

ORDINANCE NO. 008/2009

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON TO AMEND THE MONROE MUNICIPAL CODE BY ADOPTING CHAPTER 17.34 – BINDING SITE PLANS, ADDING DEFINITIONS IN CHAPTER 17.08, REPEALING CHAPTER 18.20 CONTRACT AND BINDING SITE PLAN ZONE (CBS) AND REVISING ADMINISTRATIVE REQUIREMENTS IN CHAPTER 21.50 FOR CONSISTENCY; AND PROVIDING FOR SEVERABILITY AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, the City of Monroe regulates the administration of Subdivisions in Title 17 of the Monroe Municipal Code and Zoning in Title 18 of the Monroe Municipal Code; and

WHEREAS, the City Council has determined that it is in the community interest to amend the Subdivision code by adopting Chapter 17.34 Binding Site Plans, consistent with RCW 58.17.035, as an alternative method to subdivide commercial and industrial parcels and administer the division/development of manufactured/mobile home parks; and

WHEREAS, the City Council has determined that it is in the community interest to create a mechanism to review phased construction projects through a Binding Site Plan Process; and

WHEREAS, the City Council has determined that it is in the community interest to repeal the Chapter 18.20 MMC Contract and Binding Site Plan Zones (CBS); and

WHEREAS, the City Council has determined that it is in the community interest to amend the definitions in chapters 17.08 and the administrative requirements in Chapter 21.50 of the Monroe Municipal Code for consistency with the addition of Chapter 17.34; and

WHEREAS, the Monroe Planning Commission held a duly advertised public hearing on January 26, 2009 to consider the proposed amendments of the Monroe Municipal Code; and

WHEREAS, all persons desiring to comment on the proposal were given a full and complete opportunity to be heard; and

WHEREAS, the City Council reviewed the Planning Commission recommendation at the February 10, 2009 and April 14, 2009 City Council meeting; and

WHEREAS, the City Council finds that the proposed codes, are in the public interest and are further consistent with the Comprehensive Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONROE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. The Monroe City Council adopts the findings and conclusions recommended by the Monroe Planning Commission in support of the amendments adopted by this ordinance.

Section 2. Chapters 17.08 and 17.34 MMC are amended as depicted in Exhibit A, attached hereto and incorporated by this reference as if set forth in full.

Section 3. Chapter 21.50 MMC is amended as depicted in Exhibit B, attached hereto and incorporated by this reference as if set forth in full

Section 4. Chapter 18.20 MMC Contract and Binding Site Plan Zones (CBS) is hereby repealed in its entirety.

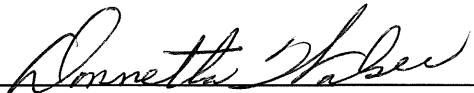
Section 5. Severability. If any section, sentence, clause or phrase of this ordinance or any section of the Monroe Municipal Code adopted or amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance or code section.

Section 6. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 19th day of May 2009.

CITY OF MONROE, WASHINGTON:

1st Reading: 5/19/09
Published: 6/2/09
Effective: 6/7/09



Donnetta Walser, Mayor

ATTEST/AUTHENTICATED:

APPROVED AS TO FORM:



Eadye Martinson, Deputy City Clerk



Phil Olbrechts, City Attorney

EXHIBIT A

Chapter 17.08 DEFINITIONS

17.08.010 Generally

Binding Site Plan

"Binding site plan" means a scaled drawing, drawn by a professional surveyor, which: (a) Identifies and depicts the locations of all streets, improvements, utilities, open spaces, and any other matters specified by local regulations; (b) contains inscriptions or attachments setting forth appropriate limitations and conditions for the use of the land; and (c) contains provisions making any development be in conformity with the site plan.

Chapter 17.34 BINDING SITE PLANS

17.34.010 Authority

This chapter establishes a binding site plan process, pursuant to RCW 58.17.035, as an alternative method to divide commercially or industrially zoned property and manufactured/mobile home or travel trailer parks, and creates a mechanism to administratively review and approve related site improvements for concurrent or phased development. Binding site plan applications are subject to public notice requirements defined in Chapter 21.40 MMC. Lots, or tracts created through a binding site plan are legal.

17.34.020 Purpose

A. Land division

1. Division of land, for sale or lease, into lots or tracts zoned for commercial or industrial use; and
2. Division of land, for lease, when no residential structures, other than manufactured/mobile homes or travel trailers are to be placed upon the land.

B. Concurrent or phased development

1. Binding site plans for the subdivision of developed sites may be reviewed independently of a site development permit application or a building permit application;
2. Site development permit applications or building permit applications may be reviewed concurrently with a binding site plan for the subdivision of undeveloped land; and
3. Binding site plans for phased development may be reviewed independently from a proposed binding site plan subdivision, to approve the locations of future site improvements, subject to the requirements described in subsection MMC 17.34.050(H).

17.34.030 Approval

A. Binding site plans require public notice per MMC 21.50.020 and require a Notice of Development Application and Notice of Decision as defined in Chapter 21.40 MMC.

B. The community development director will issue written findings that approve, approve with conditions, or deny binding site plans and concurrent development permits.

1. The director will grant preliminary approval when the proposed binding site plan meets all requirements and standards. The preliminary approval becomes effective at the end of the appeal period for two years.
2. If an applicant proposes a binding site plan to subdivide ten or more lots, a public hearing is required pursuant to MMC 21.50.060. In such cases, the hearing examiner will issue the preliminary decision
3. Following preliminary approval, the proponent must submit construction drawings for review and approval by the city of Monroe. The proponent must complete all of the requirements in MMC 17.32.100 within two years, unless the applicant submits a written request for an extension to the

director at least thirty days prior to the expiration of the original two-year period, and the director approves the same. The director may grant an extension(s) for up to one additional year.

4. After review of the final binding site plan application and survey, the director will grant final approval of the binding site plan after the proponent completes or financially secures required improvements as approved in the preliminary binding site plan.
- C. When an applicant seeks a concurrent land use approval for a quasi-judicial or legislative action per MMC 21.50.130, the highest decision-maker will issue written findings that approve, approve with conditions, or deny the preliminary binding site plans and concurrent development permits. For example, if a binding site plan is combined with a conditional use permit, the hearing examiner will issue a decision on the preliminary binding site plan.

17.34.040 Requirements

- A. Binding site plan applications, submittal, review, and processing requirements must conform to the standards set forth in Chapter 17.32 MMC.
- B. Binding site plans and concurrent building permits or other land use/development permits must comply with applicable municipal code provisions, public works standards, building codes, and performance standards, in effect at the time of application, including but not limited to building setbacks, critical areas, easements, landscaping, lighting, lot coverage, parking, stormwater drainage, streets, and utilities. Proposed binding site plans must clearly depict all planned improvements.
- C. Binding site plans are subject to environmental review in accordance with Chapter 20.04 MMC, when the proposed development meets or exceeds flexible thresholds.
- D. The aggregate lots within a binding site plan constitute a common development site subject to all density, use, and dimensional standards of the zone in which it is located; as such, the common development must function internally as a whole and may share common required features such as access points, open spaces, parking, signage subject to an approved master sign site plan, stormwater systems, and other proposed improvements allowed under the city's municipal code and public works standards. An applicant can propose to modify the bulk and dimensional standards for individual lots, created by the binding site plan, in relation to other lots within the area of common development when:
 1. The common development site meets cumulative lot coverage and open space standards of the zone for all combined lots as shown on the site plan;
 2. The common development meets cumulative parking requirements for all proposed uses for all combined lots, provided that through a shared parking agreement or other mechanisms every proposed use in the proposed development meets applicable parking standards; and
 3. The proposed structure locations are consistent with all applicable building and fire codes – interior setback requirements may be modified on individual lots.
- E. The binding site plan shall clearly identify the conditions of use, maintenance, and restrictions on redevelopment for all shared features by covenant, easement, or other similar mechanism. An owner's association or other legal entity, with equal and undivided ownership interest in the common features, shall be responsible for the enforcement of conditions and maintenance of common features. The owner's association or other legal entity will remain the owner, unless the association revises the binding site plan, in accordance with this chapter.
- F. All binding site plans shall include the following note:

"Subsequent development of the site shall be in conformance with the recorded binding site plan. 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, or tract created and/or developed pursuant to the binding site plan."

G. A binding site plan defines the location and size of future buildings, setbacks, parking areas, roads, stormwater detention, and other proposed site improvements. Properties subject to a binding site plan may propose phased development, for portions of the project, when the proposed phasing will not adversely affect the public health, safety, or welfare. The phased development proposal must comply with applicable bulk standards including, but not limited to setbacks, lot coverage, building height, access, parking, and landscaping in effect at the time of initial application, unless modified under subsection D.

1. The approval of a binding site plan for phased development does not vest future, building permit applications or engineering permits (not approved as part of the initial application). These future applications must comply with the standards in effect at the time of application.

2. The approval of a binding site plan for phased development does not vest the use of the property.

17.34.050 Recording

Following final approval, the applicant shall record the approved binding site plan with the Snohomish County Auditor within ninety days and shall return a full-sized conforming copy of the recorded binding site plan and a reduced copy at eight and one-half inches by eleven inches of the binding site plan, containing a county registration number, to the community development department. In addition, the applicant must submit an electronic copy of the binding site plan in a format approved by the city upon final approval.

17.34.060 Revisions to binding site plan.

A. A revision to the binding site plan is required whenever the owner proposes changes to the design, terms, or conditions of the approved binding site plan. The proponent must submit detailed plans describing the proposed changes to the community development department for review, to determine if the revision is substantive or not. Changes are substantive when the changes materially alter the binding site plan's conformance with the terms and conditions of approval. If the revision is substantial, the proposal shall follow the same procedures required for acquiring a binding site plan, as set forth in this chapter.

B. Vacation of a recorded binding site plan will follow the same procedures required for acquiring a binding site plan, as set forth in this chapter. If the applicant or successor proposes to vacate a portion of a binding site plan, the property subject to the vacation shall constitute one lot, and the balance of the approved binding site plan shall remain as approved.

17.34.070 Violation

Compliance with the requirements of this code shall be mandatory. The general penalties and remedies established in Chapter 1.04 MMC for such violations shall apply to any violation of this code. The enforcement actions authorized under this code shall be supplemental to those general penalties and remedies of Chapter 1.04 MMC.

EXHIBIT B

Chapter 21.50

REVIEW AND APPROVAL PROCESS

21.50.020 Administrative approvals subject to notice.

A. The director of community development may grant preliminary approval or approval with conditions, or may deny the following actions subject to the notice and appeal requirements of this section:

1. Accessory dwelling units.
2. Binding Site Plans.
3. Short plats.

21.50.120 Development Review and Appeal Matrix

	Application Type	Decision Body	Decision/Action⁷	Final Decision Body	Appeal Body⁴	Subsequent Appeal Body⁵
Administrative Approvals Subject to Notice	Binding Site Plans ¹	Director of Community Development ⁶	Final		Hearing Examiner	City Council

1. Binding Site Plans, Short Subdivisions, Planned Residential Developments, and Subdivisions receive approval in two phases a preliminary approval with conditions and final approval when preliminary conditions have been completed.
2. Appeals based on the substantive authority of SEPA for conditions imposed outside the threshold determination process are appealable to the city council, as required by RCW 43.21C.060. Otherwise, appeals of SEPA threshold determinations and EIS adequacy are considered procedural determinations and therefore appealable to the hearing examiner per WAC 197-11-680(3)(iv).
3. Shoreline conditional use permits and variances require final approval by the Department of Ecology per Chapter 19.01 MMC.
4. Administrative appeals for hearing examiner decisions are as described for actions of Titles 15 & 17-21 of the Monroe Municipal Code. All appeals of hearing examiner decisions will be heard by the city council per MMC 21.60, unless otherwise noted in the Monroe Municipal Code. Public hearings, including land use decision and pre-decision hearings and administrative appeal hearings, held before the hearing examiner are considered open record hearing. All appeal hearings held before the city council are considered closed record appeals, per MMC 21.50.070. Alternate processes may apply for actions found in other sections of the Monroe Municipal Code.
5. When all administrative avenues are exhausted, any subsequent appeals of final decisions by the hearing examiner or city council will go directly to superior court for judicial review per MMC 21.60.030.
6. The hearing examiner will be the decision-maker when a binding site plan creates ten or more lots. In such case, the City Council will be the appeal body.
7. When an applicant seeks a concurrent land use approval for a quasi-judicial or legislative action, the city may consolidate all project permit applications for the development proposal, in accordance with to MMC 21.50.130.