

ORDINANCE 1718

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, AMENDING NORTH BEND MUNICIPAL CODE CHAPTER 17.20, RELATING TO BINDING SITE PLANS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the 2018 Washington Legislature changed the statutes regarding condominiums and other common interest communities; and

WHEREAS, these legislative changes are likely to lead to more applications to construct condominiums in Washington State; and

WHEREAS, the City of North Bend has not updated its ordinances regarding the processing of Binding Site Plans since 2003; and

WHEREAS, the Planning Commission reviewed proposed edits to North Bend Municipal Code (“NBMC”) at its meeting on October 24, 2019; and

WHEREAS, the Planning Commission held a public hearing on the proposed edits on November 14, 2019; and

WHEREAS, the City Council of the City of North Bend wishes to amend NBMC Ch. 17.20 to provide clarity in submission and processing of binding site plan applications;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. NBMC Chapter 17.20 (Binding Site Plans), Amended: North Bend Municipal Code Chapter 17.20 (Binding Site Plans) is hereby amended to read as set forth below:

17.20.005 Title.

This chapter shall be known as the binding site plan ordinance and may be cited as such.

17.20.010 Purpose.

The purposes of this chapter are to:

- A. Provide a method for division of land for commercial and industrial zoned property, mobile home parks, trailer parks or condominiums;

- B. Allow the director to modify interior lot-based or lot line requirements contained within the zoning, building, fire and other similar international codes adopted by the City;
- C. Allow the director to authorize sharing of open space, parking, access and other improvements among contiguous properties subject to the binding site plan; and
- D. Specify administrative requirements for binding site plans in addition to the procedural requirements of NBMC 20.01.004 and in accordance with applicable Washington State and City of North Bend laws, rules and regulations.

17.20.020 Applicability.

- A. Any person seeking the use of a binding site plan process to divide property for the purpose of sale, lease or transfer of ownership of commercial or industrial zoned property, lease of mobile homes or travel trailers, or creation of condominium units is required to have an approved binding site plan prior to any property division, as provided for in Chapters 58.17, or 64.90 ~~64.32 or 64.34~~ RCW, and as required by this chapter. A binding site plan for a condominium shall be based on a recorded final planned unit development, a building permit, an as-built site plan for developed sites or a site development permit issued for the entire site or a general site plan showing the anticipated development plan for the entire site.
- B. The site that is subject to the binding site plan shall consist of one or more contiguous lots.
- C. The site that is subject to the binding site plan may be reviewed independently for developed sites, concurrently with or subsequent to a site development permit application for undeveloped land or concurrently with or subsequent to a building permit application.
- D. The binding site plan process creates or alters lot lines and does not authorize substantial improvements or changes to the property or the uses thereon.

17.20.022 Type of Review.

- A. The City shall review Binding Site Plan applications as Type I administrative, nonexempt development permits under NBMC 20.01.004 and Table 20.01.004.

17.20.024 Binding Site Plan Application Requirements.

In addition to the minimum application requirements in NBMC Title 17 and 20, including those required in NBMC 17.08.150, the following are required to complete an application for a Preliminary and Final Binding Site Plan:

A. Preliminary Binding Site Plan Application

- 1. A copy of any existing covenants, conditions, and restrictions, property owners' association bylaws, incorporation documents, and

- all other private restrictions or provisions currently applicable to the property.
2. If an existing residential development, evidence of the vote or appropriate association approval authorizing the submittal of the application;
 3. A copy of a title company certification (current within 60 days from filing of the binding site plan) confirming that the title of the lands as described and shown on the binding site plan is in the name of the owner(s) signing the binding site plan; and
 4. Proposed boundaries of any lot(s) to be created as a part of the binding site plan; and
 5. Concurrency application; and
 6. Preliminary Engineering Plans, Preliminary Technical Information Report, and any preliminary reports and studies including, but not limited to: Geotechnical Report, Traffic Impact Analysis, and Wetland Assessment.

B. Final Binding Site Plan Application

1. Approved plans and documents from the applicable Preliminary Binding Site Plan;
2. A statement indicating that all development on the subject parcel is bound to the binding site plan;
3. The acknowledged signatures of all parties having an ownership interest in the property;
4. Written documentation that all requirements for preliminary binding site plan approval are met, including the completion of all required infrastructure improvements; and
5. Reference by recording number to the covenants, conditions and restrictions and property owners' association incorporation documents applicable to the property; and
6. Final Engineering Plan Approval.

NBMC 17.20.026 – Preliminary Binding Site Plan Application Review

A. Upon submittal of a complete Preliminary Binding Site Plan application, as defined in NBMC 17.20.024(A), the City shall notify the applicant, in writing, that the application is complete. A proposed binding site plan shall be vested at the time a fully completed application for Binding Site Plan has been submitted to the City. A proposed binding site plan shall be considered under the zoning and other land use control ordinances in effect as of the date a fully completed application for Binding Site Plan is submitted to the City.

B. Preliminary Binding Site Plan applications shall be considered by the appropriate decision body as provided for within NBMC Title 20 for a Type I, administrative permit decision.

C. Preliminary Binding Site Plan applications shall be reviewed for consistency with the City's Comprehensive Plan and the applicable development regulations in the North Bend Municipal Code.

D. If all requirements for approval are met, the Community and Economic Development Director ("director") shall provide written findings of fact supporting the approval of the preliminary binding site plan and set forth all conditions for final binding site approval.

17.20.030 Requirements and limitations. Preliminary Binding Site Plan.

A. The binding site plan shall ensure that the collective lots continue to function as one site with respect to, but not limited to, compliance with City design standards, lot access, interior circulation, open space, landscaping, drainage facilities, facility maintenance and parking.

B. The binding site plan shall ensure appropriate provisions are made for the public health, safety, and general welfare, and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and

C. The binding site plan shall ensure that environmentally critical areas, as defined in NBMC Title 14 and other applicable provisions in the NBMC, are protected.

D. The binding site plan shall include:

1. Identify the areas and locations of all streets, roads, improvements, utilities, open spaces, sensitive areas, parking areas, landscaped areas, surveyed topography for preliminary map, water bodies and drainage features and building envelopes;

2. ~~Contain~~ Inscriptions or attachments setting forth such limitations and conditions for the use of the land as are established by the director or the hearing examiner, including, but not limited to, compliance with City design standards; and

3. ~~Contain~~ Provisions requiring any development or division of land to be in conformance with the approved site plan.

E. C. Conditions of use, maintenance and restrictions on redevelopment of shared open space, parking, access and other improvements shall be identified and enforced by covenants, easements or other similar mechanisms.

F. D. All applicable processing fees specified by Chapter 20.09 NBMC and any civil penalty assessed pursuant to Chapter 20.10 NBMC against a site being reviewed under this section shall be paid prior to recording.

NBMC 17.20.032 — Preliminary Binding Site Plan Approval Duration.

Preliminary approval of a binding site plan shall be effective for a period of 60 months. An extension up to three years may be granted by the director if:

A. A written request for extension is filed at least 30 days before the expiration of the binding site plan;

B. Unforeseen circumstances and conditions which are not the result of voluntary actions of the applicant necessitate the extension of the preliminary binding site plan;

C. Conditions in the immediate vicinity of the subject property have not changed substantially since the preliminary binding site plan was first approved;

D. An extension of the preliminary binding site plan will not cause substantial detriment to existing uses in the immediate vicinity of the subject property or to the community as a whole;

E. The applicant has demonstrated reasonable diligence in attempting to meet the time limit imposed; and

F. The preliminary binding site plan substantially complies with applicable NBMC provisions in effect on the date that the application for extension was made.

NBMC 17.20.034 — Engineering Review Requirements

A. Plans and reports shall be submitted to the department and prepared consistent with the requirements of the NBMC, including, but not limited to: the adopted City public works standards, Chapter 19.01 NBMC; the adopted surface water design manual; and conditions of preliminary approval. Each plan set or document shall be stamped, signed and dated by a civil engineer.

B. Engineering plans for roads, sewer, water, drainage controls and other proposed or conditioned improvements shall be prepared, submitted and reviewed for approval by the development engineer prior to the commencement of on-site clearing or construction activities.

C. Approval of the engineering plans by the development engineer will be required prior to the approval of the Final Binding Site Plan.

D. Prior to issuance of a clearing and grading permit, the applicant shall post a site restoration guarantee consistent with the provisions of NBMC Title 19, and shall pay all applicable fees set forth in Chapter 20.09 NBMC.

NBMC 17.20.036 – Final Binding Site Plan Application Review

A. Filing. A Final Binding Site Plan application shall be filed with the Community and Economic Development department at such time as the property owner(s) intends to sell or lease a portion of property as approved in a Preliminary Binding Site Plan. Applications shall include a copy of any proposed declarations, covenants, conditions, and restrictions, property owners' association bylaws and incorporation documents, and all other

private restrictions or provisions, not previously submitted to the City, which will become applicable to the subject property;

B. Limitations. A Final Binding Site Plan shall not be used to modify the provisions of the approved Preliminary Binding Site Plan, building permit, or final occupancy permit, other than to divide lots for sale or lease within areas designated for lot development in the Preliminary Binding Site Plan.

C. Review Procedures. Final Binding Site Plan applications shall be reviewed for compliance with the conditions of the Preliminary Binding Site Plan, building permit, applicable planned unit development conditions, Chapter 64.90 RCW, and all other applicable laws and regulations in effect at the time of application.

D. Final Binding Site Requirements. The Final Binding Site Plan shall:

1. Identify the areas and locations of all streets, roads, improvements, utilities, open spaces, sensitive areas, parking areas, landscaped areas, water bodies, drainage features and building envelopes;

2. Contain inscriptions or attachments setting forth such limitations and conditions for the use of the land as are established by the director, including, but not limited to, compliance with City design standards; and

3. Contain provisions requiring any development or division of land to be in conformance with the approved site plan; and

4. Infrastructure and utility construction (punchlist) completion; and

5. As built completion, Bill of Sale, and Maintenance Bond.

E. Approval and Recording. Upon determination of consistency with the Preliminary Binding Site Plan and the requirements in Section D above, the Final Binding Site Plan shall be signed by the community development director and the public works director. Applicant shall then record the signed Final Binding Site Plan, a declaration that complies with RCW 64.90.225, and a map that complies with RCW 64.90.245 with the county auditor.

NBMC 17.20.038 — Fees

Fees, as established by the taxes, rates and fees schedule adopted by ordinance, shall apply to Preliminary and Binding Site applications governed by this chapter.

17.20.040 Alterations of an Approved Final Binding Site Plan.

A. Alteration of an approved final binding site plan shall be accomplished by following the same process required for a new application as set forth in this chapter. Alterations that result in any substantial changes as determined by the Department shall be treated as a new application for purposes of vesting and shall be reviewed as an administrative decision

pursuant to NBMC 20.01.004. For the purpose of this section, “substantial change” includes the creation of additional lots, the elimination or reduction of open space, or changes to conditions of approval of an approved preliminary binding site plan.

B. Changes to a building permit, planned unit development, subdivision or short subdivision, or site development permit within a binding site plan area shall also require alteration of the binding site plan unless the director determines that such changes are consistent with the approved binding site plan.

17.20.050 Vacations.

A. Vacation of a final binding site plan shall be accomplished by following the same procedure and satisfying the same laws, rules and conditions as required for a new binding site plan application, as set forth in this chapter. If a portion of a binding site plan is vacated, the property subject to the vacated portion shall constitute one lot unless the property is subsequently divided by an approved subdivision or short subdivision or another binding site plan.

B. If a building permit is revised or expires, then the binding site plan shall be vacated unless the director determines that the revision or expiration is consistent with the approved binding site plan.

17.20.060 Recording.

~~A. Plat certificates or owner’s duplicate certificates for registered land pursuant to Chapter 65.12 RCW shall be provided to the department by the owner along with a copy of the last real estate transaction for all adjoining unplatted parcels.~~

~~AB. Prior to recording, the approved binding site plan shall be surveyed and the final recording forms shall be prepared by a land surveyor. A final binding site plan shall be prepared on forms 18 inches by 24 inches in size, allowing for a two inch border on one of the 18 inch sides, to allow for binding, and one half inch borders on the other three sides. The two inch border will typically be on the top or left side depending on the configuration of the drawing.~~

~~BC. The approved binding site plan recording documents shall include the following:~~

- ~~1. Except for a binding site plan for a condominium, identification of lots by number on a binding site plan containing more than one lot. Tracts shall be similarly designated and each tract shall be clearly identified with the ownership and purpose;~~
- ~~2. Signature and stamp of the land surveyor who prepared the binding site plan in accordance with Chapter 332-130 WAC and Chapter 58.09 RCW;~~
- ~~3. Reference to the recording number of the completed survey if the boundaries have been previously surveyed;~~

4. Reference to all agreements or covenants required as a condition of approval;
5. Notarized signatures of all parties having an ownership interest in the land being divided;
6. Satisfaction of health department requirements, unless previously approved on a recorded final planned unit development, a building permit, an as-built plan for developed sites or a site development permit for the entire site;
7. Approval of the public works director;
8. ~~Approval of the King County office of finance;~~
9. Approval of the King County assessor;
10. ~~Approval of the director;~~
11. Recording certificate required for signature of King County records and elections division; and
12. Department file number.

~~D. A deposit to cover anticipated taxes and assessments is required for binding site plans pursuant to Chapter 58.08 RCW. The applicant shall be required to provide certification from the King County office of finance that property taxes for the subject property are not delinquent prior to issuance of a final approval.~~

~~C.E.~~ Lots, parcels or tracts created through the binding site plan procedure shall be legal lots of record. All provisions, conditions and requirements of the binding site plan shall be legally enforceable on the purchaser or any other person acquiring a lease or other ownership interest of any lot, parcel, or tract created pursuant to the binding site plan.

~~D.F.~~ No person shall sell, transfer or lease any lot, tract or parcel created pursuant to the binding site plan that does not conform to the requirements of the binding site plan or without binding site plan approval.

~~E.G.~~ The binding site plan shall set forth limitations and conditions, including irrevocable dedications of property and containing a provision that any development of the site shall be in conformity with the approved binding site plan.

17.20.070 Appeals.

Any decision of the director may be appealed following the procedures set forth in the NBMC, including but not limited to Chapters 20.01 and 20.06.

Section 2. Severability: Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. Effective Date: This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 3RD DAY OF MARCH, 2020.

CITY OF NORTH BEND:

APPROVED AS TO FORM:

Rob McFarland, Mayor

Michael R. Kenyon, City Attorney

Published: March 13, 2020
Effective: March 18, 2020

ATTEST/AUTHENTICATED:

Susie Oppedal, City Clerk