements of this chapter.~~

*Comment: already addressed in (B) above.*

- N. Design and Appearance. The accessory dwelling unit shall be designed so that, to the degree reasonably feasible, the appearance of the building is consistent with that of the primary residence. At a minimum, the new exterior construction associated with creating an accessory dwelling unit should match the existing exterior materials and design of the principal residence, and the pitch of any new roof should match that of the principal residence. New landscaping shall conform with or improve existing landscaping.
- O. Entrance Location. An attached accessory dwelling unit shall have a separate entrance to the outside from the entrance for the primary dwelling. For attached accessory dwelling units, the entrance to the accessory dwelling unit shall be located in such a manner as not to appear as a second primary entrance to the structure which contains the principal residence in an effort to maintain the appearance of a single-family residence.

## Chapter 18.78

### ENVIRONMENTAL PERFORMANCE STANDARDS

*Sections:*

<b>18.78.010</b>	<b>Intent</b>
<b>18.78.020</b>	<b>Environmental Performance Standards-Generally</b>
<b>18.78.030</b>	<b>Noise</b>
<b>18.78.040</b>	<b>Emissions</b>

- 18.78.050 Storage and Appearance**
- 18.78.060 Other Ordinances Applicable**
- 18.78.070 Enforcement**

**18.78.010 Intent.**

It is the intent of this section to:

- A. Protect public health and general welfare;
- B. Establish minimum standards for the control of environmental pollution;
- C. Minimize the adverse effects of contaminants which may result from the use of land by any activity or person.

**18.78.020 Environmental Performance Standards-Generally.**

It shall be the responsibility of the operator and/or the proprietor of any permitted use to provide such reasonable evidence and technical data as the director may require to demonstrate that the use or activity is, or will be, in compliance with the performance standards of this chapter.

~~**18.78.030 Noise.**~~

- ~~A. The maximum allowable noise levels as measured at the property line of noise impacted uses or activities shall be those set forth in WAC Chapter 173-60, entitled "Maximum Environmental Noise Levels," which chapter is incorporated by reference.~~
- ~~B. The "Environmental Designation for Noise Abatement" (EDNA) for the several land use classifications of this title shall be as follows:
  - ~~1. All living areas (single family, multifamily, etc.): A;~~
  - ~~2. All commercial areas: B;~~
  - ~~3. Industrial: C.~~~~

~~**Comment: allowable noise standards are established in BDMC 8.12 and in State law.**~~

**18.78.040 Emissions.**

- A. Air pollution, including the emission of odors, shall be controlled by the operator and/or proprietor of any land use or activity; and the ambient air quality standards of the Puget Sound Clean Air Agency shall apply to all air contaminants listed therein.
- B. Toxic substances shall be kept to concentrations not exceeding one-fiftieth of interior standards by use of the best available control methods and technology in all phases of plant operation and handling of materials, and by an active commitment to good housekeeping practices.
  - 1. Toxic substances not listed in Regulation I of PSCAA, but released into the air shall be limited in accordance with the most current publication entitled "Threshold Limit Values", of the American Conference of Governmental Hygienists.
- C. Liquid wastes shall be disposed of through local sanitary sewer systems only upon approval of affected sewer district authorities.
- D. Liquid or solid wastes unacceptable to public sewer authorities shall be disposed of on a regular basis in keeping with the best operating characteristics of the industry,

and in compliance with the regulations and requirements of local, regional, state or federal agencies having jurisdiction in waste disposal and environmental health and safety.

- E. Heat and Glare. Any operation producing intense heat or glare shall be performed within an enclosure so as to completely obscure such operation from view from any point along the property line.
- F. Radioactive Materials and Radiation Devices. The use, storage, transportation and disposal of all radioactive materials and radiation machines shall be subject to the regulatory jurisdiction and control of the Radiation Control Agency of the Washington State Department of Social and Health Services as amended.
- G. Vibration and Concussion. No use shall cause earth vibrations or concussions detectable without the aid of instruments beyond its lot lines, with the exception of the temporary vibration produced as a result of construction activity. Such temporary construction activity shall be restricted to the hours between seven a. m. and six p.m.

**18.78.050 Storage and appearance.**

In the conduct of any business, the storage of merchandise, raw materials, equipment, fixtures, scraps or solid wastes shall comply with the following requirements:

- A. Every reasonable effort shall be made by persons operating a business to store all such materials within an enclosed building, with the following exceptions:
  - 1. Where such inside storage is not practical or desirable for reasons related to health, fire or safety codes.
  - 2. Where the outside storage of merchandise, manufactured products, or raw materials is normal and standard practice, such as in the sale of automotive equipment, mobile homes, lumber, gardening materials, nursery stock and the like, or on the site of construction projects.
  - 3. When materials or products are temporarily stored outside incidental to shipping, delivery, loading or unloading thereof.
- B. Outside storage shall be maintained in an orderly manner and shall create no:
  - 1. Visual offense to the premises, adjacent properties or the public right-of-way;
  - 2. Fire, safety, health or sanitary hazard.
- C. Storage in residential areas shall comply with the same requirements as those specified for business establishments and shall, in addition, comply with the following:
  - 1. Motor vehicles, appliances, and any other mechanical equipment which is no longer operable shall not be stored outside for a period exceeding thirty days.
  - 2. Operable motor vehicles, boats, trailers, recreational vehicles and the like may be stored on the premises provided that they do not obstruct the use of public right-of-way or interfere with traffic visibility, especially the visibility of and at intersections of streets. Vehicles so stored shall not be used as living quarters.
- D. Storage in or on the public right-of-way is prohibited.

~~18.78.060 — Other ordinances.~~

~~A. All uses in every zoning district shall be in compliance with the city's Shoreline Master Program.~~

~~B. Wherever applicable, all construction, site preparation, drainage and erosion controls and the like, shall comply with the requirements of the International Building Code and International Residential Code or as those codes may be amended.~~

~~***Comment: this section is redundant and unnecessary.***~~

**18.78.070 Enforcement.**

- A. The director is authorized and required to enforce the minimum standards of this chapter.
- B. In the enforcement of this chapter, the director may require the operator or owner of an existing or proposed activity or use to submit reasonable evidence and technical data to demonstrate that the use or activity is or will be in compliance with the performance standards of this chapter.
- C. The director may undertake independent studies and engage such technical assistance as may be needed for such studies or to evaluate data or information submitted by an applicant in connection with the performance standards of any activity.
- D. The applicant, owner, operator or developer shall pay for or reimburse the city for the costs incurred in the conduct of such tests as the city may require and for costs incurred by the city to engage technical consultants for review and interpretation of data and findings submitted by or on behalf of the developer.

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**18.80.030 Minimum requirements.**

- A. The requirements for off-street parking and loading facilities and their design shall be regarded as the minimum; however, the owner, developer, or operator of the premises for which the parking facilities are intended shall be responsible for providing adequate amount and arrangement of space for the particular premises even though such space or its arrangement is in excess of the minimum set forth in this Title.
- B. For Conditional Uses permitted under this Title that are not within a category in the Table at 18.80.030 E., the parking requirement shall be as provided by the applicable decision maker in the conditions of approval.
- C. There shall be no parking or loading allowed in any required side or rear yard that abuts a residential zone.
- D. The parking requirement tables (E., F., and G. below) group uses in the zone in which they are most commonly found, but these uses may also be permitted in other zones and are subject to the same parking standards.
- E. Parking requirements in Residential zones, unless otherwise modified by other provisions within this Code.

<b>USES</b>	<b>REQUIRED SPACES</b>
	<b>(*Gross sq ft of primary building area)</b>
Single-family dwellings	2
Multi-family structures (3 or more dwellings)	1.75 per unit
Multi-family studio/efficiency dwellings	1 per unit

Senior housing	¾ per unit
Manufactured home on individual lot	2
Manufactured or mobile home in a manufactured home park	2 per home, of which one may be located in on-site, shared parking areas
Religious Institutions, less than 10,000 gsf*	0.5 per seat or 4 lineal feet of pew space or 1 per 4 seats

F. Parking requirements in Commercial zones.

USES	REQUIRED SPACES (*Gross sq ft of primary building area)
Retail, 10,000 gsf* and less	1 per 350 gsf*
Retail, over 10,000 gsf*	1 per 300 gsf*
<del>Entertainment / Culture</del>	
Restaurant	1 per 150 gsf*
Theaters and places of public assembly	1 per 4 seats
<del>Other</del> Entertainment / Culture	1 per 4 seats
General Office	1 per 500 gsf*
Personal and Professional Service	1 per 400 gsf*
Public Uses / Facilities	Depends on use and determined at site plan review
Major Institution	Depends on use and conditions of approval
Multi-family residential structures in a mixed-use project	1.5 per unit in a free-standing building; 1 per unit if within a mixed-use building
Day Care Center serving more than 12 children	Minimum of 6, plus one for each employee
Religious Institutions, 10,000 gsf* or larger	0.7 per seat or 4 lineal feet of pew space or 1 per 4 seats

## Chapter 18.86

### RESIDENTIAL CLUSTER DEVELOPMENT (RCD)

*Sections:*

- 18.86.010 Intent**
- 18.86.020 Applicability**
- 18.86.030 Procedures**
- 18.86.040 Development Standards**

**18.86.010 Intent**

The intent of the residential cluster development (RCD) provisions is to accommodate the overall density of the underlying zoning district while allowing residential development

to utilize less land area. The RCD standards are intended to allow for innovative design, and promote the City’s vision of a “Rural by Design” development pattern.

**18.86.020 Applicability**

- A. All residential zoning districts are eligible to apply for approval of residential cluster development.
- B. Cluster development may be applied to both multi-family and attached/detached single-family residential developments of three (3) or more dwelling units.

**18.86.030 Procedures and Criteria**

- A. Review Procedures. RCD applications are processed as a Type 3 Hearing Examiner decision ~~(site plan approval)~~ [Note: this change will also require a change to 18.08] pursuant to the provisions set forth in Chapter 18.08. Proposals for clustering shall be subject to and consolidated with the provisions ~~and procedures for site plan review, Chapter 18.16 and for~~ preliminary plat approval, if individual lot ownership is proposed.

*Comment: Recommend separately defining this as a Type 3 application, especially if Site Plan Review becomes administrative.*

- B. Criteria for Approval. The Hearing Examiner may approve a RCD only if it is found that:
  - 1. The location, design, and uses are consistent with the goals and policies of the Comprehensive Plan, the City’s development codes and other City plans and ordinances;
  - 2. The residential development integrates with its surroundings and is designed to harmonize with existing or proposed development in the neighborhood, including the project’s response to ~~F of this section~~ 18.86.040.F;
  - 3. The traffic generated by the development can be accommodated safely and within adopted level of service for affected streets;
  - 4. All development will be served by existing or planned facilities and services;
  - 5. The development makes provision for the preservation of the natural environment and/or identified open space or trails per the Comprehensive Plan.

- C. Scope of Approval.

- 1. ~~Approval of an RCD occurs as an element of site plan review and is not a separate permit.~~ Through a RCD, modifications to the setbacks, height, lot area, building coverage and development coverage standards of the underlying zone district may be granted.

*Comment: same reason as noted above.*

- 2. Approval of an RCD shall constitute a deviation of standards on the design of the site for only those designs and standards that are specifically included. Such revision of standards shall remain in effect until the residential development is constructed, or until its approval expires, at which time the underlying zoning standards automatically return to effect.

## CHAPTER 18.100

### DEFINITIONS

#### 18.100.010 Generally.

In addition to the words and terms defined in this chapter, several sections of this title contain definitions specifically related to those sections. In the event of conflict between definitions in this list and those shown in other sections of this title the definition in the other section shall govern within the context of the section within which it appears. (See sections on Home Occupations, Accessory Dwelling Units, Special Uses Signs and Mobile Homes Manufactured Housing.)

*Comment: additional areas that include specific definitions are added to this list, while other terms that are not found in the code are proposed for deletion.*

#### 18.100.030 Accessory building.

A building, or structure, or portion of a building, devoted to an activity subordinate to the principal use of the premises ~~detached accessory buildings in residentially zoned districts not exceeding one story of fifteen feet in height and not occupying greater than fifty percent of the area of a rear or side yard and not closer than ten feet to each other or the principal building are permitted~~ <sup>[SB1]</sup>.

*Comment: This is a code writing faux pas 101; never put a standard in a definition. Plus, it is inconsistent with what the R zones otherwise allow.*



CITY OF BLACK DIAMOND  
PLANNING COMMISSION  
25510 Lawson Street, Black Diamond, Washington

**M E M O R A N D U M**

Date: June 2, 2010  
To: Planning Commission  
From: Steve Pilcher  
Re: Comprehensive Plan Amendments

Chapter 16.30 of the Municipal Code includes provisions for amending the Comprehensive Plan. Individuals are free to suggest amendments to the Plan and have them placed on “the docket,” or file a separate application. Doing the latter guarantees consideration of a potential change by the Planning Commission and Council. Items that are placed on the docket pursuant BDMC 16.30.100 may move forward if the Commission decides they are worthy of further consideration.

Although items can be submitted to the docket at any time, to guarantee consideration in 2010, the public was notified via the City’s website that suggestions would need to be submitted by June 1<sup>st</sup>. No submissions were received. The docket remains empty.

However, BDMC 16.30.070 does provide that the Commission may initiate potential amendments to the Plan. Staff is suggesting a series of amendments, which it intends to more thoroughly introduce at your July meeting. The suggestions fall into two main areas:

1. Adding another chapter to the Plan to address Utilities (this includes those provided by other entities other than the City, such as Puget Sound Energy, Covington Water, etc.).
2. Miscellaneous updates to the background text throughout the document to reflect current data and/or eliminate outdated information.

No policy changes are being proposed.

As noted, a more thorough description of these will be presented at your July meeting, but staff wanted to advise the Commission that these are “in the works” for this year’s amendment cycle.