

OKANOGAN COUNTY
BINDING SITE PLAN ORDINANCE

No. 86-6

Adopted December 8, 1986

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BINDING SITE PLAN ORDINANCE

SECTION 1.00 - PURPOSE

The purpose of this ordinance is to accommodate the development of land for specific commercial, residential, recreational, and industrial purposes by Binding Site Plan as an alternative to the platting procedures set forth in Okanogan County Ordinance's 85-5 and 70-2.

SECTION 2.00 - AUTHORITY

The Washington State Legislature authorized this optional method of land development pursuant to Chapter 58.17.

SECTION 3.00 - SCOPE

All uses identified in Okanogan County Zoning Ordinance No. 79-8 as requiring binding site plan review shall conform to the procedures and requirements of this ordinance.

SECTION 4.00 - DEFINITIONS

4.01 Administrator: The Planning Director for the Okanogan County Planning Department.

4.02 Binding Site Plan: a drawing on an 18 inch by 24 inch "mylar" which: (a) Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other items specified by this ordinance; (b) contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the Administrator having authority to approve the site plan; and (c) contains provisions making any development conform with the site plan.
(from RCW 58.17.020 (7) 1985)

4.03 Easements: a grant by a property owner to specific persons or to the public, to use the land for a specific purpose or purposes.

4.04 Findings of Fact: a report prepared by the Administrator which sets forth the facts he used to support the decision to approve the binding site plan.

4.05 Wildlife Habitat: areas defined by the Washington State Department of Game as being important for the survival, maintenance, and perpetuation of fish and wildlife populations, including but not limited to: deer wintering areas, fawning sites, migratory routes, nesting grounds, commercial and game fish spawning areas, breeding areas, raptor nest sites, wetlands, riparian zones, and other areas deemed important to the fish and wildlife resources of Okanogan County by the Washington State Department of Game.

SECTION 5.00 - APPLICATION

Any person desiring to develop land pursuant to a binding site plan shall submit an application to the Administrator of the Okanogan County Planning Department together with an application fee of ~~seventy-five (75) dollars~~ ~~of~~ (SEE FEE SCHEDULE). This amount may be changed by resolution of the Board of County Commissioners. A fee shall be charged by the Okanogan County Department of Public Works. The amount of this fee shall be set by resolution of the Board of County Commissioners.

SECTION 6.00 - APPLICATION CONTENT

The application shall be on a form provided by the Okanogan County Planning Department and shall contain the following information:

- A. the name of the binding site plan;
- B. the name, address and telephone number of the applicant;
- C. the name, address and telephone number of the applicant's agent or surveyor;
- D. the date that the application is made;
- E. a vicinity map denoting the general area of the project showing the location of the property involved to the nearest quarter section, section, township and range, with complete instructions, utilizing local landmarks, on how to get to the property for field review;

- F. the total number of acres within the development site;
- G. a list of adjacent property owners with their addresses; and the names of any adjacent subdivisions or developments;
- H. the proposed method of water supply and sewage disposal (The applicant shall contact the Okanogan County Health District to provide them with the necessary information needed to determine if water supply methods and sanitary sewage disposal methods conform with current standards);
- I. a narrative statement addressing each of the review items presented in Section 10.03; and,
- J. a completed SEPA environmental checklist (this is used by the administrator to establish a threshold determination in order to determine whether the project requires an Environmental Impact Statement or Mitigated DNS).

In addition, the applicant shall provide eight (8) copies of the binding site plan drawn on 18 inch by 24 inch paper and a written legal description of the property being developed. The written legal description must be provided on the face of the binding site plan.

SECTION 7.00 APPLICATION EXPIRATION

A binding site plan application shall be effective for one year. The continuance of a binding site plan application beyond a one year period shall require submittal of a new application. The Administrator may waive the application fee or, extend the application for one (1) year, if he determines that administrative delays are responsible for the application expiration.

SECTION 8.00 - NOTICE OF APPLICATION

The Administrator shall give notice of the binding site plan application within ten (10) days of the receipt of the complete application. An environmental impact statement or Mitigated DNS, if required, shall be considered a part of the application requirement.

Written notices shall be sent through the United States Mail to:

- A. the legislative authority of any city or town adjacent to or within one mile of the proposed development site;
- B. the utilities whose services are contemplated in the proposed development;

- C. the State Department of Transportation if the development site is located adjacent to the right-of-way of any state highway;
- D. the State Department of Ecology, if the proposed development site lies within a flood zone;
- E. the State Department of Game;
- F. property owners situated within 300 feet of the boundaries of the development site;
- G. the post office closest to the development site for posting;
- H. the legal newspaper for Okanogan County for publishing and the local newspaper in the area where the project is proposed for public information. Said notice shall include information on how the public may comment on the Binding Site Plan application and notify the public of the threshold determination made on the SEPA environmental checklist submitted with the Binding Site Plan application.

SECTION 9.00 - ADMINISTRATIVE DETERMINATION

The Administrator shall forward copies of the proposed binding site plan, application form, SEPA environmental checklist and required maps to the Department of Public Works, Health Department, Assessor's Office, Building Department, Noxious Weed Department, Fire District, State Department of Game and other agencies as deemed appropriate to determine whether:

- A. access to the proposed development site, including internal roads and access roads approaching the boundary of the Binding Site Plan, meet the standards set forth in Chapters 16.32.040 and 16.32.050 of the Okanogan County Code (Section 43 Okanogan County Platting Ordinance No. 70-2) as presently constituted or hereafter amended;
- B. parking within the proposed development meets the standards set forth in Chapter 17.48 of the Okanogan County Code (Section 24 Okanogan County Zoning Ordinance 79-8) as presently constituted or hereafter amended;
- C. minimum site dimensions and building setback distances as set forth in Ordinance 79-8 are met;
- D. water supply and sewage disposal methods contemplated for use conform with current standards set forth by the Okanogan County Health District;
- E. the proposed development conforms to the Comprehensive Plan, zoning requirements and other use regulations as presently constituted and hereafter amended;
- F. the public use and interest will be served by permitting the proposed development of the property; and,
- G. the proposed development threatens or lies within an area of important fish or wildlife habitat.

SECTION 10.00 - APPROVAL

10.01 The Administrator shall, within forty-five (45) days from the date of receipt of the completed application, approve or disapprove the binding site plan; provided, that if an Environmental Impact Statement or Mitigated DNS is required, the forty-five day period shall not include the time spent preparing and circulating these documents by the local government. Prior to granting approval, the Administrator shall make formal written findings of fact that the proposed binding site plan is in conformity with all applicable land use regulations. If disapproved, the Administrator shall inform the applicant, in writing, stating the reasons for disapproval.

10.02 Public Notification of Binding Site Plan Approval. The Administrator shall cause a notification to the public to be printed in the legal newspaper for Okanogan County that the decision has been made to approve the Binding Site Plan. Said notice must include information on how the Administrator's decision may be appealed.

10.03 Binding Site Plan Review Items and Performance Standards. The following items must be considered by the Administrator in reviewing the application for a Binding Site Plan. The most recent and valid information shall be used in considering these items.

- A. Soils And Surface Geology.** Binding Site Plan development applications shall show, where lands within the site have high frost heave potential or are subject to slippage as determined by the Soil Conservation Service Soils Capability Rating, that the development has been planned so that the improvements will not be subject to geologic hazards or soil conditions that would damage such improvements or cause environmental degradation.
- B. Drainage.** Binding Site Plan applications shall show that the development has been planned so historical surface flow patterns (100-year floodplain if known) and runoff amounts will be maintained in a manner that will preserve the natural character of the area and prevent property damage of a type generally attributed to increased runoff rate, velocity increases, unplanned ponding, or storm runoff.
- C. Erosion.** Binding Site Plan applications shall show when slopes are greater than 30% and/or are highly erodible as determined by Soil Conservation Service Soils Capability Rating, that the development has been planned so that a minimum amount of natural vegetation and soil cover is disturbed, that adequate provision is made for revegetation and soil stabilization and that cuts and fills are designed to minimize erosion.

- D. Wildlife.** Binding Site Plan applications shall show that the development has been planned to have the least possible impact on wildlife habitat including but not limited to: deer wintering areas, fawning sites, migratory routes, nesting grounds, commercial and game fish spawning areas, breeding areas, raptor nest sites, wetlands, riparian zones, and any other areas deemed important by the Washington State Department of Game for the protection and maintenance of fish and wildlife populations. Wildlife mitigation measures include but are not limited to: fencing constructed in a manner which does not impede the movement of wildlife species and dedication as open space those areas most suited for wildlife habitat.
- E. Agricultural Compatibility.** Binding Site Plan applications shall show that the development has been planned to minimize impacts on agricultural lands which are economically capable of food production, feed production, irrigated or subirrigated pasture, dry land pasture and range land, and that the proposed development does not create a significant reduction in irrigation water. To assure proper management of lands dedicated as open space, a management plan shall be incorporated into the Binding Site Plan.
- F. Visual Impacts.** Binding Site Plan applications shall show that design and construction standards will minimize visual damage to the natural terrain, streams, vegetation and natural characteristics and features of the landscape. The application shall also describe what steps are being taken to maintain the visual quality and consistency with the surrounding area.
- G. Archaeological and Historical Features.** Binding Site Plan applications shall show that any development located on or about a historical or archaeological site is consistent with and would not destroy or have an adverse effect upon the historical or archaeological site.
- H. Plan for Extension of Utilities Required.** Applications shall include a plan and program for the extension of such utilities as power and telephone that are required by the development.
- I. Transportation.** Applications shall include an analysis of the likely impacts upon the affected sections of adjacent road systems including the nature and amount of traffic likely to be generated by the development and the effect this traffic would have on the physical conditions or level of services and safety on existing and proposed roadways and highways.
- J. County Fiscal Impact.** Applicants for Binding Site Plans shall work with the Administrator to assess the cost to the county for the services and facilities which will be required to support the development. Services and facilities that shall be reviewed include: schools, roads, law enforcement, junior taxing districts and County Courthouse services. A description shall be included to show whether or not the indicated phasing of the development will generate service or facility demand in advance of the fiscal and physical ability of the county or county districts to provide the same. If such an increase in services is projected an acceptable means for providing such services shall be negotiated.
- K. Economic Impacts.** Applications shall indicate as nearly as possible what impacts the proposed development will have upon the private sector of the area's economy.

- L. Adequacy of Dedications.** Dedications shall be required as provided in Chapter 16.24 of the Okanogan County Code (Sections 27 through 34 of Okanogan County Platting Ordinance No. 70-2) as presently constituted or as hereafter amended. In addition, the following requirements shall apply to any legal entity formed to ensure compliance with the Platting Ordinances:
1. Title to common property, open space and residual agricultural lands, if any, shall be appropriately limited as to use.
 2. Responsibility for operation and maintenance of the common property, open spaces and nondedicated roads and utilities shall be placed with the developer, homeowner's association or other legal entity created. Covenants shall be reviewed by the Administrator to assure that agreed upon requirements are met.
 3. A provision shall be included in the articles of incorporation and each deed delivered with respect to property within the development conveyed that the provisions of the articles of incorporation are intended to run as covenants or equitable servitudes with the land and may be enforced by any purchaser of property or his heirs and assigns.
- M. Reservation for Public Acquisition.** Reservation by public agencies of land desired for public acquisition may be made as provided in the Okanogan County Platting Ordinance No. 70-2 as amended.
- N. Design Standards.** Design within the Binding Site plan shall comply with the provisions of this ordinance.
- O. Adequacy of Description.** Applications for Binding Site Plans shall contain a description of the property which meets the following standards:
1. the description must be sufficient to pass title;
 2. the description must be mathematically correct - it must close if it is in a metes and bounds format; and,
 3. it must be possible to locate on the ground by a surveyor.
- P. Consistency of Location, Use and Design with Comprehensive Plan.** Provisions and uses described in the Comprehensive Plan which apply to an area in which the development is proposed shall be considered by the Administrator and may be a basis for the imposition of additional requirements or for the denial of the application.
- Q. Population Changes.** Binding Site Plan applications shall show how development of the project will affect future permanent and transient populations.

SECTION 11.00 - FILING

Upon approval, the applicant shall file the original binding site plan together with a filing fee, the application form and accompanying documents with the Auditor of Okanogan County.

SECTION 12.00 - BINDING SITE PLAN STANDARDS

Every binding site plan application prior to approval shall contain a drawing of the plan, the scale of which shall permit the plan to be drawn on 18 inch by 24 inch "mylar" or similar material, which shall show the following:

- A. the name of the binding site plan;
- B. the legal description of the development site;
- C. the total number of acres within the development site;
- D. certification of all persons having an interest in the development site signed and acknowledged by them before a notary public which states their consent to the proposed development;
- E. the boundary line of the development site accented so the boundary is readily identifiable and consistent with the legal description;
- F. the layout of all existing and proposed roads and easements (identify whether they are public or private);
- G. certificate of dedication identifying all lands dedicated for public or private use and/or as open space and contain a waiver of claims against any governmental authority for all damages which may be occasioned to the adjacent land by the established construction, drainage and maintenance of said dedication. Said certificate shall be signed and acknowledged before a notary public by all persons having any interest in the land being developed;
- H. north arrow;
- I. scale of site plan (scale shall not exceed 1 inch for each 200 feet);
- J. space for Auditor's file number for the application and any easement or covenants pertaining to the land being developed;
- K. the location of all existing and proposed structures, utilities, parking spaces, open space, dedicated wildlife areas, wildlife sites or structures, as well as other proposed changes or improvements;
- L. shall bear all inscriptions setting forth such appropriate limitations and conditions for the use of the land; and,
- M. certificate of approval for the Administrator's signature which states that the Binding Site Plan conforms with the County Comprehensive Plan and this Ordinance.

SECTION 13.00 - APPEALS

Any person with standing, as defined in Section 14.00, may appeal the decision of the Administrator to approve or disapprove a binding site plan application to the Okanogan County Board of Commissioners. Said appeal must be filed within thirty (30) days following the public notification of approval or issuance of a letter of disapproval. The Commissioners, following an advertised public hearing, thereon, may affirm or reverse the Administrator's decision, or may remand compliance with conditions imposed by the Board.

SECTION 14.00 - REVIEW OF DECISION

14.00 Any decision approving or disapproving a Binding Site Plan shall be reviewable for unlawful, arbitrary, capricious or corrupt action or nonaction by writ of review before the superior court of the county in which the matter is pending. Standing to bring the action is limited to the following parties:

- A. The applicant or owner of the property on which the Binding Site Plan is proposed;
- B. Any real property owner situated within 300 feet of the boundaries of the development site; and,
- C. Any real property owner who deems himself aggrieved thereby and who will suffer direct and substantial impacts from the Binding Site Plan.

Application for a writ of review shall be made to the court within thirty (30) days from any decision so to be reviewed; provided, that the procedure for administrative appeal pursuant to Section 13.00 has first been exhausted. The cost of transcription of all records certified by the court for such review shall be borne by the appellant.

SECTION 15.00 VIOLATIONS AND PENALTIES

15.01 Violation. Any person, firm, corporation or association, or any agent thereof, who uses or develops land in a manner inconsistent with an approved Binding Site Plan, or who violates any term or condition of the Binding Site Plan approval, shall be guilty of a gross misdemeanor.

The Prosecuting Attorney, or the Attorney General, if the Prosecuting Attorney shall fail to act, may commence an action to restrain and enjoin such unlawful use or development and compel compliance

with the provisions of this ordinance, or with such terms or conditions. The costs of this action may be levied against the violator.

15.02 Any person who violates any court order or injunction issued pursuant to this Ordinance shall be subject to a fine of not more than five thousand dollars or imprisonment for not more than ninety days or both.

15.03 Enforcement. In the enforcement of this Ordinance, the Prosecuting Attorney may accept an assurance of discontinuance of any act or practice deemed in violation of this Ordinance from any person engaging in, or who has engaged in such act or practice. Any such assurance shall be in writing and be filed with and subject to the approval of the Superior Court of the county in which the alleged violation occurs. A violation of such assurance shall constitute prima facie proof of a violation of this Ordinance.

15.04 Abatement. All violations of this ordinance are determined and declared to be detrimental to the public health, safety and welfare and public nuisances. All conditions which render any building, structure, premises, land use or portion thereof to be used or maintained in violation of this ordinance shall be abated if provisions for their continuance made pursuant to this ordinance are not satisfied.

15.05 "Abatement" Defined. For the purposes of this ordinance, "abatement" is defined as the termination of any violation by reasonable and lawful means in order that a building, structure, premise, land use or portion thereof shall be made to comply with this ordinance.

SECTION 16.00 - SEVERABILITY

If any provision of this ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that this ordinance would have been enacted without the provision so held unconstitutional or invalid and the remainder of this ordinance shall not be affected as a result of said part being held unconstitutional or invalid.

SECTION 17.00 - EFFECTIVE DATE

This ordinance shall become effective on the ____ day of _____, 19____.

Archie B. Eiffert, Chairman

Arlie Clinkenbeard, Member

Melvin E. Kuhlmann, Member

Attested by:

Evelyn Frazier, Auditor