



**PLANNING COMMISSION SPECIAL MEETING
THURSDAY, OCTOBER 14, 2021**

THE PLANNING COMMISSION WILL HOLD THIS MEETING USING A VIRTUAL ZOOM WEBINAR PLATFORM. MEMBERS OF THE PUBLIC WHO DO NOT WISH TO VIEW THE MEETING VIA THE CITY'S WEBSITE STREAMING WILL BE ABLE TO CALL IN TO THE ZOOM MEETING.

PLEASE CLICK THE LINK BELOW TO JOIN THE WEBINAR:

[HTTPS://BAINBRIDGEWA.ZOOM.US/J/93919490652](https://bainbridgewa.zoom.us/j/93919490652)

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US: +16699009128,,99093163225# OR +12532158782,,99093163225#

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DIAL (FOR HIGHER QUALITY, DIAL A NUMBER BASED ON YOUR CURRENT LOCATION):

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WEBINAR ID: 990 9316 3225

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AGENDA

**1. CALL TO ORDER/LAND ACKNOWLEDGMENT/AGENDA REVIEW/CONFLICT
DISCLOSURE - 6:00 PM**

We would like to begin by acknowledging that the land on which we gather is within the aboriginal territory of the Suquamish, "People of Clear Salt Water." Expert fishermen, canoe builders and basket weavers, the Suquamish live in harmony with the lands and waterways along Washington's Central Salish Sea as they have for thousands of years. Here, the Suquamish live and protect the land and waters of their ancestors for future generations as promised by the Point Elliot Treaty of 1855.

.PUBLIC PARTICIPATION MEETING - 6:05 PM

(6:05) - Public Participation Meeting for Samson KBA Subdivision 45 Minutes

[Samson KBA Pre App Drawings.pdf](#)

[Samson KBA Subdivision_Zoning Summary.pdf](#)

[Design for Bainbridge Worksheet_with DRB comment.pdf](#)

2. PLANNING COMMISSION MEETING MINUTES - 6:50 PM

Review and approve meeting minutes.

2.a Review and Approve Meeting Minutes from September 23, 2021 5 Minutes

[Planning Commission Minutes DRAFT 092321.pdf](#)

3. PUBLIC COMMENT - 6:55 PM

4. UNFINISHED BUSINESS - 7:05 PM

4.a (7:05 PM) - Discussion on Draft Ordinance No. 2021-07 – Updates to Chapter 16.32 BIMC (Protection of Landmark Trees) 30 Minutes

Staff Memo PC

Exhibit A to Ordinance No. 2021-07 Updates to BIMC 16.32 (Protection of Landmark Trees)--10072021.docx

Ordinance No. 2021-07 Updates to BIMC 16.32 (Protection of Landmark Trees)--10072021.docx

5. NEW BUSINESS - 7:35 PM

5.a (7:35 PM) - Review Comprehensive Plan and Winslow Master Plan goals and policies relevant to hotels as a use 30 Minutes

Staff Memo to PC with background and next steps

Ordinance No. 2021-03 Relating to Triage Code Updates_Aproved 04132021.pdf

Planning Commission Recorded Motion on Winslow Hotel 072519.pdf

HEX Decision Bainbridge - Winslow Hotel CUP-SPR 022820.pdf

6. PLANNING DIRECTOR'S REPORT - 8:05 PM

6.a (8:05 PM) - Presentation on Wintergreen Floor Area and Parking 15 Minutes
Wintergreen Outstanding Questions Presentation

7. FOR THE GOOD OF THE ORDER - 8:20 PM

8. ADJOURNMENT - 8:25 PM

GUIDING PRINCIPLES

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

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

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

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

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

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

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

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



Planning Commission meetings are wheelchair accessible. Assisted listening devices are available in Council Chambers. If you require additional ADA accommodations, please contact the Planning & Community Development Department at (206) 780-3750 or pcd@bainbridgewa.gov by noon on the day preceding the meeting.

Public comment may be limited to allow time for the Commissioners to deliberate. To provide additional public comment, email your comment to pcd@bainbridgewa.gov or mail it to Planning and Community Development, 280 Madison Avenue North, Bainbridge Island, WA 98110.



CITY OF
BAINBRIDGE ISLAND

Planning Commission Special Meeting Agenda Bill

MEETING DATE: October 14, 2021

ESTIMATED TIME: 45 Minutes

AGENDA ITEM: (6:05) - Public Participation Meeting for Samson KBA Subdivision

AGENDA CATEGORY: Discussion

PROPOSED BY: Kelly Tayara

**PREVIOUS PLANNING COMMISSION
REVIEW DATE(S):** None

PREVIOUS COUCIL REVIEW DATE(S): None

RECOMMENDED MOTION:
Presentation and Discussion

SUMMARY:
A Public Participation Meeting is required as part of the preapplication phase of the proposed development.

BACKGROUND: Samson KBA Subdivision is a proposal for a five-lot single-family residential subdivision. The site is located at 167 Wyatt Way NE. Design Review Board (DRB) Conceptual Design review of a four-lot short plat proposal was waived on March 20, 2020. The DRB reviewed the four-lot short plat proposal at a Design Guidance meeting on May 18, 2020. The DRB reviewed the revised five-lot long subdivision proposal at their July 19, 2021 Design Guidance meeting. The DRB filled out responses in a worksheet and made no recommendation. The applicant also participated in a preapplication conference on September 21, 2021.

ATTACHMENTS:



PROJECT
LOCATION



NOT TO SCALE

DRB - DESIGN
GUIDANCE MEETING

PROJECT	1919
DATE	03/19/20

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WYATT WAY NE - LOOKING EAST



WYATT WAY NE - LOOKING WEST

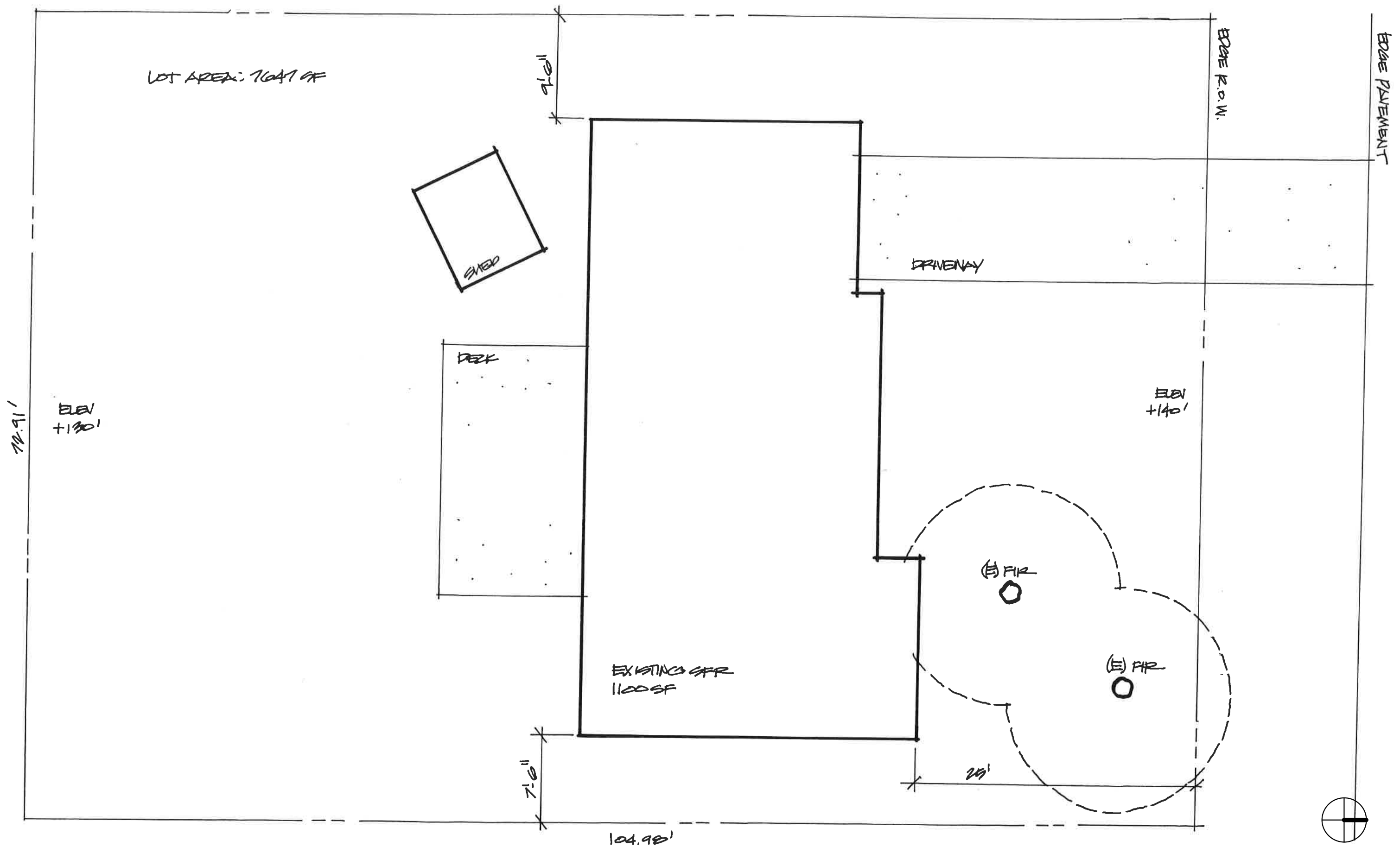


MADRONA WAY NE - LOOKING EAST



MADRONA WAY NE - LOOKING WEST

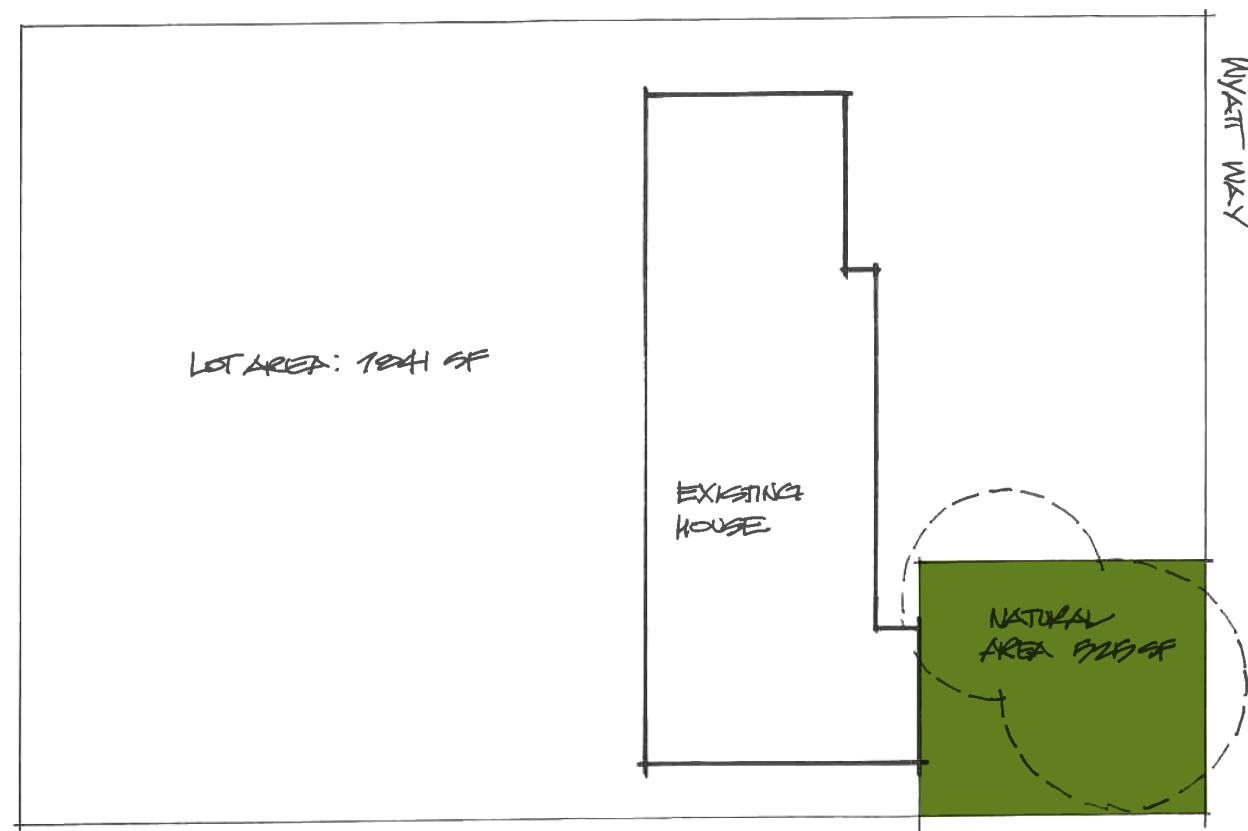
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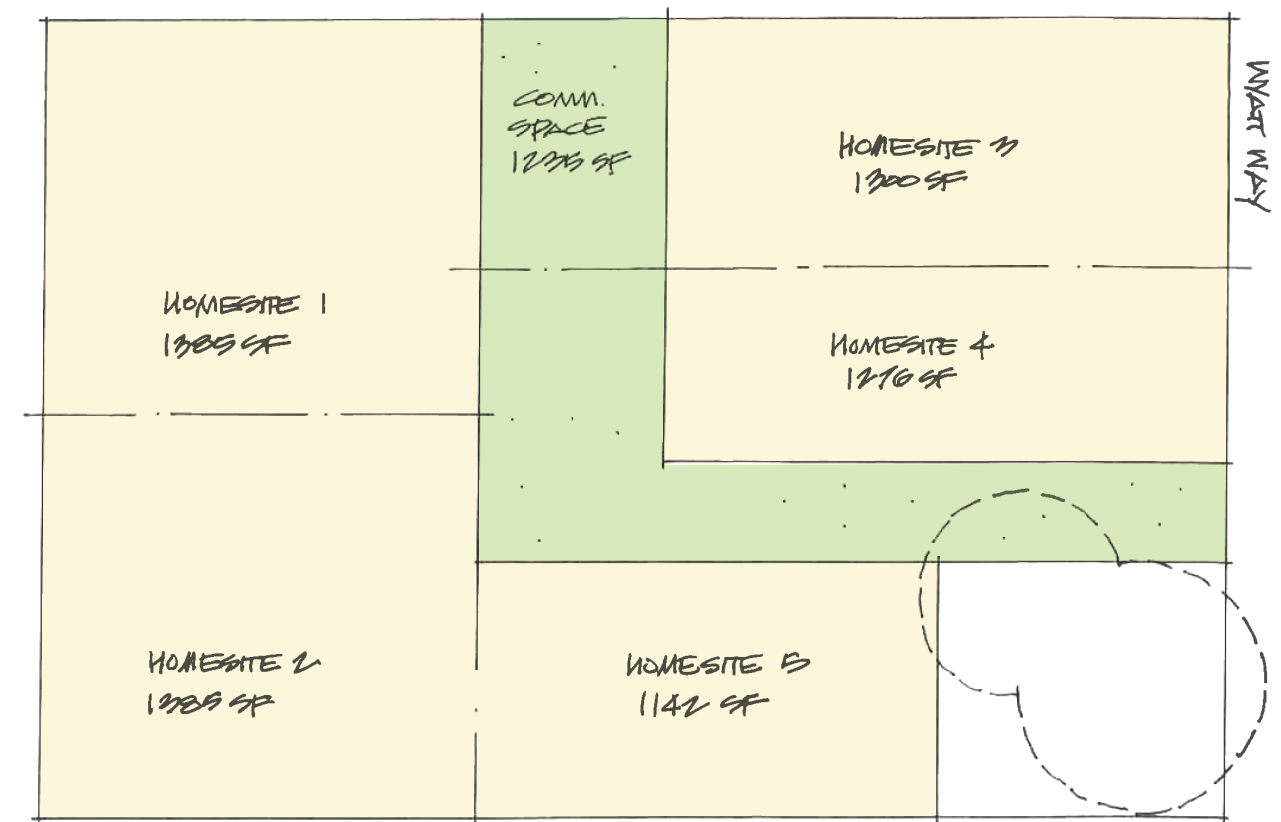
EXISTING SITE PLAN

NOT TO SCALE 08/16/21

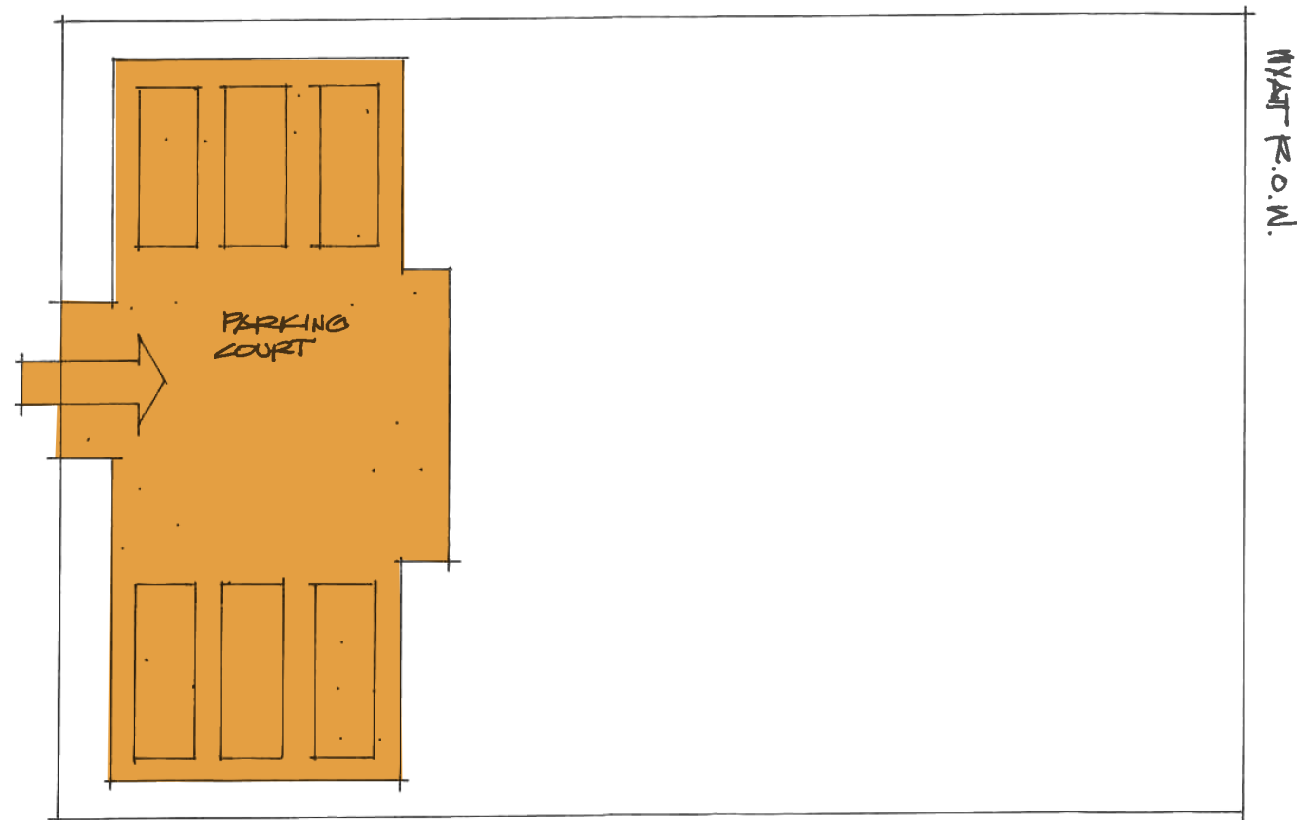
KCA - SAMSON LONG PLAT
BAINBRIDGE ISLAND, WA



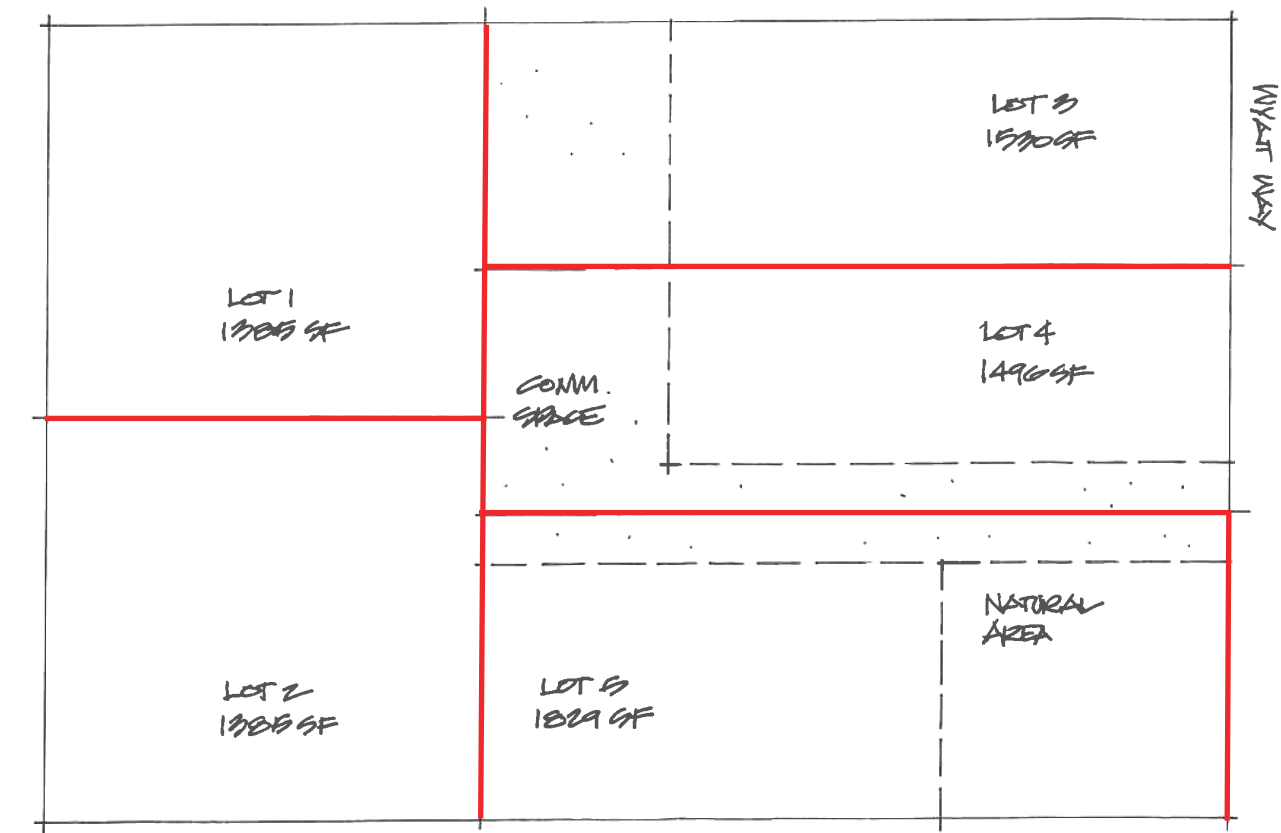
STEP 1: DELINEATE NATURAL



STEP 2: LOCATE HOMESITES & COMMUNITY SPACE



STEP 3: DEFINE ACCESS



STEP 4: DRAW LOT LINES

4 STEP DESIGN PROCESS

KCA - SAMSON LONG PLAT
BAINBRIDGE ISLAND, WA

NOT TO SCALE 08/16/21

LOT COVERAGE: 100% ALLOWED
 TOTAL LOT AREA: 7,841 SF
 PARCEL #: 4110-000-005-0004
 MAX. HOMESITE = 2,250 SF

5' SETBACK
 (0' ALLOWED)

5' SETBACK
 (0' ALLOWED)

10'
 SETBACK

AUTO ACCESS

UNIT 1: 1,100 SF/2 BD
 LOT AREA: 1,385 SF
 HOMESITE: 1385 SF
 SHARED GARAGE BELOW
 (3 PARKING SPACES)

STORAGE
 SHED

EDGE OF
 HOMESITE

UNIT 3: 1,600 SF/3 BD
 LOT AREA: 1,530 SF
 HOMESITE: 1,300 SF

ZERO LOT LINE

UNIT 4: 1,600 SF/3 BD
 LOT AREA: 1,496 SF
 HOMESITE: 1,276 SF

COMMUNITY
 SPACE
 1235 SF
 (15%)

ACCESS
 EASEMENT

PED
 ENTRY

WYATT WAY R.O.W.

PED
 ENTRY

UNIT 2: 1,100 SF/2 BD
 LOT AREA: 1,385 SF
 HOMESITE: 1,385 SF
 SHARED GARAGE BELOW
 (3 PARKING SPACES)

UNIT 5: 1,600 SF/3 BD
 LOT AREA: 1,829 SF
 HOMESITE: 1,142 SF

(E) FIR TREE

NATURAL
 AREA
 525 SF (7%)

EDGE HOMESITE

LOT PLAN

0 4' 8' 16'

SCALE: 1/18" = 1' 07/08/21

KCA - SAMSON LONG PLAT
 BAINBRIDGE ISLAND, WA

WENZLAU ARCHITECTS



SITE PLAN

KCA - SAMSON LONG PLAT
 BAINBRIDGE ISLAND, WA

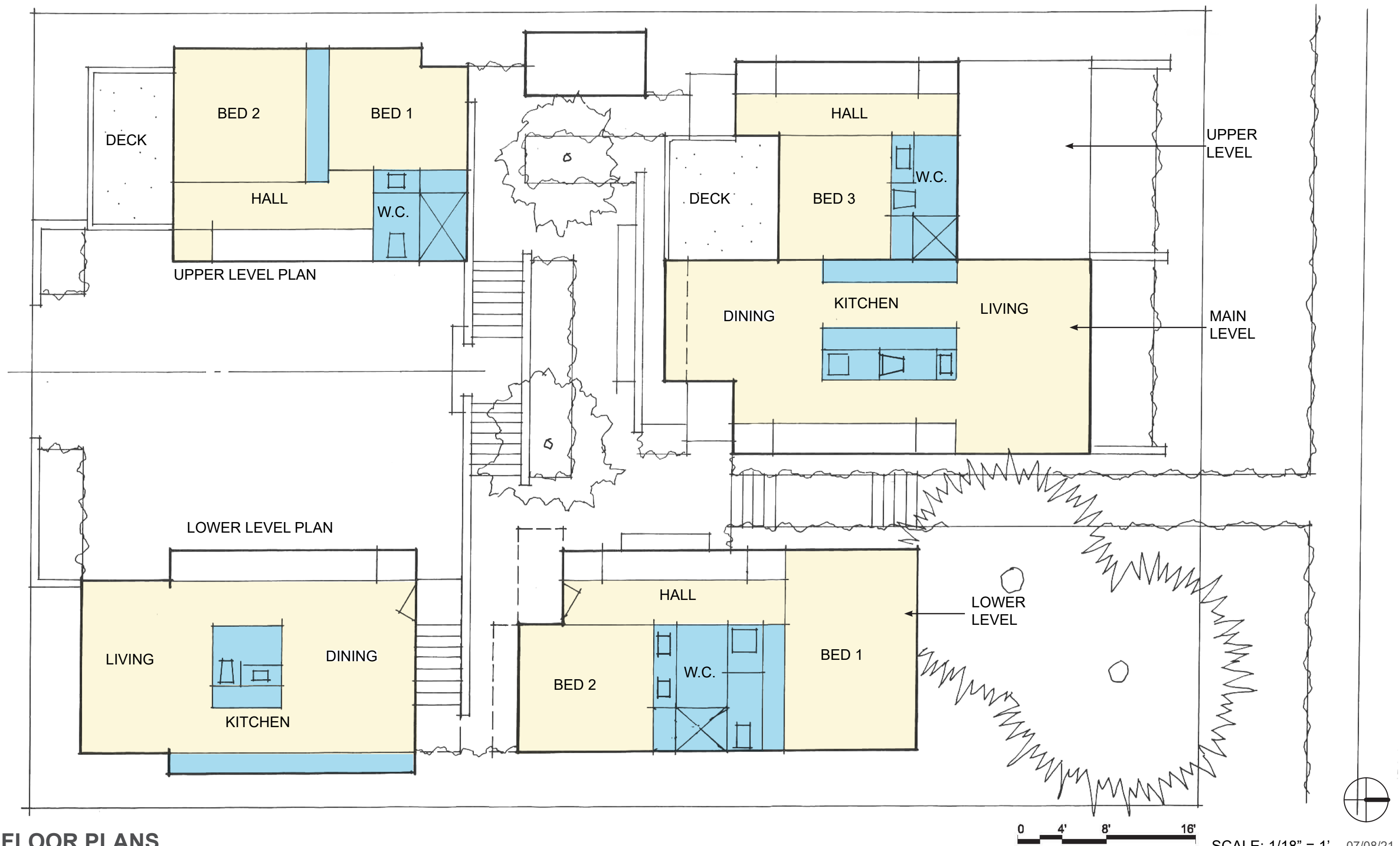


SCALE: 1/18" = 1'

08/16/21

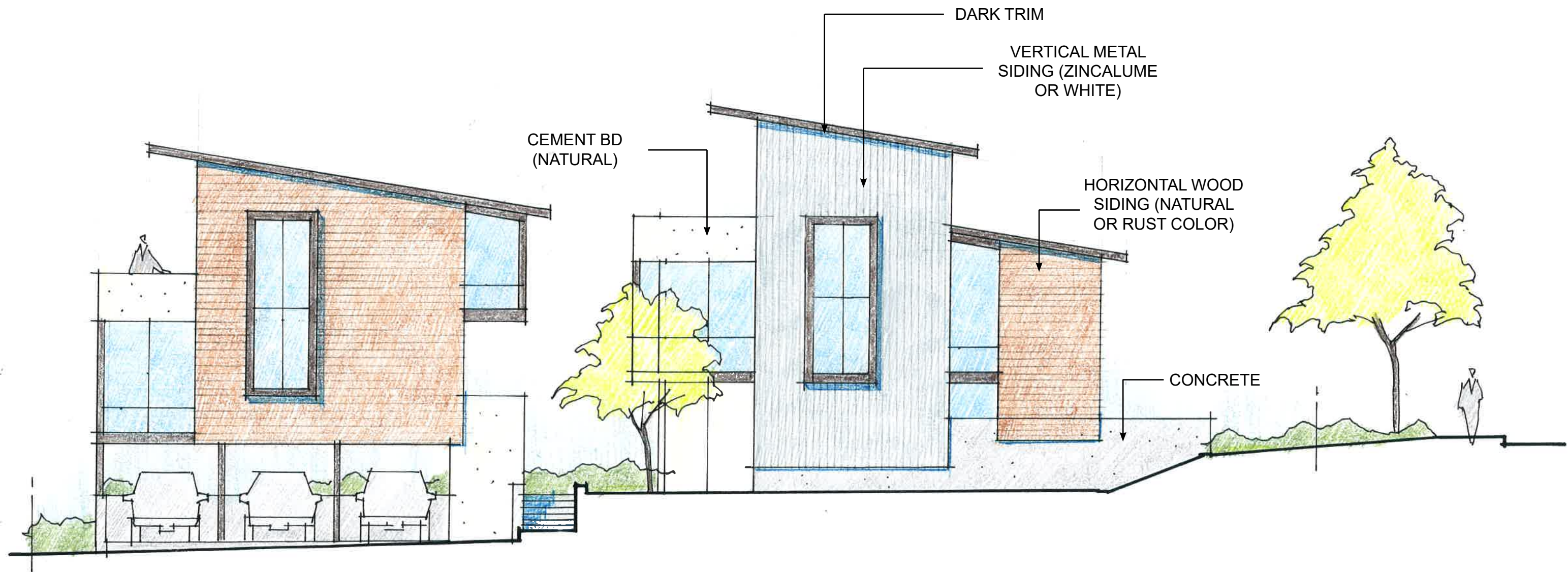


WENZLAU ARCHITECTS



FLOOR PLANS

KCA - SAMSON LONG PLAT
 BAINBRIDGE ISLAND, WA

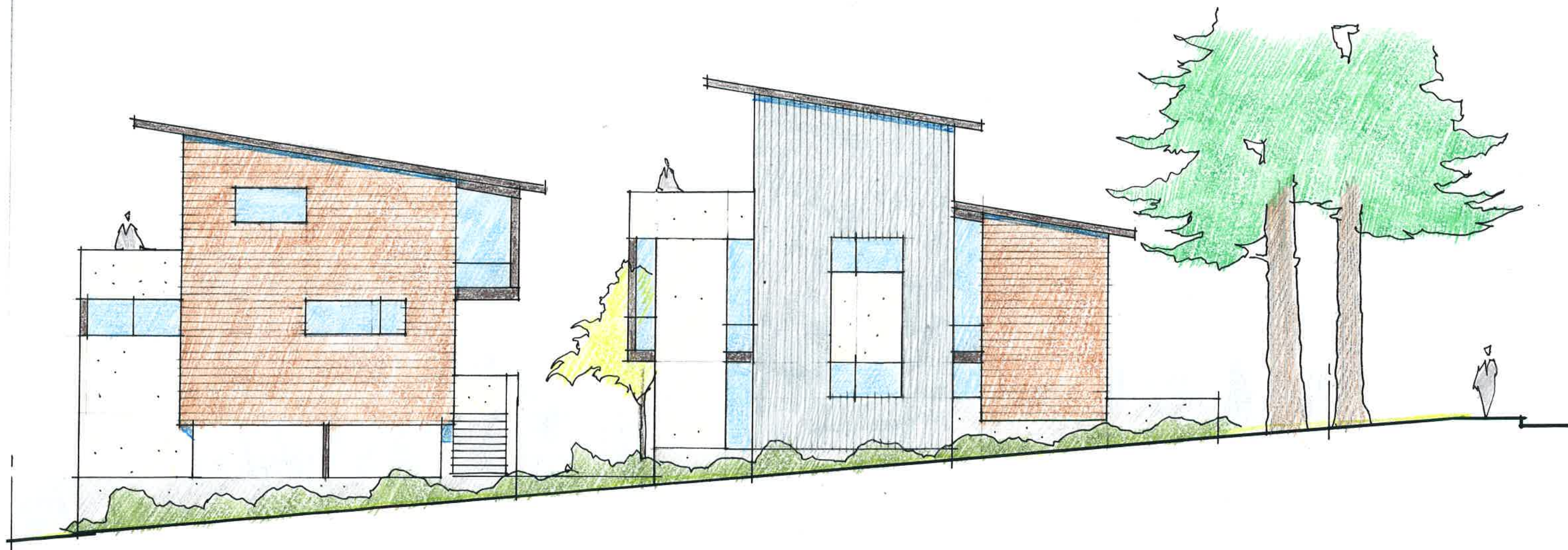


PRELIMINARY ELEVATIONS - EAST @ PED PASSAGE

KCA - SAMSON LONG PLAT
 BAINBRIDGE ISLAND, WA

0 8' 16' 32'

SCALE: 1:16 07/08/21



PRELIMINARY ELEVATIONS - EAST

KCA - SAMSON LONG PLAT
BAINBRIDGE ISLAND, WA

0 8' 16' 32'

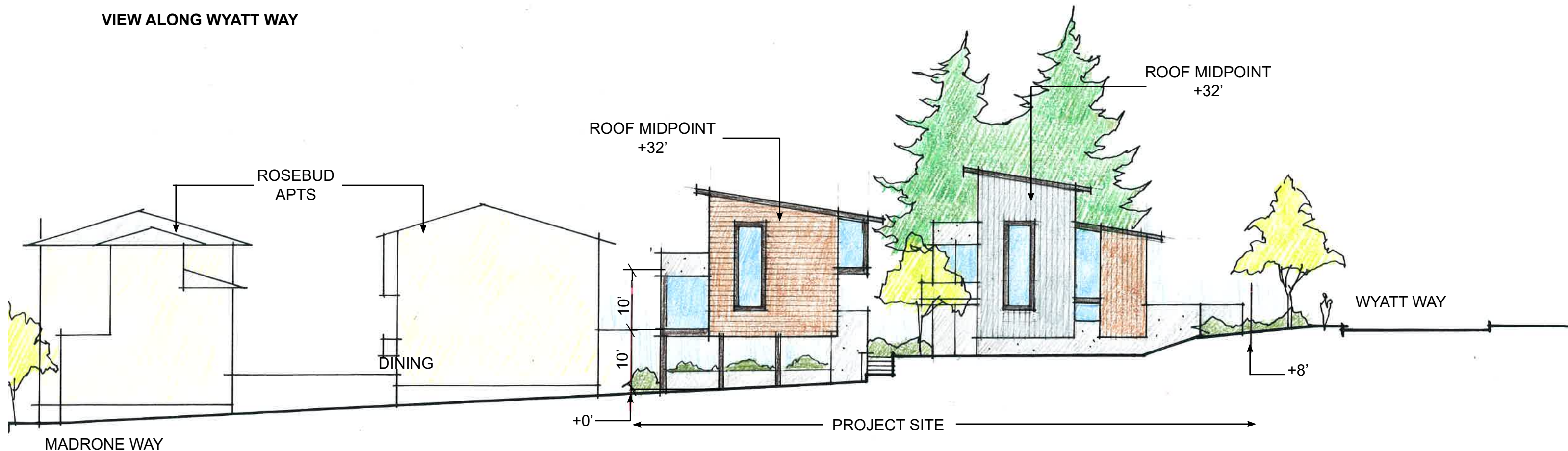
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WENZLAU ARCHITECTS



VIEW ALONG WYATT WAY



VIEW LOOKING WEST

PRELIMINARY SECTIONS

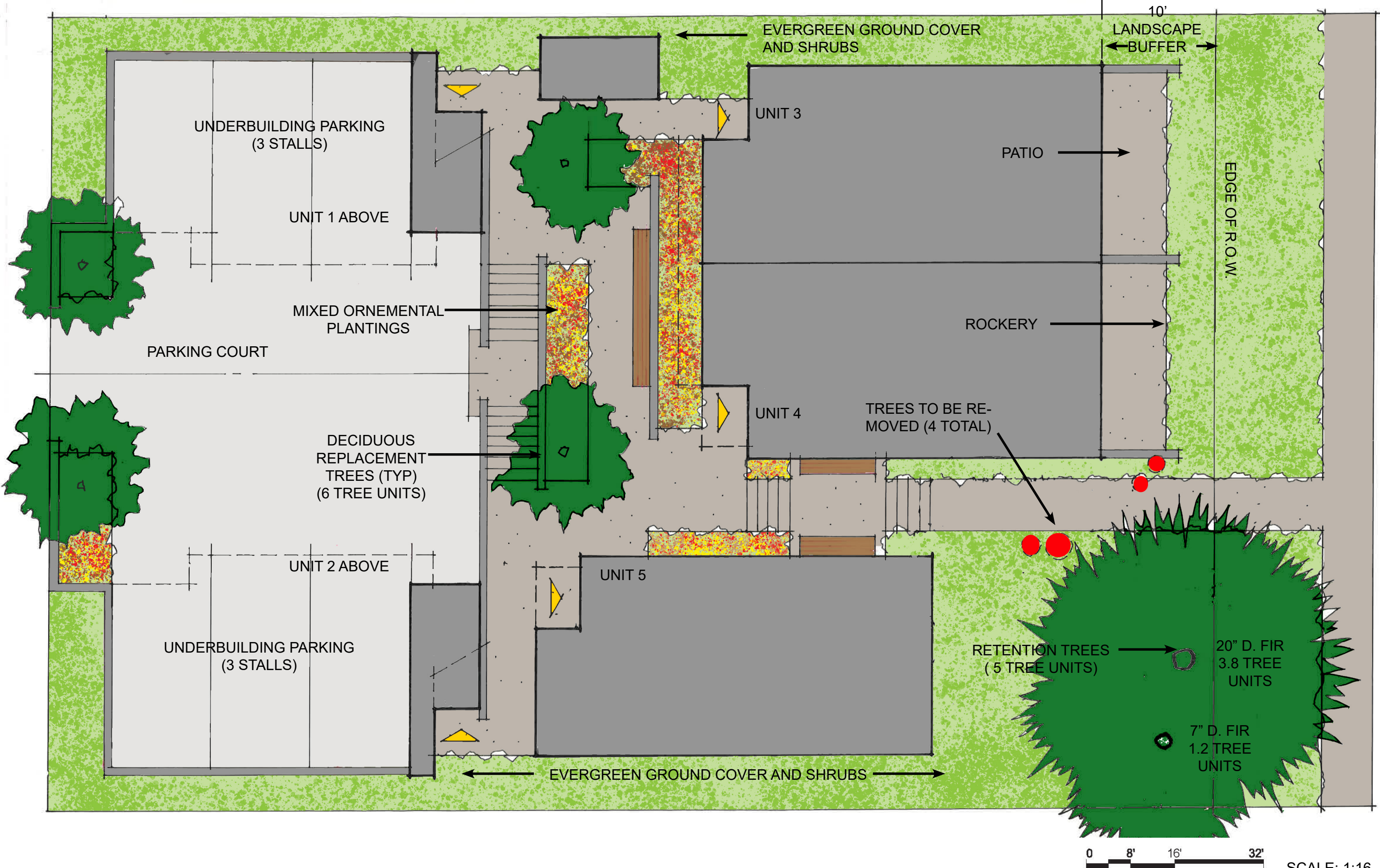
KCA - SAMSON LONG PLAT
BAINBRIDGE ISLAND, WA

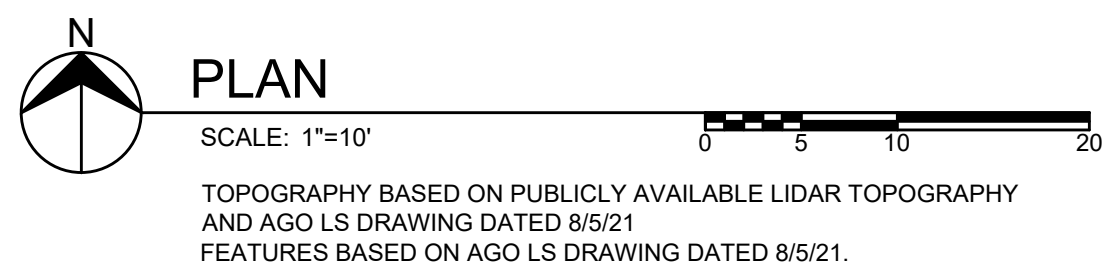
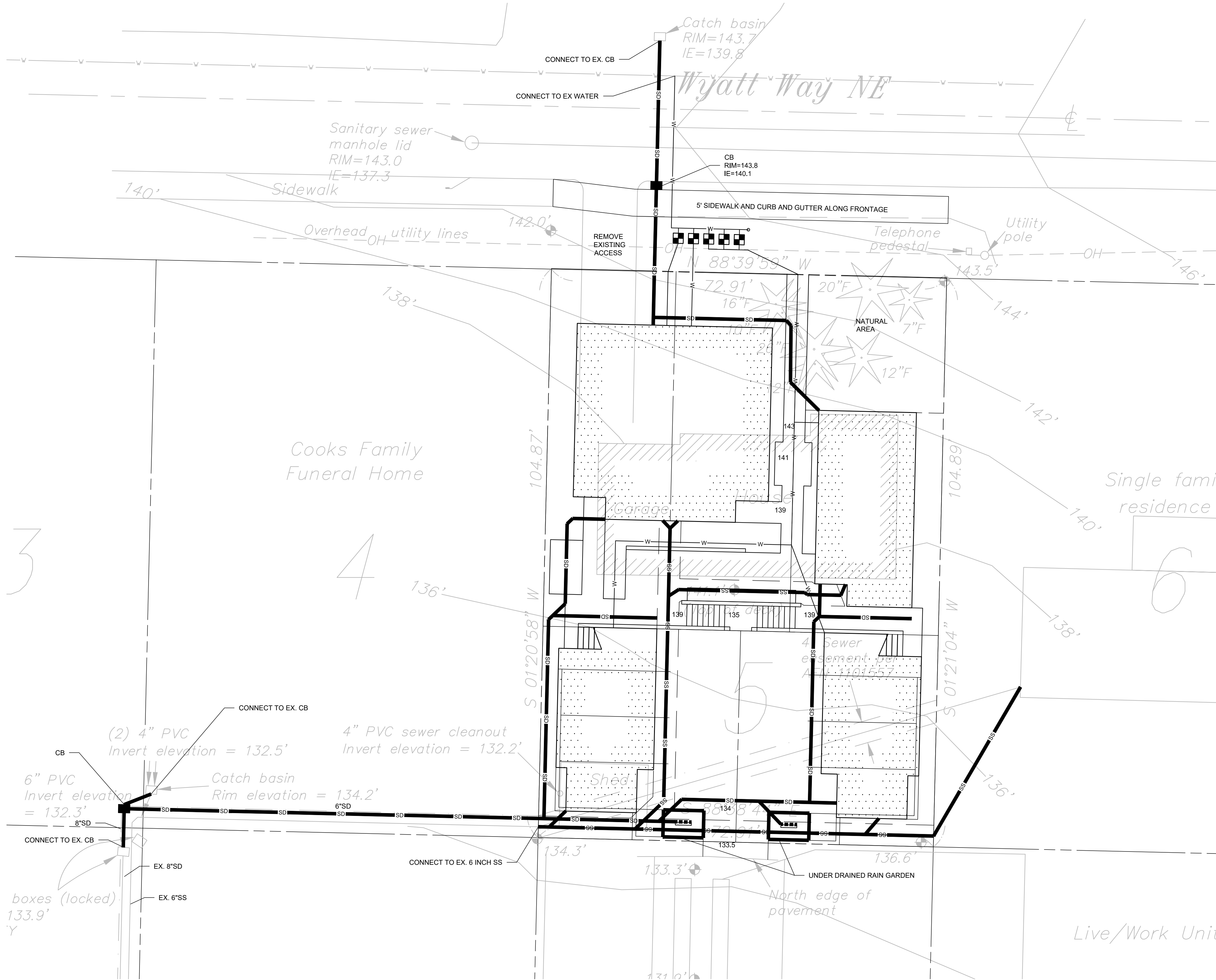
0 8' 16' 32'

SCALE: 1:16 07/08/21



WENZLAU ARCHITECTS





LOT SIZE 7841 SF	
EXISTING IMPERVIOUS AREA	
DRIVEWAY	320 SF
HOUSE	1479 SF
SHED	196 SF
TOTAL	1995 SF
EXISTING PERVIOUS AREA	
WOODS	862 SF
LANDSCAPING	4984 SF
PROPOSED IMPERVIOUS AREA	
DRIVEWAY	1142 SF
PROPOSED BUILDINGS	1142 SF
HARDSCAPING	1241 SF
TOTAL	5255 SF
PROPOSED PERVIOUS AREA	
WOODS	733 SF
LANDSCAPING	1853 SF

STORMWATER

THE STORMWATER FROM THE NORTHERN TWO BUILDINGS WILL BE ROUTED TO THE EXISTING STORMWATER SYSTEM IN WYATT WAY. THE STORMWATER FROM THE SOUTHERN TWO BUILDINGS WILL BE ROUTED WEST THROUGH AN EASEMENT TO THE EXISTING SYSTEM IN THE ROSEBUD DEVELOPMENT. RUNOFF FROM THE DRIVEWAY WILL BE ROUTED TO TWO UNDERDRAINED RAIN GARDEN AND THEN TO THE STORM DRAIN SYSTEM WITH THE SOUTHERN BUILDINGS.

WATER

WATER WILL BE PROVIDED BY THE CITY OF BAINBRIDGE ISLAND. THE PROJECT WILL CONNECT TO THE EXISTING SYSTEM IN WYATT WAY. CURRENTLY THE PARCEL IS SERVED BY ONE WATER METER CONNECTION.

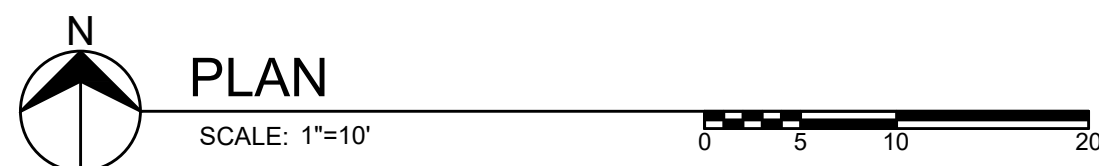
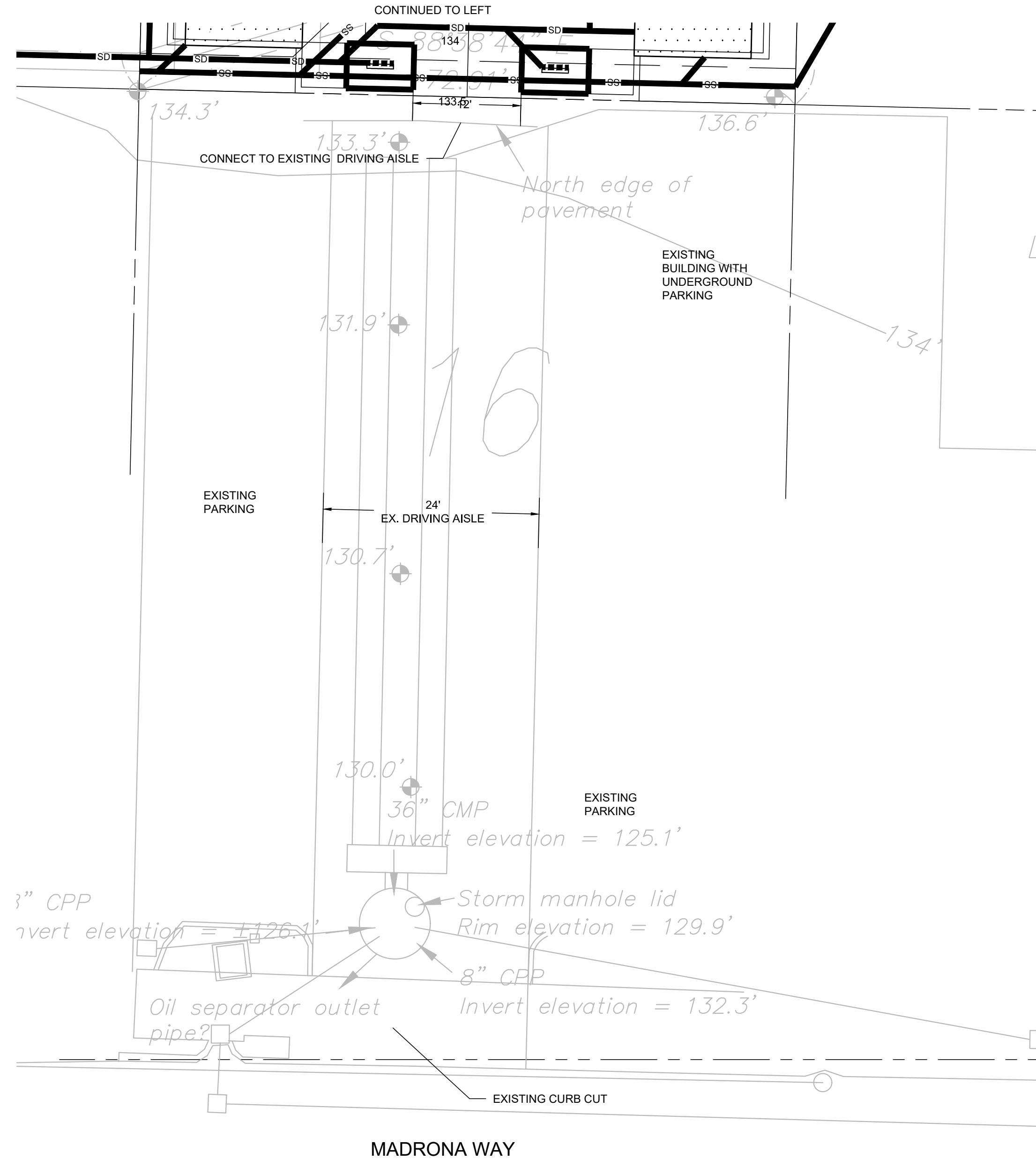
FIRE PROTECTION WILL BE PROVIDED BY A FIRE HYDRANT ON WYATT WAY THAT IS 120 FEET NORTHEAST-EAST FROM THE NORTHEAST PROPERTY CORNER, A FIRE HYDRANT ON MADRONA WAY THAT IS 170 FEET SOUTHWEST FROM THE SOUTHWEST PROPERTY CORNER AND A FIRE HYDRANT ON MADRONA WAY THAT IS 155 FEET SOUTHEAST OF THE SOUTHEAST PROPERTY CORNER. FIRE ACCESS WILL BE PROVIDED FROM THE WYATT WAY FRONTAGE AND THE PROPOSED ACCESS OFF OF MADRONA WAY.

SEWER

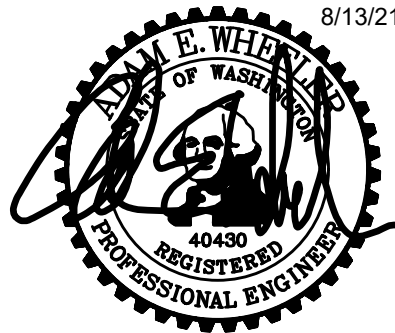
SEWER WILL BE PROVIDED BY THE CITY OF BAINBRIDGE ISLAND. THE PROJECT WILL CONNECT TO THE EXISTING (PRIVATE SEWER THAT CROSSES THE SOUTHERN PORTION OF THE PROPERTY. THIS WILL BE REROUTED ALONG THE SOUTH PROPERTY LINE. THIS SYSTEM CONTINUES TO MADRONA WAY THROUGH THE ROSEBUD PROJECT. CURRENTLY THE PARCEL IS SERVED BY ONE SEWER CONNECTION.

FRONTAGE

WYATT WAY IS CLASSIFIED AS A COLLECTOR. THE CITY'S ROAD STANDARD FOR A COLLECTOR IN AN URBAN AREA IS FOUND IN DRAWING 7-030. PER THE ISLAND WIDE TRANSPORTATION PLAN SIDEWALKS ARE REQUIRED ON BOTH SIDES OF THE ROAD. A BICYCLE LANE IS NOT REQUIRED. WE ARE PROPOSING TO CONSTRUCT A 5 FOOT SIDEWALK ALONG OUR FRONTAGE.



PRELIMINARY
NOT FOR CONSTRUCTION
8/13/21



UTILITY PLAN KBA LONG PLAT PREAPPLICATION MEETING

BROWNE • WHEELER
ENGINEERS, INC.
241 ERICKSEN AVENUE NE
BAINBRIDGE ISLAND, WA 98110
P 206.842.0605 INFO@BrowneWheeler.COM

KELLY SAMSON
167 WYATT WAY
BAINBRIDGE ISLAND, WA 98110

DATE 8/13/21
DESIGNED AEW
DRAWN NDW
CHECKED AEW
PROJECT # SA

C1

1 OF 1

ZONING SUMMARY_SAMSON KBA SUBDIVISION

June 16, 2021

Site Address:	167 Wyatt Way NE, Bainbridge Island, WA #4110-000-005-0004		
Lot Area:	7,841SF (0.18AC)		
Zoning:	MUTC / CORE District		
Land Use Process:	Long Subdivision Application DRB Review		
Surrounding Uses:	East: MUTC-Core: SFR West: MUTC-Core: Commercial North: MUTC-Madison: Multi-family South: MUTC-Core: Multi-family		
Existing Use:	Single Family Residence (1,100SF)		
Proposed Uses:	5 Units		
Lot Coverage:	100% allowable		
Allowable FAR:	Residential (1600sf max/unit)	BASE FAR 3,136SF (0.4)	MAX W/ BONUS 7,841SF (1.0)
Program:	3 units @ 1600SF 2 units @ 1100SF	4,800SF <u>2,200SF</u> 7,000SF	
FAR:	3,864SF Bonus FAR with FAR transfer		
Parking:	Residential: 2bd unit @ 5units 50% Ferry Reduction (.45 miles to ferry)	10 spaces 5 spaces required, 1/unit min. 6 Provided	
Height Limit:	35' (45' with underbuilding parking)		
Setbacks:	0' Homesite to plat boundary, 0' Bldg to homesite boundary (zero lot line allowed), 10' Homesite to collector		
Lot Area:	No minimum		
Natural Area:	5% (392SF) SNA (mature trees)		
Community Space:	10% (784SF)		
Homesite:	2,250SF max.		
Design Diversity:	2 plan types are required		
Landscape:	Roadside Buffers: N/A Perimeter Landscape: N/A Tree Retention: 40 tree units/acre x .18AC =s 7.2 tree units		
Inclusionary:	N/A		



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

INTRODUCTION

Design for Bainbridge (DforB) provides guidance for applicants to successfully navigate the design review process. The design review process, standards, and guidelines are structured to support good design and a deliberate design process from context and site down to design detailing. Design review is an iterative process intended to help applicants apply relevant standards and guidelines and develop designs for the project that fit Bainbridge Island and the unique context of the site. This iterative process contains three touch points with the Design Review Board (DRB). This worksheet is used to capture design information to be presented to the DRB at each step in the iterative process.

1 Conceptual Proposal Review Meeting

The conceptual proposal review meeting is an informal meeting between the applicant and the Design Review Board to review site-specific conditions and contextual considerations for the design of development on site. This discussion is intended to inform strategies for site planning and massing that respond sensitively to the neighborhood context.

Applicant Submittal Requirements

- See DforB pages 12 & 16

2 Design Guidance Review Meeting

Design guidance review meetings with the Design Review Board offer guidance to potential applicants during the design process on conceptual alternatives. The purpose of the design guidance review meeting is to review how the proposed alternatives fit the surrounding context with a focus on the development's program, uses, site plan, and massing. The DRB will also consider any requested departures, the rationale for those departures and their consistency with the intent and principles of the guidelines.

Applicant Submittal Requirements

- See DforB page 13
- Initial Design for Bainbridge Worksheet (below)



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

#3 Final Design Review Meeting

At this meeting, the Board will review the application plans for compliance with Design Standards and Design Guidelines and ensure that the project reflects any revisions recommended by the Board at previous meetings. The Board will document its findings and transmit a written recommendation to the Planning Commission. The Board's recommendation may include conditions to ensure compliance with all standards.

Applicant Submittal Requirements

- See DforB page 15
- Final Design for Bainbridge Worksheet (below)

NOTE: Submittal materials should be transmitted as individual pdfs, not as one large file.



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

PROJECT: KBA SUBDIVISION
PROJECT ADDRESS or PARCEL: 167 Wyatt Way
DATE: 7-19-21
PROJECT PLANNER: Ellen Fairleigh
Design Review Board Meeting Dates: DRB-DG 07/19/2021

CONTEXT ANALYSIS

- C1** ANALYZE NATURAL SYSTEMS
- C2** IDENTIFY THE EXTENT AND VALUE OF WILDLIFE HABITAT AND CORRIDORS
- C3** ASSESS UNIQUE AND PROMINENT FEATURES
- C4** CONSIDER THE DEFINING ATTRIBUTES OF THE BUILT ENVIRONMENT
- C5** ANALYZE SYSTEMS OF MOVEMENT AND ACCESS
- C6** STUDY HOW THE SITE RELATES TO AND CAN CONTRIBUTE TO THE PUBLIC REALM

Context Analysis Complete:

Yes: ☒ No: ☐

If no, required additional information:



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

SITE DESIGN STANDARDS

- S1** PROTECT AND REPAIR NATURAL SYSTEMS
- S2** PRESERVE AND ENRICH WILDLIFE HABITAT
- S3** RESPECT AND MAGNIFY UNIQUE ASPECTS OF SITE AND CONTEXT
- S4** COMPLEMENT AND CONTRIBUTE TO THE BUILT ENVIRONMENT AND LOCAL IDENTITY
- S5** FIT THE PROJECT INTO THE SYSTEMS OF ACCESS AND MOVEMENT, PRIORITIZING PEDESTRIANS AND BICYCLES
- S6** SUPPORT AND CONTRIBUTE TO A VIBRANT PUBLIC REALM

Applicant Response:

S1) The site is a small single-family lot within the downtown core. The natural features on the site include two larger Fir trees which will be preserved. The natural systems will be enhanced with native landscaping. Three of the homes will be located on existing building footprint.

S2) The site design will incorporate native planting to support urban wildlife.

S3) The site is located within in a changing context. The context includes older single-family homes, multi-story infill housing, commercial and mixed-use. The proposed buildings and site design recognize the shift in density-scale from single story to denser multistory with an emphasis on pedestrian movement.

S4) The proposed building designs are consistent with the emerging character of downtown, exemplified by a shift to more contemporary forms and materials. The building massing also reflects more tradition construction with varied roof slopes and forms.

S5) Site access and movement includes along Wyatt Way (new sidewalk proposed) and through center of site. Vehicle movement will be relocated from Wyatt frontage to new access from parking lot to the South (project site has access easement from Madrone Lane).



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

S6) The public areas include the natural space along Wyatt Way, the central walk and commons area, and the shared use court. Additional semipublic spaces include the roof terraces.

DRB Discussion:

S1) This is a tight site and not a lot of natural systems, this guideline is difficult to address and does not apply.

S2) This is a tight site and not a lot of natural systems, this guideline is difficult to address and does not apply.

S3) & S4) The project contributes to the scale of the street and the scale of the surrounding buildings.

S5) Appreciate that the walkway through the site accommodates people's ability to cut through the property.

S6) There is a nice view, improvements will make it nice to walk by. The people who live there will be walking and add activation to the street and to the public realm – vibrancy. By removing the existing driveway, this removes car access from Wyatt.

DRB Findings:

S1 & S2 not applicable in some ways. This project meets guidelines S3-S6.



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

PUBLIC REALM STANDARDS

- P1** CREATE A SAFE AND COMFORTABLE ENVIRONMENT FOR WALKING AND CYCLING
- P2** MINIMIZE IMPACT OF VEHICLES ON THE PUBLIC REALM
- P3** DESIGN TO SUPPORT A LEDGIBLE HEIRARCHY OF PUBLIC SPACES
- P4** STRENGHTEN PUBLIC SPACE CONNECTIONS
- P5** DRAW FROM AND ENHANCE EXISTING BLOCK PATTERNS
- P6** FOSTER INTEREST AND ACTIVITY ALONG COMMERCIAL STREETS

Applicant Response:

P1) The site design support pedestrian movement by providing residential access along the central walkway. Existing driveway will be removed from Wyatt Way thereby providing continuous pedestrian frontage.

P2) The parking of vehicle occurs at the rear of the site within a shared use courtyard. The current access is being removed from Wyatt frontage to the rear of the site and will use a shared access from an existing parking lot, reducing curb cuts and impervious surfaces.

P3) The central pathway provides access to all of the homes from the shared use court. This will allow interaction amongst residents as they come and go, while allowing local neighbors to use the site as a short cut to town.

P4) See comment P3

P5) See comment P3

P6) Three of homes will face onto Wyatt Way. Each home will have a semi-private recessed court with living spaces located above overlooking the street. The natural area along Wyatt will also support small seating area for residents and neighbors. No commercial is proposed.



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

DRB Discussion:

P1) Because of the site slope, they are not meeting universal design. The project has created a safe and comfortable walking and cycling environment.

P2) The project meets this standard very well by removing the access on Wyatt and proving access from Madrona.

P3) & P4) This project is quite clear with its internal logic and access to public realm.

P5) The project complies with this guideline (pg. 34 in DesignforBainbridge)

P6) This guideline does not apply, that portion of Wyatt is not a commercial street.

DRB Findings:

This project meets P1-P5, P6 is not applicable.



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

BUILDING DESIGN STANDARDS

- B1** EXPRESS A CLEAR ORGANIZING ARCHITECTURAL CONCEPT
- B2** USE AN ARCHITECTURAL LANGUAGE APPROPRIATE TO BAINBRIDGE ISLAND
- B3** CREATE WELL COMPOSED FACADES AT ALL SCALES
- B4** CELEBRATE AND PROMINENTLY FEATURE SUSTAINABLE DESIGN
- B5** USE HIGH QUALITY MATERIALS AND WELL-CRAFTED DETAILS

Applicant Response:

B1) The site design is a direct response to the compact site area, existing trees and proposed vehicle access from the South. Three of the homes will be located on existing building footprint. The organizing architectural concept is a grouping of townhouses organized around the parking court, commons and central walkway. The units frame these public spaces as well as establish a simple rhythm of forms along Wyatt.

B2) The language is small footprint vertically organized homes with varied roof forms and projecting building volumes. This approach is consistent with local residential architectural patterns and helps reinforce a finer grain scale within the site.

B3) The facades are designed to respond to varied conditions which surround each home, by opening where views and light won't intrude on privacy and being more closed where privacy is paramount. The facades also express the internal functions by orienting living spaces towards the ends of the buildings and locating services within the more central portion. Large scale windows are located along the vertical circulation.

B4) The homes will use low maintenance, durable materials minimizing the need for paint. Each home will utilize airtight construction reducing energy use and allowing net zero capability with the addition of photovoltaic panels. The most prominent sustainable feature is the compact design and in-town location.

B5) In addition to the durable materials (metal, cement board, sho-sugi ban, Cedar) the details will be focused on the juncture of materials, rather than decorative trim. The use of natural materials will add detail in areas where it can be a focal element and protected from excessive weathering (soffits, etc).



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

DRB Discussion:

B1)

B2)

B3)

B4)

B5)

DRB Findings:

This project meets guidelines B1-B5.



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

LANDSCAPE STANDARDS

- L1 INTEGRATE THE LANDSCAPE CONCEPT TO COMPLEMENT THE ARCHITECTURAL CONCEPTS
- L2 SUPPORT THE PUBLIC REALM WITH THE LANDSCAPE DESIGN
- L3 INTEGRATE SUSTAINABLE FEATURES INTO THE LANDSCAPE AND MAKE THEM VISIBLE WHEREVER POSSIBLE
- L4 INTEGRATE AND HIGHLIGHT GREEN INFRASTRUCTURE PRACTICES
- L5 SUPPORT HEALTHY HABITAT IN THE LANDSCAPE
- L6 PRESERVE AND ENHANCE IMPORTANT VIEWS AND VIEW CORRIDORS

Applicant Response:

L1) The primary landscape areas are along Wyatt, along the narrow site perimeter, and adjacent to the central walkway. The planting will primarily utilize low scale native plantings and avoid creating a dense perimeter.

L2) Landscaping will support the Wyatt frontage and central pedestrian walk.

L3) Planting will rely on native plant materials which support local habitat and songbirds.

L4) Due to the compact size of the site-on-site infiltration will be limited to landscape areas.

L5) Planting will rely on native plant materials which support local habitat and songbirds.

L6) The site concept will create a small view corridor through the site from Wyatt to Madrone.



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

DRB Discussion:

L1)

L2)

L3)

L4)

L5)

L6)

DRB Findings:

These guidelines will be reviewed / assessed during the Final Review and Recommendation Design Review Board meeting.



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

STREET TYPES AND FRONTAGES

Street Types: State Route, Main Street, Neighborhood Main Street, **Neighborhood Mixed Use**, Mixed Use Arterial, Rural by Design, Green Street Rural Green Street

Applicant Response:

The applicable street type is Neighborhood Mixed-Use.

- A) Sidewalk (provided)
- B) landscape setback (provided)
- C) varied building frontage (provided)

DRB Discussion:

Will add sidewalks, 10' landscape buffer is acceptable

DRB Findings:

This project meets the Neighborhood Mixed-Use guidelines.

Frontages: Linear / Storefront, Landscape, Plaza, Forecourt, Stoop / Terrace, Vegetated Buffer, Parking

Applicant Response:

LANDSCAPE: 10'-20' Setback Provided

DRB Discussion:

10' landscape buffer is acceptable

DRB Findings:

This project meets the Landscape Frontage guidelines.



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

SUBDIVISION GUIDELINES

ISLAND CHARACTER PRESERVE AND MAINTAIN ISLAND CHARACTER

Applicant Response:

Winslow is recognized for its innovative residential infill projects, each of which is unique. The proposed project will continue this pattern of small-scale infill. The overall aesthetic is characterized by simple gable forms, which evoke the massing of traditional buildings, but with a modern expression.

DRB Discussion:

This project meets this guideline very well, dense but doesn't seem to have too much massing, scale is similar to others in the area, fits in and does not stand out. Nice variation of design (vertical and horizontal siding) is eye-pleasing.

NEIGHBORHOOD CONTEXT TO REFLECT AND/OR ENHANCE THE CONTEXT PROVIDED BY EXISTING ROADWAY CHARACTER AND NEIGHBORING PROPERTIES

Applicant Response:

Wyatt Way is a street which is slowly changing from a pattern of single-family homes into small infill projects. The surrounding neighborhood is a mixture of mixed-use, commercial, and multi-family uses. While there is no predominant architectural character, most sites have a residential scale. The proposal is consistent with the surrounding scale and anticipates the adjacent parcels may redevelop with either commercial or mixed-use.

DRB Discussion:

See Island Character comments above



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

NATURAL AREA TO INCORPORATE FORESTED AND/OR OTHER NATURAL AREAS INTO SITE DESIGN IN SUCH A WAY THAT ECOLOGICAL AND AESTHETIC INTERGRITY, QUALITIES, AND VALUES ARE PRESERVED OR RESTORED

Applicant Response:

The site has no existing natural areas but does have the potential to re-establish a small native landscape to protect the existing mature Fir trees. The natural area will be integrated with the common areas to co-locate open spaces.

DRB Discussion:

Appreciate that the project will retain the significant trees on site. The 10' + of landscaping on the street contributes to a natural setting.

NATURAL SITE CONDITIONS TO PRESERVE AND INTEGRATE EXISTING NATURAL SITE PATTERNS AND FEATURES THROUGHOUT THE SITE

Applicant Response:

The proposed building homesites are located to avoid impacts to the existing mature trees.

DRB Discussion:

The project reflects and conforms to the natural sloping grade of the site and for people to navigate the change in grade.

The DRB would prefer neither a sign or low-impact fence. If still required, we would encourage using signs.

HISTORIC AND CULTURAL RESOURCES TO PRESERVE IMPORTANT HISTORIC AND CULTURAL RESOURCES

Applicant Response:

There are no historic or cultural structures on the site.

DRB Discussion:

The project contributes to a culture of walkability and bicycling and vibrant street activity in the downtown urban area. Also, provides ease of access to public transit.



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

STORMWATER INTEGRATE STORMWATER FACILITIES IN SITE DESIGN WITH EMPHASIS ON INFILTRATION AND DISPERSION PRACTICES

Applicant Response:

Due to the small site area, the stormwater will be managed within an infiltration vault below the shared-use court. T shared-use court will be evaluated for infiltration potential based upon underlying soil types.

DRB Discussion:

The infiltration vault is a good idea and we agree with the project's stormwater management plan.

SEPTIC SYSTEMS TO MINIMIZE IMPACT OF SEPTIC FACILITIES

Applicant Response:

The project will connect to City sewer system.

DRB Discussion:

Connection to city sewer is fine.

WATER CONSERVATION TO PROTECT THE ISLAND'S FINITE GROUNDWATER RESOURCES AND ADAPT TO THE IMPACTS OF A CHANGING CLIMATES

Applicant Response:

The project will utilize water conserving strategies including low flow water fixtures and drought tolerant vegetation.

DRB Discussion:

From a clean water perspective, this project does quite well.



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

COMMUNITY SPACE TO PROMOTE A SHARED SENSE OF COMMUNITY

Applicant Response:

The community space is located next to the natural area along the Wyatt Way frontage. The existing driveway will be relocated to the rear of the site to allow the creation of these open spaces. The main public entry will be adjacent to the community space and connect to the shared-use court. The shared use court will accommodate the new parking as well as its use as a multi-use courtyard like a “Woonerf”.

DRB Discussion:

No concerns with this guideline.

CLUSTER HOMESITES TO PROMOTE INTERACTION WITHIN THE COMMUNITY AND FACILITATE THE EFFICIENT USE OF LAND BY REDUCING DISTURBED AREAS, IMPERVIOUS SURFACES, UTILITY EXTENSIONS AND ROADWAYS

Applicant Response:

Homesites are clustered along central pathway.

DRB Discussion:

No concerns with this guideline.

SOLAR ACCESS TO PROVIDE SOLAR ACCESS FOR WELLBEING AND ENERGY PRODUCTION

Applicant Response:

Primary building forms are oriented along a north-south axis, due in part to location of the existing home, restructured parking access and existing trees. Roof forms utilize steep gables to reduce overall scale of buildings. South facing shed roofs would enhance solar potential but increase shading of adjacent properties due to added height.

DRB Discussion:

Encourage leaving the roof line as is and doing something with the angle of solar panels.



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

ACCESS AND CIRCULATION TO PROVIDE A PRACTICAL AND PLEASANT NETWORK OF MULTI-MODAL CIRCULATION

Applicant Response:

Site will have internal pedestrian spline connecting Wyatt way to the shared-use court.

DRB Discussion:

Good to allow pedestrians access to Madrona from Wyatt.

MOTOR VEHICLES TO MINIMIZE THE PROMINENCE OF MOTOR VEHICLE USE AND STORAGE

Applicant Response:

Site design utilizes shared parking area within the middle of the block. The mid-block location will gain its access via an existing commercial parking lot to the south, allowing the existing curb cut (and driveway) along Wyatt to be eliminated.

DRB Discussion:

DRB agrees with eliminating Wyatt access. This project promotes pedestrian uses instead of motor vehicles.

HOMESITE DESIGN TO EFFICIENTLY CONFIGURE BUILDING FOOTPRINT(S) AND ALLOWED USES WITHIN A HOMESITE

Applicant Response:

The site design, due in large part to its small site area, places the homesites in direct proximity. The home sizes will be compact as well, less than 1100sf.

DRB Discussion:

The homesite has met the majority if not all of the design standards in Chapter 4. Good modulations and scale.



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

DIVERSITY IN HOUSE DESIGN TO PROVIDE A RANGE OF HOME SIZES AND DESIGNS TO ACHIEVE DIVERSITY IN VISUAL APPEARANCE AND AFFORDABILITY

Applicant Response:

The project will have two home designs and sizes ranging from 1100sf to 1600sf. The homes are staggered along Wyatt Way. While the building shares a common architectural style, each will have unique orientations and fenestration.

DRB Discussion:

Utilizing two housing types meets this guideline.

FACING PUBLIC STREETS TO REINFORCE NEIGHBORLINESS OF HOMES ALONG A PUBLIC STREET

Applicant Response:

The homes will have their entries facing the internal pedestrian path. All the garages are located behind the buildings as viewed from Wyatt Way.

DRB Discussion:

The project meets this guideline very well. Sets a nice tone for future projects on this street.

DRB Findings:

This project meets most of these guidelines. No outstanding issues discovered.



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

LARGER SITES

STANDARD1 DESIGN THE SITE BY CLUSTERING BUILDINGS AND ARRANGING THEM WITH FRONTAGES ON PUBLIC STREETS, PUBLIC SPACES, OR OPEN SPACE.

STANDARD2 DESIGN SITES TO MINIMIZE THE VISUAL IMPACT OF PARKING ON THE PUBLIC REALM.

Applicant Response:

Standard 1)

Standard 2)

DRB Discussion:

Standard 1)
Not applicable

Standard 2)
Not applicable

DRB Findings:

Not applicable



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

HISTORIC PLACES

- STANDARD1** DESIGN THE SITE, BUILDING(s), AND LANDSCAPE TO BE COMPATIBLE WITH HISTORIC BUILDINGS WITHOUT DIRECTLY MIMICKING HISTORIC ARCHITECTURAL STYLES.
- STANDARD2** MAINTAIN THE HISTORIC INTEGRITY OF BUILDINGS OVER 50 YEARS OLD LISTED OR ELIGIBLE FOR THE NATIONAL OR LOCAL REGISTER OF HISTORIC PLACES.

Applicant Response:

Standard 1)

Standard 2)

DRB Discussion:

Standard 1)
Not applicable

Standard 2)
Not applicable

DRB Findings:

Not applicable



DESIGN for BAINBRIDGE WORKSHEET Bainbridge Island, Washington

CIVIC USES

- STANDARD1** DESIGN CIVIC USES AND SITES TO REFLECT AND CONTRIBUTE TO THEIR FUNCTION AND ROLE IN THE COMMUNITY WHILE BEING CLEARLY IDENTIFIABLE AS A CIVIC USE.
- STANDARD2** DESIGN CIVIC SITES AND BUILDINGS TO SERVE MULTIPLE FUNCTIONS SUCH AS PUBLIC SPACE, COMMUNITY GATHERINGS, PUBLIC ART, AND OTHER COMPATIBLE USES.

Applicant Response:

Standard 1)

Standard 2)

DRB Discussion:

Standard 1)
Not applicable

Standard 2)
Not applicable

DRB Findings:

Not applicable



**DESIGN for BAINBRIDGE
WORKSHEET**
Bainbridge Island, Washington

This project is recommended for:

Approval ☐

Approval with the following conditions: ☐

Denial with the following deficiencies: ☐

SIGNATURE: _____
Chair, Design Review Board

DATE:



CITY OF
BAINBRIDGE ISLAND

Planning Commission Special Meeting Agenda Bill

MEETING DATE: October 14, 2021

ESTIMATED TIME: 5 Minutes

AGENDA ITEM: Review and Approve Meeting Minutes from September 23, 2021

AGENDA CATEGORY: Minutes

PROPOSED BY: Jane Rasely

**PREVIOUS PLANNING COMMISSION
REVIEW DATE(S):**

PREVIOUS COUCIL REVIEW DATE(S):

RECOMMENDED MOTION:

I move to approve the minutes as distributed.

SUMMARY:

BACKGROUND:

ATTACHMENTS:



Planning Commission Special Meeting September 23, 2021

Meeting Minutes

1) **CALL TO ORDER/LAND ACKNOWLEDGMENT/AGENDA REVIEW/CONFLICT DISCLOSURE**

Chair Kimberly McCormick Osmond called the meeting to order at 6:00 PM. Commissioners in attendance were Vice-chair Joe Paar, William Chester, Lisa Macchio, Sarah Blossom, Ashley Mathews and Yesh Subramanian. City Staff present were Planning & Community Development Director Heather Wright, Engineering Manager Paul Nylund, Senior Planner Kelly Tayara and Administrative Specialist Jane Rasely who monitored recording and prepared minutes.

The Land Acknowledgement was read, and the agenda reviewed. There were not any conflicts disclosed.

2) **PLANNING COMMISSION MEETING MINUTES**

2.a Review and Approve Meeting Minutes from September 9, 2021

[Cover Page](#)

[Planning Commission Minutes DRAFT 090921.pdf](#)

Motion: I move to approve the meeting minutes as distributed.

Paar/Mathews: Passed Unanimously

3) **PUBLIC COMMENT**

None.

4) **UNFINISHED BUSINESS**

4.a Planning Commission Consideration of Public Comments, Deliberation & Recommendation on Wintergreen Townhomes Subdivision, Site Plan Review and Conditional Use Permit Adjustment (PLN51836 SUB SPR CUPA)

[Cover Page](#)

[Wintergreen SUB_SPR_CUPA Staff Report_PC Revised 31AUG2021.pdf](#)

[51836 SPR CUPA SUB Public Comment.pdf](#)

[REVISED Wintergreen Prelim Plat Dwgs 20210831](#)

[Preliminary Plat Drawings 20210325](#)

[SITE PLAN Depicting Affordable Units](#)

[REVISED Renderings 083121](#)

[Renderings 20210521](#)

[3 Story 1&2 BR Plan 20210831](#)

[2 Story 1&2 BdRm Plan 20210831](#)

[Wintergreen Townhomes Schematic Landscape 20210628](#)

[Wintergreen Landscape Rendering 20210628](#)

UTILITY PLAN

Civil Plan sheet 4 dated 16MAR2021.pdf

SEWER CONNECTION PLAN

Soil Map 20201204

Wintergreen SEPA Environmental Checklist

Trip Generation Memo

Design for Bainbridge Worksheet with Applicant's 06142021 responses 51836 SUB CUPA SPR.pdf

Design for Bainbridge Worksheet Final by DRB 20210621

Aerial Photo with 25' setback

Building Height 20210827

305-Wintergreen Cross Section

Income Limits

Environmental Noise Study 20210206

Noise Barrier Fencing

Comprehensive Plan affordable housing provisions from Applicant

Background 17734 HEX Decision

Background HEX Reconsideration

Relationship of the Visconsi to Wintergreen Approval.pdf

Visconsi Sepa checklist staff comment 20130424

Visconsi Final Plat Set Sheets C-1-5, 20130909

Visconsi Final Plan Set Sheets L-1, 2, 3, 4, 5, 10, 12 20130909

VISCONSI MDNS 20131122

GIS Aerial 2018 25' and 50' from SR305

Comments from Joe Dunstan 20210829.pdf

EMAIL from Joe Dunstan re: Final DRB thoughts RE wintergreen project 20210829

EMAIL from Joe Dunstan re: Wintergreen setback correction for PC meeting

07SEP2021 Corr between Planning Director and Planning Commissioner.pdf

Corr from applicant dated 07SEP2021.pdf

Sept 6-8, 2021 Corr between City Planner and Planning Commissioners.pdf

Community Space Management and Maintenance Plan submitted 08SEP2021.pdf

08SEP2021 Corr between Planning Commissioners and Planning Director.pdf

08SEP2021 Corr from applicant 2 with three attachments.pdf

Public comment received since 16AUG2021.pdf

Applicant email 1 with attachments A, A1 and B.pdf

21SEP2021 Applicant email 2 with attachment A.pdf

21SEP2021 Applicant email 3 with attachments A and B.pdf

21SEP2021 Email from Joseph Dunstan.pdf

21SEP2021 Dunstan email Attachment A Summary DRB wksheet 9.23.21 PC meeting approved by DRB.xlsx

Wintergreen PC Memo_09212021.docx

Applicant representative Hayes Gori provided a brief update on the proposed project.

Public Comment

Marsha Cutting - Spoke in favor of the project saying she felt the location was ideal.

Jillian Worth - Spoke in favor of the project saying that physicians she tries to hire will not come here to work because they cannot buy a home on the island.

Helen Stone - Spoke in favor of the project asking the Commissioners to remember this was the only sizeable affordable housing project proposed in the last 10 years.

Lynn Smith - Spoke in favor of the project citing declining student numbers in the school district and that this would help families with children move onto the island.

Dawn Janow - Spoke in support of the project stating this project was a strong start in developing affordable housing.

Dave Shorett - Spoke in support of the project stating he had seen affordable housing and economic and ethnic diversity on the island dry up in the last 40 years.

Georg Syvertsen - Spoke in support of the project stating he felt the location couldn't be better with its access to all the amenities in the area.

Denise Stoughton - Spoke in support of the project saying she felt the design met the aesthetic expectations of the community. She also spoke about her rent going up by 15-20% per year and that her dream of home ownership had evaporated as real estate prices went up.

Karen Bazar - Spoke in support of the project stating that Central Highlands provided the top home warranty and was very responsive to the needs of their homeowners.

Barry Andrews - Spoke in support of permanent affordable housing but was concerned about the impact of the proposed project on the Stonecress neighborhood citing drainage of storm water and the increase of traffic on High School Road including the exit from Virginia Mason via Polly Lane.

Linda Andrews - Stated she spoke with the Visconsi representative about the upkeep of Polly Lane and wanted to know who would be responsible for maintaining Polly Lane when the property was sold.

Asaph Glosser - Spoke in favor of the project asking them to approve it and look for reasons to say yes.

Lisa Neal - Spoke about the Draft Buildable Lands Report that recently came out and stated the island had 150% of the zoning capacity needed for population allocation through 2036, the number of "straws" in the aquifer and that there did not need to be any bending of the rules to get the affordable housing because it was actually required in order to get the requested bonus density.

Dean Nail - Spoke in support of the project representing Housing Kitsap as one of the partners in the proposed building project and related the success he had experienced with Central Highlands over the years.

Cristobal Ugles - Spoke in support of the project stating he had inspected many of Central Highlands' homes and that the quality and application of materials were very good.

Barb McKenzie - Spoke in support of the project and that she respected and admired the developer for the projects he brought into the community as they always tried to do the right thing.

I move to recommend approval of the project with the conditions now numbered 1-17 as we've edited and amended them which do not include the further DRB review, which includes a bike barn and vegetative screen at the north and south end of the project which may already be included in the current proposal

Paar/Subramanian: Passed 5-2

5) PLANNING DIRECTOR'S REPORT

Planning & Community Development Director Heather Wright provided an overview of items of interest to the Planning Commission.

6) FOR THE GOOD OF THE ORDER

7) ADJOURNMENT

Meeting was adjourned at 9:42 PM.

Kimberly McCormick Osmond, Chair

Jane Rasely, Administrative Specialist

DRAFT

PLANNING COMMISSION RECORDED MOTION

Planning Commission Meeting Date:	September 23, 2021
Project Proposal Name and Number:	Wintergreen Townhomes/PLN51836 SPR CUPA SUB
Documents available at:	Online Permit Portal
Public Hearing Date:	TBD
Decision Maker:	Hearing Examiner

Purpose: The purpose of the Planning Commission's review and recommendation is to determine if a proposed project is consistent with the Comprehensive Plan, applicable design guidelines and standards, and BIMC Titles 2, 17, and 18.

Consideration: The Planning Commission shall consider the project application at a public meeting where public comment will be taken. The Planning Commission shall recommend approval, approval with conditions, or denial of the proposed project.

The Planning Commission will adopt written findings of facts and conclusions and determine if the project is consistent with Bainbridge Island Municipal Code and the Comprehensive Plan. This motion will be included in the staff report transmitted to the reviewing bodies and decision maker.

Findings of Fact and Reasons for Action

1. The project, as conditioned, is found to meet all the applicable decision criteria.
2. The project, as conditioned, is found to be compliant and consistent with the Comprehensive Plan.
3. The project, as conditioned, is found to meet all other applicable laws.
4. The project is either :

_____ Found to meet the recommendations by the Design Review Board; **OR**

 X Recommended for deviation from the Design Review Board's recommendation with the conditions proposed under Recommendation because many of the elements the DRB relied on in recommending denial have now been recommended as conditions required to be met before the project can be approved.

PLANNING COMMISSION RECORDED MOTION

Recommendation:

The Planning Commission recommends the Hearing Examiner approve the proposal with the following conditions:

1. The applicant will place all 31 of the affordable units into the Housing Resources Board (HRB) Community Land Trust (CLT) to be offered to low-income households in perpetuity. This commitment will be a covenant on title on each of the affordable units prior to the first City permit approval for any activity on the project site. The City will determine what constitutes a "low income" household pursuant to BIMC Sections 18.12.030.E, 18.21 and 18.36. The final plat will include a covenant on the face of the plat stating, "Affordable Housing as defined in BIMC 18.36" and including a phasing plan identifying the affordable-to-market rate unit completion proportions.
2. Upon the first sale of each of the 31 affordable units, applicant will pay \$10,000 to HRB and Housing Kitsap, with \$5,000 paid to each agency per unit. This commitment will be a covenant on title on each of the affordable units prior to the first City permit approval for any activity on the project site.
3. Upon the first sale of each of the 73 units, applicant will pay \$1,500 per unit to HRB. This commitment will be a covenant on title on each of the units prior to the first City permit approval for any activity on the project site.
4. Applicant will provide up to \$10,000 per lot for restoration/augmentation of a buffer tree screen along SR 305 in the Walgreen's and Key Bank lots, as determined and arranged by the City.
5. Applicant will provide a pedestrian/nonmotorized trail from the SW corner of the west lot of the Wintergreen Project to the High School Road/SR 305 intersection and will obtain a right-of-way permit from Washington State Department of Transportation (WSDOT) to construct the trail at applicant's expense.
6. Applicant will plant trees in the SR 305 buffer to create a full tree screen to eliminate visual impacts. Tree selection will be included in the Landscape Plan in coordination with the City arborist.
7. Applicant will construct a 10-foot high fully vegetated berm along the SR 305 buffer to dampen noise impacts. Selection of native plants to be included in the berm will be included in the Landscape Plan.
8. Applicant will provide full disclosure of all SR 305 mitigation measures to potential buyers of units that abut the SR 305 buffer and will obtain written acceptance of these mitigation measures in purchase and sale agreements. The mitigation measures will be noted in the final plat and included in the Community Space Management and Maintenance Plan, Landscape Plan and all building permits that incorporate noise mitigation measures.
9. Applicant will provide the equivalent of a 50-foot fully vegetated buffer along SR 305. The width of the buffer may be averaged, but no portion of the buffer may be less than 35' wide. This condition is consistent with the Comprehensive Plan, the existing averaged 50-foot fully vegetated buffer along SR 305 required as part of the 2014 Visconsi Master Plan HEX decision for the site, the DFB standard in Chapter 5 for a 25-50 foot fully vegetated buffer along SR 305, and applicable provisions of BIMC Title 17 and 18. If the applicant determines that the equivalent of a 50-foot fully vegetated buffer is not feasible or requires redesign of the site plan, the project must return to the Planning Commission for additional review and recommendation.

PLANNING COMMISSION RECORDED MOTION

10. Applicant will provide for City approval a parking plan identifying how many parking spaces are provided on each of the properties that make up the Visconsi Master Plan, how many parking spaces are proposed for the Wintergreen Project properties and their location, and how many handicapped parking spaces are being provided and their location. The parking plan must satisfy parking requirements of the 2016 amendment to the Visconsi Master Plan HEX decision and City code requirements and standards applicable to a residential subdivision.
11. Applicant will provide for City approval a plan for bike parking spaces that is adequate for the proposed residential development as well as installation of a bike barn in the common area provided for Phase I and Phase II.
12. Applicant will provide at least 5 motorcycle parking spaces adequate for the proposed residential development.
13. Applicant will fence townhome yards to allow safe use by children and pets.
14. All SEPA conditions included in the August 27, 2021 (Revised August 31, 2021) Staff Report shall be incorporated into the project as amended by these conditions.
15. All project conditions included in the August 27, 2021 (Revised August 31, 2021) Staff Report shall be incorporated into the project as amended by these conditions.
16. The Planning Commission recommendation with conditions applies only to the project as proposed. Any subsequent substantive changes to the project will require additional Planning Commission review and recommendation.
17. The applicant will properly screen with vegetation the project at the north and south boundaries.

Recorded motion on September 23, 2021:

I move to recommend approval of the project with the conditions now numbered 1-17 as we've edited and amended them which do not include the further DRB review, which includes a bike barn and a vegetative screen at the north and south end of the project which may already be included in the current proposal.

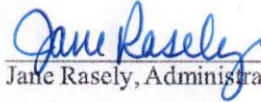
Planning Commission Record of Vote:

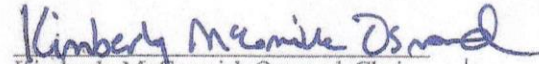
Commissioner	Support	Oppose	Absent	Abstain
McCormick Osmond	X			
Paar	X			
Chester	X			
Macchio		X		
Blossom		X		
Mathews	X			
Subramanian	X			
Total	5	2		



PLANNING COMMISSION RECORDED MOTION

CITY OF BAINBRIDGE ISLAND PLANNING COMMISSION


Jane Rasely, Administrative Specialist


Kimberly McCormick Osmond, Chair



CITY OF
BAINBRIDGE ISLAND

Planning Commission Special Meeting Agenda Bill

MEETING DATE: October 14, 2021

ESTIMATED TIME: 30 Minutes

AGENDA ITEM: (7:05 PM) - Discussion on Draft Ordinance No. 2021-07 – Updates to Chapter 16.32 BIMC (Protection of Landmark Trees)

AGENDA CATEGORY: Ordinance

PROPOSED BY: Nick Snyder

PREVIOUS PLANNING COMMISSION

REVIEW DATE(S): 8/13/20, 9/10/20, 10/29/20, 11/12/20, 12/10/20, 12/17/2020, 5/13/2021, 5/27/2021, 6/10/2021, 6/24/2021

PREVIOUS COUCIL REVIEW DATE(S): 2/25/2020, 4/27/2021

RECOMMENDED MOTION:

Debrief and discussion on proposed language and policy questions raised at the June 24, 2021 Planning Commission meeting.

SUMMARY:

At the June 24, 2020 Planning Commission meeting on Ordinance 2021-20, the Planning Commission discussed the following changes to Exhibit A of proposed Ordinance No. 2021-07: definitions of landmark trees (proposed 16.32.010.E) and removal (proposed 16.32.010.G), damage to a landmark tree (proposed 16.32.030.B), and the proposed mitigation sequencing (proposed 16.32.035.A). Specifically, for the definition of a landmark tree, if and how would we measure aesthetic quality and historical significance? There was discussion about improving the proposed code language for the definition of removal (could the snag creation sentence be better written? and for damage of a landmark tree (is "knowingly" the best word and does it capture the intent?). There was also a discussion about having staff to create a guidance manual for the proposed mitigation sequence to assist the public in understanding what "avoid" and "minimize" mean for protection of landmark trees. There was also a broader discussion about the value of landmark trees and their greater ecosystem functions.

Staff will discuss the revised draft that contains the suggestions and direction from the Planning Commission and seek direction on a few outstanding issues. Specifically, staff wants to determine if the Planning Commission supports the draft language for mitigation sequencing as written before drafting the guidance document.

The attached Staff Memo further describes the Planning Commission discussion on Ordinance 2021-07 on June 24, 2021.

BACKGROUND: As part of the work plan that was adopted with the Landmark Tree Ordinance (codified in Chapter 16.32 BIMC), and after receiving initial direction from the City Council in February 2020 and discussions with the Planning Commission on 8/13/20 and 9/10/20, City staff developed a draft Ordinance. The Ordinance was reviewed and amended to

reflect the recommendations from the Planning Commission at their meetings on 8/13/20, 9/10/20, 10/29/20, 11/12/20, and 12/10/20. A public hearing was set for 12/17/20, and at that meeting the Planning Commission forwarded their recommendation for consideration by City Council. City staff presented City Council with the complete ordinance on April 27th, 2021. At that meeting some concerns were identified by Council and no action was taken on the ordinance with direction for staff to address problems to be identified in a list to be forwarded to the Planning Department. City staff distilled the concrete code language proposed in those notes and provided that in the staff memo for the 5/13/21 Planning Commission meeting. At the Planning Commission meeting on May 13th, 2021 the PC discussed the proposed changes to Ordinance No. 2021-07 that resulted from comments received from City Council, and set an additional meeting to further discuss those notes provided by Council. At the 5/27/21 Planning Commission meeting it was decided to break apart Ord. No. 2021-07 into two bodies of work. Ord. No. 2021-07 will now only encompass BIMC 16.32 (Protection of Landmark Trees). Additionally numerous changes to the text of Exhibit A of this ordinance were discussed as part of the review of City Council's comments. Those changes ultimately centered around furthering and clarifying the protection measures required for Landmark trees, as well as including mitigation sequencing to ensure landmark trees are protected whenever possible. The new proposed language has now been incorporated in Exhibit A of this ordinance.

ATTACHMENTS:

Department of Planning and Community Development

Memorandum

Date: October 14, 2021
To: Planning Commission
From: Nicholas Snyder, City Arborist
Subject: Ordinance No. 2021-07 – Updates to Tree Regulations in Chapter 16.32 BIMC
(Protection of Landmark Trees)

I. Updates to Tree Regulations: Background

At the last Planning Commission (PC) meeting on June 24th, 2021 the PC discussed proposed changes to Ordinance No. 2021-07.

As a result of that conversation, staff is proposing the following:

- 1.) A definition and nomination process for historically significant trees and trees with special aesthetic quality; and
- 2.) Mitigation sequencing with a guidance document forthcoming; and
- 3.) Guidance on replacement tree species, and qualifying tree species.

Proposed changes have been incorporated into Exhibit A of this packet in strikeout/underline format and **highlighted** to facilitate review.

II. Ordinance No.2021-07: Next Steps

Following the Planning Commission's review of the proposed code language, the Planning Commission may set a new public hearing to address revisions contained in Ordinance No. 2021-07 or request additional revisions. After Planning Commission finishes their review of the draft language City Staff will begin creating a guidance document, to be adopted by separate resolution, but reviewed in tandem with Ordinance No.2021-07 and discussed in conjunction at

a public hearing. This guidance document will be intended to clarify what actions are covered under each step of the proposed mitigation sequence proposed in Exhibit A.

III. Conclusion

Ordinance Number 2021-07 revises and updates BIMC Chapter 16.32 (Protection of Landmark Trees) to improve the administration of the code language and the protection offered to Landmark Trees. Chapter 16.32 is applicable to all portions of the island except zoning districts R-0.4, R-1, and R-2. This represents a minor expansion of the ordinances current applicability but will improve resident's ability to determine when it applies to them. Some additional tree species were added to the list of Landmark trees and an age of over 100 years is proposed as an additional criterion qualifying for landmark tree status. Additionally a nomination process is proposed for trees of special historic significance or aesthetic quality to be recognizes as having landmark status and protections.

Additionally, changes were made to the application requirements for removing a Landmark tree to enable construction. Mitigation sequencing will now be required to ensure that Landmark trees are always protected when possible. These changes will provide firm protections for some of the most beloved and valuable trees on Bainbridge Island. This ordinance would also formally end the Interim Control and consolidate Landmark Tree protections as a fixture of the Bainbridge Island municipal code.

Exhibit A

Chapter 16.32 PROTECTION OF LANDMARK TREES

16.32.000 – Purpose.

16.32.005 Applicability.

16.32.010 Definitions.

16.32.015 Exemptions.

16.32.020 Landmark tree criteria.

16.32.025 Historically Significant Trees and Trees of Aesthetic Quality

16.32.030 Landmark tree retention.

16.32.035 Mitigation Sequencing and Performance Assurance.

16.32.040 Emergencies.

16.32.050 Appeals.

16.32.060 Violations and penalties.

16.32.000 Purpose.

This chapter is adopted to recognize and preserve the functions and values of Landmark Trees on Bainbridge Island. Landmark Trees provide a multitude of benefits across the natural and built landscape and this chapter is intended to identify and protect the unique character and of Bainbridge Islands most iconic trees.

16.32.005 Applicability.

A. This chapter applies to all zoning districts except R-0.4, R-1, and R-2, only to those properties located within the Winslow Master Plan Study Area as shown in Figure 2.3 of the Winslow Master Plan, updated November 8, 2006. (Ord. 2019-17 § 7, 2019)

B. Specific submittal requirements for a Landmark Tree Permit are included in the city's administrative manual.

16.32.010 Definitions.

A. "Aesthetic Quality", in this chapter, means a tree that is valued for its beautiful form or the function it serves in the landscape (i.e. a pair of trees that frame an entrance, or a tree(s) that provide shade in popular public areas, etc.).

AB. "City attorney" means the city attorney of the city of Bainbridge Island, or their designee.

C. "Critical Root Zone" means the area within the dripline of a tree or the zone identified by an ISA Certified Arborist to contain the critical portion of a trees root system.

D. "Dead Tree" means a tree that has no live tissue or is determined to have less than 10% live tissue by a Tree Risk Assessment Qualified ISA Arborist.

BE. "Diameter breast height" means the diameter of a tree measured at four and one-half feet above the ground on the uphill side of the tree.

F. “Historical Significance”, for this chapter, means a tree that is associated with people or events from the history of the local area, state or nation

GG. “Landmark trees” means trees, located on Bainbridge Island, that are unique because of their age, size, species, historical significance, or aesthetic quality and meet the criteria established by this chapter.

HH. “Planning director” means the director of the planning and community development department of the city of Bainbridge Island, or their designee.

I. “Removal” means cutting of, or damage to, a tree’s trunk, roots, or branches that could lead to its death or with the intent to kill it. Removal includes the creation of a wildlife snag where all live material is removed from the tree.

JJ. “Replacement tree” means a tree that is of a species listed in Table 16.32.020-1 or is of a species native and indigenous to the site where a landmark tree was removed and is a minimum height of six feet in height measured from top of the root flare, with a minimum trunk diameter of one inch measured at four inches above the top of the root flare for both evergreen and deciduous trees.

KK. “Size” means the diameter breast height of a tree. (Ord. 2018-42 § 1, 2018: Ord. 2018-25 § 2, 2018)

L. “Wildlife Snag” means a standing tree that is purposefully managed for wildlife habitat or a tree that has been partially removed and whose trunk has been left standing at six feet tall or taller to provide quality habitat for wildlife species.

16.32.015 Exemptions.

In the following circumstances, a removal of landmark tree permit shall not be required pursuant to this section:

- A. The tree(s) at issue is/are dead;
- B. For routine maintenance activities required to control vegetation on road, access, or utility rights-of-way or easements, including tree removal, pruning, and thinning; or
- C. For Class II and Class III forest practices regulated by the Washington State Department of Natural Resources under Chapter 76.09 RCW. (Ord. 2018-45 § 2, 2018)

16.32.020 Landmark tree criteria.

A. Landmark trees are trees that meet one of the following criteria the following criteria for their species:

1. Known to be older than 100 years
2. Has been nominated and approved as a Landmark Tree for its historical significance using the process laid out in BIMC 16.32.025
3. Has been nominated and approved as a Landmark Tree for its aesthetic quality using the process laid out in BIMC 16.32.025
4. Meets the size and species criteria in Table 16.32.020-1

Table 16.32.020-1: Size and Species criteria for Landmark Trees

Species	Size (Greater than or equal to)
Birch (Betula papyrifera spp.)	30"
Beech (Fagus grandifolia spp.)	36"
Catalpa (Catalpa speciosa)	36"
American Elm (Ulmus americana)	30"
Douglas Fir (Pseudotsuga menziesii)	40"
Grand Fir (Abies grandis)	40"
Horsechestnut (Aesculus hippocastanum)	40"
Western Hemlock (Tsuga heterophylla)	30"
Black Locust (Robinia pseudoacacia)	30"
Lombardy Poplar (Populus nigra)	38"
Pacific Madrone (Arbutus menziesii)	24"
Bigleaf Maple (Acer macrophyllum)	36"
Silver Maple (Acer saccharinum)	36"
Monkey Puzzle Tree (Araucaria araucana)	36"
Monterey Pine (Pinus radiata)	30"
Oregon White Oak (Quercus garryana)	30"
Pacific Yew (Taxus brevifolia)	20"
Pin Oak (Quercus palustris)	30"
Red Oak (Quercus rubra)	38"

Species	Size (Greater than or equal to)
Ponderosa Pine (<i>Pinus ponderosa</i>)	30"
Western White Pine (<i>Pinus monticola</i>)	30"
Sitka Spruce (<i>Picea sitchensis</i>)	36"
Sycamore (<i>Platanus occidentalis</i>)	36"
English Walnut (<i>Juglans regia</i>)	30"
Western Red Cedar (<i>Thuja plicata</i>)	30"
Coast Redwood (<i>Sequoia sempervirens</i>)	30"
Japanese Lacerleaf Maple	12"
<u>Pacific Dogwood (<i>Cornus nutallii</i>)</u>	<u>20"</u>
<u>Atlas Cedar (<i>Cedrus atlantica</i>)</u>	<u>36"</u>
<u>Deodar Cedar (<i>Cedrus deodara</i>)</u>	<u>36"</u>
<u>Black Walnut (<i>Juglans nigra</i>)</u>	<u>24"</u>
<u>Red Maple (<i>Acer rubrum</i>)</u>	<u>36"</u>
<u>Giant Sequioa (<i>Sequoiadendron giganteum</i>)</u>	<u>40"</u>
<u>Weeping Willow (<i>Salix babylonica</i>)</u>	<u>30"</u>
<u>Shore Pine (<i>Pinus contorta</i>)</u>	<u>24"</u>
<u>Port Orford Cedar (<i>Chamaecyparis lawsoniana</i>)</u>	<u>30"</u>
<u>Cherry (<i>Prunus spp.</i>)</u>	<u>24"</u>

(Ord. 2018-42 § 1, 2018: Ord. 2018-25 § 2, 2018)

16.32.025 Historically Significant Trees and Trees of Aesthetic Quality

A. The Planning Commission shall review nominations of Landmark Trees for their historical significance and/or aesthetic quality

B. Criteria for Landmark Tree status based on Historic significance.

1. The tree is located in a zoning district where the LTO applies; and

2. The tree meets at least one of the following criteria:

a. The tree is known to have been witness to recognized events that impacted local, state, or national history ; and/or

b. The tree has been dedicated to, or planted by, a recognized member(s) of the Bainbridge Island community who has impacted local, state, or national history; and/or

c. The tree has cultural or archaeological significance.

C. Criteria for Landmark Tree status based on Aesthetic quality

1. The tree is located in a zoning district where the LTO applies; and

2. The tree is publicly visible; and

3. The tree meets at least one of the following criteria:

a. The tree is readily identified by its unique appearance or character; and/or

b. The trees location provides unique and valuable functions in the landscape;

D. Process for Designating Landmark Trees

1. Trees may be nominated by any member of the public using the Landmark Tree Nomination Form (to be turned into City of Bainbridge Island Planning Department)

2. Staff will review the nomination forms and make recommendations to Planning Commission for either approval or disapproval

3. The underlying property owner and all adjoining property owners will be notified of the nomination prior to review by the Planning Commission

4. The Planning Commission shall examine each application and make a decision of approval or disapproval, based on the application criteria and staff recommendations

5. Once a decision has been made, the planning commission shall notify the underlying property owner and all adjoining property owners of the outcome

E. Appeals to landmark tree status decisions

1. Any determination made by the Planning Commission to designate a Landmark Tree may be appealed by any member of the public within 14 days of the date of the decision. The appeal shall be filed with the city clerk and shall clearly state the grounds upon which the appeal is based.

2. The appeal will be reviewed by city council.

16.32.030 Landmark tree retention.

A. Except as otherwise allowed under this chapter, no person, corporation, or other legal entity shall remove a landmark tree without having obtained approval from the planning director.

B. Except as otherwise allowed under this chapter, no person, corporation, or other legal entity shall knowingly damage a landmark trees trunk, limbs, or roots in a manner that could lead to the trees death. This includes, but is not limited to, topping, stripping of branches or foliage, girdling, poisoning, and any trenching, grading, excavation, or compaction that irreversibly impacts the Critical Root Zone of the tree.

C. All development projects are required to follow tree protection measures in BIMC 18.15.010.C.4 to preserve Landmark Trees that could reasonably be impacted by the proposed development activity

D. Prior to the removal of a landmark tree, any person, corporation, or other legal entity seeking to remove a landmark tree must submit an application for removal of a landmark tree, along with a fee to be established by resolution of the city council, to the department of planning and community development.

E. Upon receipt of an application for removal of a landmark tree, the planning director will review the application materials and consider the request based upon the criteria outlined in this chapter and any other city regulations that apply to the tree requested for removal, such as, but not limited to, Chapter 15.19 BIMC, Site Assessment Review, Chapter 16.12 BIMC, Shoreline Master Program, Chapter 16.20 BIMC, Critical Areas, and BIMC 18.15.010, Landscaping, screening, and tree retention, protection and replacement, or any other tree retention regulations applied through a land use permit.

F. The planning director shall approve the removal, deny the removal, or request additional information. The planning director shall only approve the removal of a landmark tree if all other applicable city regulations are met and upon a finding that at least one of the following criteria is met:

1. The removal is necessary to enable construction on, or reasonable use of the property, and no other alternative is feasible; and the applicant provides documentation of following the mitigation sequence in BIMC 16.32.035.A

2. The removal is necessary to fulfill the terms of an easement or covenant recorded prior to the adoption of the ordinance codified in this chapter; or

3. The tree is diseased, or otherwise determined to be a hazardous tree as determined by a qualified professional pursuant to BIMC 18.15.010.C.1.c. determined to have a high or extreme Tree Risk Rating by an ISA certified TRAQ Arborist who:

- a. Identifies the tree part(s) and defect(s) that increase the likelihood of failure;
- b. Identifies the target(s) and site factors contributing to increased likelihood of impact;

- c. Utilizes a timeframe of five years or less; and
- d. Utilizes the Matrixes in tables 16.32.030-1 and 16.32.030-2 to determine the Tree Risk Rating.

16.32.030-1: Likelihood Matrix

<u>Likelihood of Failure</u>	<u>Likelihood of Impact</u>			
	<u>Very Low</u>	<u>Low</u>	<u>Medium</u>	<u>High</u>
<u>Imminent</u>	<u>Unlikely</u>	<u>Somewhat Likely</u>	<u>Likely</u>	<u>Very Likely</u>
<u>Probable</u>	<u>Unlikely</u>	<u>Unlikely</u>	<u>Somewhat Likely</u>	<u>Likely</u>
<u>Possible</u>	<u>Unlikely</u>	<u>Unlikely</u>	<u>Unlikely</u>	<u>Somewhat Likely</u>
<u>Improbable</u>	<u>Unlikely</u>	<u>Unlikely</u>	<u>Unlikely</u>	<u>Unlikely</u>

16.32.030-2: Tree Risk Rating Matrix

<u>Likelihood of Failure and Impact</u>	<u>Consequences of Failure</u>			
	<u>Negligible</u>	<u>Minor</u>	<u>Significant</u>	<u>Severe</u>
<u>Very Likely</u>	<u>Low</u>	<u>Moderate</u>	<u>High</u>	<u>Extreme</u>
<u>Likely</u>	<u>Low</u>	<u>Moderate</u>	<u>High</u>	<u>High</u>
<u>Somewhat Likely</u>	<u>Low</u>	<u>Low</u>	<u>Moderate</u>	<u>Moderate</u>
<u>Unlikely</u>	<u>Low</u>	<u>Low</u>	<u>Low</u>	<u>Low</u>

In deciding whether the removal of a landmark tree is necessary under subsection D.1 or 2 of this section, the planning director shall consider all land use regulations applied to the subject property, such as: ~~Chapter 15.19 BIMC, Site Assessment Review, Chapter 16.12 BIMC, Shoreline Master Program, Chapter 16.20 BIMC, Critical Areas, or any other tree retention regulations applied through a land use permit.~~

EG. If the planning director grants an application for removal of a landmark tree upon a finding that the removal is necessary to enable construction on or reasonable use of the property, and no other alternative is feasible, then the property owner that

submitted the application shall be required to provide mitigation through the planting of replacement trees on the property from which the landmark tree was removed in accordance with the following:

1. The quantity of replacement trees is calculated by multiplying the diameter breast height of the subject landmark tree by 50 percent to establish the number of replacement inches; and
2. The total number of replacement trees is determined by the total caliper inches of Replacement Trees equaling or exceeding the required tree replacement inches established in subsection E.1 of this section.

FH. In lieu of planting the replacement trees prescribed in subsection E of this section, an applicant may satisfy the tree replacement requirements by:

1. Planting at least three replacement trees on the property from which the landmark tree was removed; and
2. Contributing to the Bainbridge Island tree fund at a rate of \$500.00 per each replacement inch not accounted for in the planting of replacement trees; and
3. The sum of the tree replacement inches accounted for by contributing to the Bainbridge Island tree fund and the total caliper inches of the replacement trees planted shall not be less than the total replacement inches calculated in subsection E of this section. (Ord. 2018-45 §§ 3, 4, 2018; Ord. 2018-42 § 1, 2018; Ord. 2018-32 § 2, 2018; Ord. 2018-25 § 2, 2018)

16.32.035 Mitigation Sequencing and Performance Assurance.

A. All proposed Landmark tree removals to enable construction or reasonable use of a property shall utilize mitigation sequencing as follows:

1. Avoid the impact altogether by not taking a certain action or parts of an action;
2. Minimize impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts; and no alternative is feasible;
3. Rectify the impact by repairing, rehabilitating, or restoring the affected environment, by submitting and executing a replanting plan that installs the required number of replacement inches back on to the site;
4. Compensate for the impact by submitting and executing a replanting plan that installs a minimum of three (3) trees, and contributing \$500 per replacement inch not accounted for in the replanting plan to the Bainbridge Island Tree Fund;

B. Performance Assurance-

1. The planning director may require, as a condition for the granting of a permit, that the applicant furnish a performance assurance in a form approved by the planning director, in order to obligate the applicant, after the approved tree removal has been accomplished, to complete all required replanting, erosion control, and cleanup on the property. The surety device shall be in an amount equal to 150% of the estimated cost of the services covered by the device, with surety and conditions satisfactory to the planning director.

2. The bond/surety shall be refunded to the depositor upon completion of the mitigation activity

3. The time limit for compliance may be up to one year to allow installation of landscaping during the next appropriate planting, season as approved by the director. In no case may the property owner delay performance for more than one year.

16.32.040 Emergencies.

A. In emergency situations involving immediate danger to life or real property, removal of a landmark tree is permitted without first obtaining approval from the planning director; provided, that the following conditions are satisfied:

1. The person, corporation, or other legal entity that removed the landmark tree submits an application for removal of a landmark tree under this chapter within 14 days after the emergency situation is stabilized; and
2. The person, corporation, or other legal entity that removed the landmark tree provides, within 14 days after the emergency situation is stabilized, the city with documentation establishing the existence of the emergency situation, with such documentation including at least four high resolution photographs evidencing the existence of the emergency situation; and
3. The planning director subsequently approves the removal pursuant to this chapter.

B. If the conditions of subsection A of this section are not satisfied, the person, corporation, or other legal entity that removed the landmark tree without first obtaining approval from the planning director will be in violation of this chapter. (Ord. 2018-42 § 1, 2018: Ord. 2018-32 § 3, 2018: Ord. 2018-25 § 2, 2018)

16.32.050 Appeals.

A. The planning director's decision on an application for removal of a landmark tree may be appealed to the hearing examiner as described in BIMC 2.16.020.R.1.

B. All appeals must be filed within 14 days following the issuance of the planning director's decision on the application. (Ord. 2018-42 § 1, 2018: Ord. 2018-32 § 4, 2018: Ord. 2018-25 § 2, 2018)

16.32.060 Violations and penalties.

A. This chapter shall be enforced, and penalties for violations of this chapter will be imposed, pursuant to Chapter 1.26 BIMC, except that no notice of infraction may be issued under Chapter 1.26 BIMC for a violation of this chapter. In addition to notices of violation issued under BIMC 1.26.050 or 1.26.060, BIMC 1.26.070 will also govern the review and appeal of any notice of violation issued under Chapter 1.26 BIMC for a violation of this chapter.

B. In addition to the civil penalties imposed under BIMC 1.26.090, an additional civil penalty will be imposed on any person, corporation, or other legal entity that removes a landmark tree without prior approval of the planning director. This additional civil penalty will be in the amount of \$25,000 for each landmark tree removed. The city attorney will take appropriate action to collect this additional civil penalty.

C. In the event of a conflict between the requirements of this chapter and any other requirement of the Bainbridge Island Municipal Code, ~~this chapter will govern and control.~~ The most restrictive regulation shall apply. (Ord. 2018-42 § 1, 2018: Ord. 2018-32 § 5, 2018: Ord. 2018-25 § 2, 2018)

ORDINANCE NO. 2021-07

[Formerly Ordinance No. 2020-28]

AN ORDINANCE of the City of Bainbridge Island, Washington, amending and revising Chapter 16.32 Protection of Landmark Trees of the Bainbridge Island Municipal Code; terminating the related interim official control set forth in Ordinance No. 2021-17; providing for interpretive authority; and providing for severability.

WHEREAS, the City Council of the City of Bainbridge Island (“City”) updated the City’s Comprehensive Plan in February of 2017; and

WHEREAS, the City Council has significant concerns about development and growth in the City under current regulations in the context of the vision and goals of the City’s Comprehensive Plan, has been discussing how to best accommodate growth and development in both general and specific ways, and finds that there are likely to be adverse impacts on the City and its residents unless the City acts immediately to preserve the character of our community forest; and

WHEREAS, land clearing and development activities have resulted in the removal and loss of Landmark Trees on Bainbridge Island and the City has received numerous public comments expressing concern regarding the loss of Landmark Trees on Bainbridge Island; and

WHEREAS, Landmark Trees, because of their age, size, and condition, are recognized as having exceptional value in contributing to the character of the community; and

WHEREAS, the Planning Commission, Design Review Board, and the (former) Ad Hoc Tree/LID Committee have expressed concern regarding the loss of trees on Bainbridge Island and the preservation of trees is a community value supported by the policies and goals of the City’s Comprehensive Plan; and

WHEREAS, on June 26, 2018, the City Council adopted Ordinance No. 2018-25, which imposed an interim official control in the form of Chapter 16.32 of the Bainbridge Island Municipal Code (“BIMC”), *Preservation of Landmark Trees*, which designates Landmark Trees based on size and species, requires a permit to remove any Landmark Tree, and imposes fines if a Landmark Tree is removed without a permit; and

WHEREAS, on October 16, 2018, the City Council authorized the City Manager to contract with a team of arborists to review and make recommendations on City regulations governing tree and vegetation removal, including Chapter 16.32 BIMC; and

WHEREAS, in response to comments and input that City staff and the City Council received regarding implementation and application of the Landmark Tree regulations, including comments from many property owners and Puget Sound Energy about difficulty in meeting the requirements of the regulations, City staff proposed amendments to the regulations to add

exceptions for the type of Landmark Tree removal that would be approved through permit review; and

WHEREAS, the above described team of arborists provided their report and recommendations to City staff, and the City Council discussed that report and those recommendations at a Council study session on May 7, 2019; and

WHEREAS, the City Council instructed staff to proceed with action items identified in the May 7, 2019 staff report including drafting a new ordinance to revise the City's tree and vegetation regulations; and

WHEREAS, on February 25, 2020, the City Council endorsed the continuing work by City staff and the City Arborist to draft an ordinance that would include changes to Chapter 16.18 BIMC (Tree Removal, Forest Stewardship, and Vegetation Maintenance), Chapter 16.32 BIMC (Protection of Landmark Trees), and BIMC 18.15.010 (Development Standards and Guidelines); and

WHEREAS, at scheduled open meetings, City staff met with the Planning Commission to discuss draft regulations related to Ordinance No. 2020-28 (which was renumbered in 2021 to Ordinance No. 2021-07) on August 13, September 10, October 29, November 11, and December 10, 2020; and

WHEREAS, Ordinance No. 2020-28 included BIMC Chapter 16.18 (fka Exhibit A), 16.32 (fka Exhibit B) and Sections 18.15.010 (fka Exhibit C) & 16.20.100 (fka Exhibit D) and the Community Forest Best Management Practices Manual (fka Exhibit E); and

WHEREAS, Exhibit A (fka Exhibit B) of Ordinance No. 2021-07 now amends BIMC Chapter 16.32 to make the interim ordinance permanent, to simplify and update code language, expand the applicable area of the Landmark Tree Ordinance ("LTO") and improve the list of qualifying trees and characteristics; and

WHEREAS, on December 17, 2020, the Planning Commission held a public hearing to consider Ordinance No. 2020-28 including Exhibits fka A – E, received public input, and after closing the public hearing, made a recommendation of approval of Ordinance No. 2020-28 to the City Council; and

WHEREAS, the City notified the Department of Commerce on January 21, 2021 of its intent to revise its development regulations relating to tree removals and vegetation management practices; and

WHEREAS, the City issued a State Environmental Policy Act ("SEPA") Determination of Non-Significance for Ordinance No. 2021-07 (formerly Ordinance No. 2020-28) on January 29, 2021; and

WHEREAS, at a scheduled open meeting, the City Council considered Ordinance No. 2021-07 on April 27, 2021, took no action on the Ordinance and the Council expressed a collective interest in further considering the ordinance at a future meeting; and

WHEREAS, on May13, 2021, City staff returned to the Planning Commission to discuss additional edits to Ordinance No. 2021-07 based on City Council comments; and

WHEREAS, on May 27, 2021, the Planning Commission continued to discuss comments from the City Council in relation to the landmark tree ordinance and decided to separate and move Exhibit A (fka Exhibit B) forward to the City Council and continue their work on Exhibits fka A (BIMC 16.18), C (BIMC Section 18.15.010), D (BIMC 16.20.100) & E (Community Forest Best Management Practices Manual) at a later meeting; and

WHEREAS, at a scheduled open meeting on June 10, 2021, the Planning Commission held the second public hearing to consider Ordinance No. 2021-07 and receive public comment, and after closing the public hearing, chose to continue working on the ordinance to further refine protections for landmark trees; and

WHEREAS, at a scheduled open meeting on June 24, 2021, the Planning Commission discussed Ordinance No. 2021-07 and directed city staff to make revisions to the qualifying characteristics for Landmark Trees; and

WHEREAS at a scheduled open meeting on October 14, 2021 the Planning Commission reviewed the revisions asked for at the previous meeting; and

WHEREAS at a scheduled open meeting on October XX, 2021 the Planning Commission held the third public hearing and made a recommendation to City Council to approve Ordinance No. 2021-07 and Resolution 2021-XX; and

WHEREAS at a scheduled open meeting on XXXX, 2021 the City Council reviewed Ordinance No.2021-07 and Resolution No. 2021-XX; and

WHEREAS, at a scheduled open meeting on XXXX, 2021, the City Council approved Ordinance No. 2021-07 on the consent agenda;

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

Section 1. Findings of Fact. The recitals set forth above are hereby adopted as findings of fact in support of this ordinance, as well as supplemental findings of fact to the related ordinances that preceded this ordinance regarding the interim official control regulating Landmark Trees as described herein.

Section 2. Chapter 16.32 of the Bainbridge Island Municipal Code is hereby amended and revised as set forth in the attached Exhibit A, which is incorporated by reference as if fully set forth herein.

Section 3. Termination of Interim Official Control Set Forth in Ordinance No. 2021-17. The amendments and revisions to Chapter 16.32 of the Bainbridge Island Municipal Code

that are being adopted via this ordinance will result in regulations that meet what was identified as the remaining work in the work plan for the current interim official control that has been in place most recently via Ordinance No. 2021-17 and the directly related ordinances that preceded Ordinance No. 2021-17, which effectuated an extension of an existing interim official control. This Ordinance No. 2021-07 hereby terminates the interim official control set forth in Ordinance No. 2021-17 upon the effective date of this Ordinance No. 2021-07.

Section 4. Interpretive Authority. The City of Bainbridge Island Director of Planning and Community Development, or designee, is hereby authorized to issue official interpretations arising under or otherwise necessitated by this ordinance.

Section 5. Severability. Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 6. This ordinance shall take effect and be in force five (5) days from its passage and publication as required by law.

PASSED by the City Council this ____ day of _____, 2021.

APPROVED by the Mayor this ____ day of _____, 2021.

Rasham Nassar, Mayor

ATTEST/AUTHENTICATE:

Christine Brown, CMC, City Clerk

FILED WITH THE CITY CLERK:	_____, 2021
PASSED BY THE CITY COUNCIL:	_____, 2021
PUBLISHED:	_____, 2021
EFFECTIVE DATE:	_____, 2021
ORDINANCE NUMBER:	2021-07

ATTACHED EXHIBITS:

Exhibit A



CITY OF
BAINBRIDGE ISLAND

Planning Commission Special Meeting Agenda Bill

MEETING DATE: October 14, 2021

ESTIMATED TIME: 30 Minutes

AGENDA ITEM: (7:35 PM) - Review Comprehensive Plan and Winslow Master Plan goals and policies relevant to hotels as a use

AGENDA CATEGORY: Discussion

PROPOSED BY: Jennifer Sutton

**PREVIOUS PLANNING COMMISSION
REVIEW DATE(S):**

PREVIOUS COUCIL REVIEW DATE(S):

RECOMMENDED MOTION:

Make an initial advisory recommendation to the City Council on whether hotels are a use consistent with the goals and policies of the comprehensive plan.

SUMMARY:

The purpose of the Planning Commission discussion, as directed by the City Council, is to:

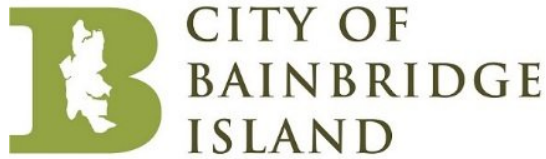
- Review Comprehensive Plan and Winslow Master Plan goals and policies relevant to hotels as a use
- Make an initial advisory recommendation on whether hotels are a use consistent with the goals and policies of the comprehensive plan.

BACKGROUND: Ordinance No. 2021-03 was approved by the City Council on April 13, 2021 (attached) and it prohibited new hotels in the MUTC Central Core, Gateway, and Ferry Terminal districts. Hotels were a conditional use in these zones, and a permitted use in the High School Road districts. As part of their recommendation to the Council, the Planning Commission indicated that this new prohibition on new hotels in the referenced zoning districts is intended to allow time for the completion by the Planning Commission and the City Council of a review of definition of “hotel” and to determine if and how new hotels within these specific zoning districts is a use consistent with the City’s Comprehensive Plan. If “hotels” are a land use consistent with the Comprehensive Plan in some zones, then the City should consider whether new Use Specific Standards (BIMC Section 18.09.030) are necessary.

On July 20, 2021, the City Council directed the Planning Commission provide an initial advisory recommendation on whether hotels of some sort, with a use and definition standard to be determined, is a use consistent with the goals and policies of the comprehensive plan. After receiving the initial recommendation, the City Council will either 1) request that

the Planning Commission move forward with development of a revised definition and use specific standard for hotels or 2) defer the work and incorporate that into the Winslow Master Plan update.

ATTACHMENTS:



Department of Planning and Community Development

Memorandum

Date: October 14, 2021

To: Planning Commission

From: Jennifer Sutton, AICP
Senior Planner

Subject: Discuss Where "Hotels" as a Land Use Should be Allowed

I. Meeting Purpose

The purpose of tonight's Planning Commission discussion, as directed by the City Council, is to:

- Review Comprehensive Plan and Winslow Master Plan goals and policies relevant to hotels as a use
- Make an initial advisory recommendation on whether hotels are a use consistent with the goals and policies of the comprehensive plan.

II. BACKGROUND

Ordinance No. 2021-03: Triage Phase 1

On June 22, 2020, the City Council formed a City Council and Planning Commission joint land use subcommittee ("Joint Subcommittee") consisting of Councilmembers Carr, Hytopoulos, and Pollock. The Planning Commission selected commissioners Bill Chester, Kim McCormick-Osmond, and Lisa Macchio to serve on the Joint Subcommittee. The Council directed the Joint Subcommittee to "provide recommendations to the Council on a process to clarify an approach for affordable housing initiatives as well as to develop a process and list for undertaking work on priorities for land use code revisions."

The list of recommended priority code changes from the Joint Subcommittee was presented to the Council on October 13, 2020 and recommended to be forwarded to the Commission for immediate legislative work. The Joint Subcommittee requested, with the Council's approval, that the Planning Commission complete its portion of the required legislative work as follows: (1) Miscellaneous code revisions December 31, 2020; (2) Major projects decision criteria January 31, 2021; (3) MFTE program December 31, 2020. The Planning Commission discussed the code changes forwarded from the Council at their meeting on October 29, 2020, and separating the list of changes into two categories. Disparate Code changes identified by the Joint Subcommittee as "Triage" or housekeeping changes will move forward with Planning Commission review in a 1st phase "Triage" ordinance, Ordinance 2021-03 (formerly 2020-40). This list of miscellaneous code changes included prohibiting new hotels in the MUTC Central Core, Gateway, and Ferry Terminal districts. Hotels are were a conditional use in these zones, and a permitted use in the High School Road districts.

The Planning Commission discussed this body of work in the fall of 2020, and on December 10, 2020 held a public hearing and voted to recommend the ordinance to the City Council. As part of their recommendation to the Council, the Planning Commission indicated that this new prohibition on new hotels in the referenced zoning districts is intended to allow time for the completion by the Planning Commission and the City Council of a review of definition of “hotel” and to determine if and how new hotels within these specific zoning districts is a use consistent with the City’s Comprehensive Plan. If “hotels” are a land use consistent with the Comprehensive Plan in some zones, then the City should consider whether new *Use Specific Standards* (BIMC Section 18.09.030) are necessary. The City Council discussed the ordinance February 9 and March 23, 2021; and approved the ordinance on April 13, 2021 (see attached).

On July 20, 2021, the City Council directed the Planning Commission provide an initial advisory recommendation on whether hotels of some sort, with a use and definition standard to be determined, is a use consistent with the goals and policies of the comprehensive plan. After receiving the initial recommendation, the City Council will either, 1) request that the Planning Commission move forward with development of a revised definition and use specific standard for hotels or 2) defer the work and incorporate that into the Winslow Master Plan update.

III. Existing Relevant Municipal Code Development Regulations & Comprehensive Plan Goals & Policies

Development Regulations

See the definition of a “hotel” and the smaller “inn” from the [City’s zoning code \(BIMC 18.36.030\)](#).

“Hotel” means a building or group of buildings containing guest rooms, where, for compensation, lodging is provided for transient visitors. A hotel or motel may contain one or more restaurants. A hotel or motel is not a bed and breakfast lodging or inn as defined and regulated elsewhere in this code. Short-term rental (less than 30 days at a time) of a single-family residence does not constitute a hotel.

Insert MUTC development standard tables.

“Inn” means a building or group of buildings containing up to 15 guest rooms, where, for compensation, lodging is provided for transient visitors. An inn may contain a kitchen and/or dining room for serving meals to its guests. Individual rooms may include a bar-type sink and under-counter refrigerator but may not include a full sink, full-sized refrigerator or cooking range. An inn is not a hotel, motel or bed and breakfast lodging as defined and regulated elsewhere in this title.

Development projects such as new hotels must meet many regulations and rigorous permitting requirements. If the use is permitted in the zone proposed, then a Site Plan and Design Review permit ([BIMC Section 2.16.040](#)) would be required. If the use is a conditional use in the zone, then a Conditional Use permit ([BIMC Section 2.16.110](#)) is also required. This type of project requires design review by the Design Review Board, a public participation meeting early in the process, as well as a public meeting and recommendation from the Planning Commission once staff review of the project is complete. A conditional use permit would require a public hearing in front of the Hearing Examiner

In addition to any [zoning](#), [environmental](#), [stormwater management](#) or [design standards and guidelines](#), this type of project would require to complete a [traffic analysis](#). Hotel parking requirements range between 1-4 spaces per 1,000 square feet of building area ([BIMC Table 18.15.020-2](#)). Currently, there are not any additional [Use Specific Standards \(BIMC Section 18.09.030\)](#) required for hotels.

Comprehensive Plan Goals & Policies

There are [Comprehensive Plan policies](#) and the [Winslow Master Plan](#) sections that relate to “hotels” as a use in the City’s town center of downtown Winslow. These goals and policies are discussed and analyzed in the attached documents related to review of the Winslow Hotel development project:

- the staff report to the Hearing Examiner on the project,
- the recorded motion from the Planning Commission which describes the Commission’s recommendation of denial of the Winslow Hotel project,
- the Hearing Examiner decision approving the Winslow Hotel project.

Although many sections of the [Comprehensive Plan](#) can be read as addressing the “hotel” use in the downtown area, most of the policies addressed by staff and the Planning Commission can be found in the following sections: [Land Use Element](#), [Economic Element](#), and the [Winslow Master Plan](#)

IV. NEXT STEPS

The Planning Commission should provide an initial advisory recommendation on whether hotels are a use consistent with the goals and policies of the comprehensive plan. After the Planning Commission makes this recommendation, the City Council will either:

- 1) Request that the planning commission move forward with development of a revised definition and use-specific standards for hotels, or
- 2) Defer this work and incorporate that into the Winslow Master Plan update.

ORDINANCE NO. 2021-03

[Formerly Ordinance No. 2020-40]

AN ORDINANCE of the City of Bainbridge Island, Washington, amending BIMC 2.16.030, 2.16.040, 2.16.110, 2.16.125, 2.16.190, 18.09.030, and Table 18.09.020 related to priority clarifying code changes and prohibiting new hotels in certain zoning districts.

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

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

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

WHEREAS, the Planning Commission considered the proposed changes on October 29, November 12, and November 19, 2020; and

WHEREAS, the Planning Commission held a public hearing on this ordinance, which was then titled as Ordinance No. 2020-40, on December 10, 2020, and after closing the public hearing, made a recommendation of approval of Ordinance No. 2020-40 to the City Council; and

WHEREAS, notice was given on December 17, 2020, to the Office of Community Development at the Washington State Department of Commerce in conformance with RCW 36.70A.106; and

WHEREAS, on February 9, 2021, the City Council discussed enacting the housing affordability provisions of Ordinance No. 2021-03 (formerly Ordinance No. 2020-40) related to updates to BIMC 18.21.020 on a priority basis and allowing for additional time for consideration related to the other provisions of Ordinance No. 2021-03, based on the Council’s concern about the limited number of affordable housing units on Bainbridge Island; and

WHEREAS, at a special meeting on February 11, 2021, the City Council approved Ordinance No. 2021-11 updating BIMC 18.21.020 and, therefore, those provisions have been removed from this Ordinance No. 2021-03; and

WHEREAS, the City Council considered this ordinance at its meeting on March 23, 2021 and, after consideration and discussion, including related to a proposed section that was added to clarify more specifically the projects to which this ordinance applies,

the Council forwarded this ordinance to the consent agenda for the April 13, 2021 Council meeting; and

WHEREAS, at the City Council meeting on April 6, 2021, the Council took action to modify its agenda for its April 13, 2021 meeting such that consideration of this ordinance was moved from the consent agenda to the unfinished business agenda for that meeting; and

WHEREAS, at the City Council meeting on April 13, 2021, the Council considered and took action on this ordinance; and

WHEREAS, as articulated in the Planning Commission's Recorded Motion from its December 10, 2020 meeting, this ordinance, in relevant part, clarifies that the Planning Director and the Hearing Examiner should give substantial weight to Planning Commission recommendations of approval on land use permits, including recommendations of denial, and prohibits new hotels in the Central Core, Gateway, and Ferry Terminal zoning districts; and

WHEREAS, as also articulated in the Planning Commission's Recorded Motion from its December 10, 2020 meeting, this ordinance, in relevant part, is intended to provide clarity to the decision-maker with respect to the treatment of a Planning Commission recommendation of denial and whether a decision can be remanded to the Hearing Examiner, and to clarify that the prohibition on new hotels in the referenced zoning districts is intended to allow for the completion by the Planning Commission and the City Council of a review of definition and use standards to determine if and how new hotels within these specific zoning districts is a use consistent with the City's Comprehensive Plan.

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

Section 1. Section 2.16.030.D. of the Bainbridge Island Municipal Code is hereby amended to read as follows:

D. Decision Procedures.

1. Criteria for Decision. In making the decision, the department director shall consider the applicable decision criteria of this code, all other applicable law, and any necessary documents and approvals. When no other criteria are specified, the director shall apply the following criteria:
 - a. The application must comply with all applicable requirements of the BIMC as well as state and federal law.
 - b. The application is consistent with the adopted comprehensive plan, and specifically with the character or intended character of the area in which the property is located, as described in the comprehensive plan.

2. Environmental Review. For a land use application subject to Chapter 43.21C RCW and Chapter 16.04 BIMC, a SEPA threshold determination may be issued simultaneously with the final decision of the land use application.
3. Planning Commission Recommendation. When written public comments are received during the public comment period concerning the effect of the land use application on the comprehensive plan, shoreline master program or matters not addressed by specific provisions of this code, the director may request the planning commission to review an application and make a written recommendation prior to the director making a decision. The planning commission will consider the land use application at a public meeting. The planning commission shall recommend approval, approval with conditions or denial of an application. In making a recommendation, the planning commission shall consider the applicable decision criteria of this code, all other applicable law, and any necessary documents and approvals. If the applicable criteria are not met, the planning commission shall recommend the proposal be modified or denied. A planning commission recommendation is not a final decision and therefore there is no appeal of the recommendation. The planning commission's written recommendation and other documents upon which its decision is based shall be immediately transmitted to the director and shall be given substantial weight by the director in making a decision.

Section 2. Section 2.16.040.E.5. of the Bainbridge Island Municipal Code is hereby amended to read as follows:

5. Review and Recommendation by Planning Commission.
 - a. In the case of a major site plan and design review application, the planning commission shall review the application prior to the review and final decision by the director.
 - b. The purpose of the planning commission review and recommendation meeting is to review a proposed project for consistency with applicable design guidelines, BIMC Title 17, and the comprehensive plan.
 - c. The planning commission shall consider the application at a public meeting where public comments will be taken. The planning commission shall recommend approval, approval with conditions or denial of an application. In making a recommendation, the planning commission shall consider the applicable decision criteria, all other applicable law, and the recommendation of the design review board. If the applicable criteria are not met, the planning commission shall recommend the proposal be modified or denied.
 - d. The design review board's recommendation shall hold substantial weight in the consideration of the application by the planning commission. Any

deviation from the recommendation shall be documented in their written findings of facts and conclusions.

- e. The planning commission will forward its written findings of facts and conclusions, their determination of the project's consistency with the comprehensive plan, and their recommendation, including any conditions attached by the planning commission and design review board, to the staff planner. The planning commission's written findings will be included in the staff report transmitted to the director. The planning commission's recommendation shall be given substantial weight by the director in making a decision.
- f. A planning commission recommendation is not a final decision and therefore there is no appeal of the recommendation.

Section 3. Section 2.16.040.E.6. of the Bainbridge Island Municipal Code is hereby amended to read as follows:

6. Review and Approval by Director.

- a. The director shall review the application materials, information provided by the health district and city engineer, staff report, any public comments received, the recommendations of the design review board and, in the case of major site plan and design review applications, the recommendations of the planning commission, and shall make a final decision based on:
 - i. In the case of a minor site plan and design review application, the final decision on an application is made by the director based on (A) decision criteria in subsection F of this section, (B) the DRB recommendation, and (C) consideration of any public comments received.
 - ii. In the case of a major site plan and design review application, the director will make the final decision based on (A) the decision criteria in subsection F of this section, (B) the recommendation of the planning commission, (C) the recommendation of the design review board, and (D) consideration of any public comments received. The design review board and planning commission's recommendation shall hold substantial weight in the consideration of the application by the director. Any deviation from that recommendation shall be documented in the director's report.
- b. The director shall make compliance with the recommendations of the design review board and/or planning commission a condition of approval, unless the director concludes that the recommendations:
 - i. Reflect inconsistent application of design guidelines or any applicable provisions of this code;

- ii. Exceed the authority of the design review board or planning commission;
 - iii. Conflict with SEPA conditions or other regulatory requirements applicable to the project; or
 - iv. Conflict with requirements of local, state, or federal law.
- c. The director shall adopt a planning commission recommendation of denial of an application unless the director concludes that the recommendation:
 - i. Reflects inconsistent application of design guidelines, the Comprehensive Plan, or any applicable provisions of this code;
 - ii. Exceeds the authority of the design review board or planning commission;
 - iii. Conflicts with SEPA conditions or other regulatory requirements applicable to the project; or
 - iv. Conflicts with requirements of local, state, or federal law.

Section 4. Section 2.16.040.F. of the Bainbridge Island Municipal Code is hereby amended to read as follows:

- F. Decision Criteria. The director and planning commission shall base their respective recommendations or decisions on site plan and design review applications on the following criteria:
- 1. The site plan and design is consistent with all applicable provisions of the BIMC, design guidelines, the Comprehensive Plan, and applicable subarea and master plans; and
 - 2. The locations of the buildings and structures, open spaces, and landscaping result in a context-sensitive design; and
 - 3. The Kitsap public health district has determined that the site plan and design meets the following decision criteria:
 - a. The proposal conforms to current standards regarding domestic water supply and sewage disposal; or if the proposal is not to be served by public sewers, then the lot has sufficient area and soil, topographic and drainage characteristics to permit an on-site sewage disposal system; and
 - b. If the health district recommends approval of the application with respect to those items in subsection F.3.a of this section, the health district shall so advise the director; and

- c. If the health district recommends disapproval of the application, it shall provide a written explanation to the director; and
- 4. The streets and nonmotorized facilities, as proposed, are adequate to accommodate anticipated traffic; and
- 5. The city engineer has determined that the site plan and design meets the following decision criteria:
 - a. The site plan and design conforms to regulations concerning drainage in Chapters 15.20 and 15.21 BIMC; and
 - b. The site plan and design will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use of properties downstream; and
 - c. The streets, nonmotorized facilities, locations of the buildings, structures, and vehicular circulation systems as proposed align with and are otherwise coordinated with streets and nonmotorized facilities serving adjacent properties and are adequate, safe, efficient and consistent with the Island-Wide Transportation Plan; and
 - d. If a traffic study shows that the proposed development will have an adverse impact on traffic, including nonmotorized traffic, the impact shall be mitigated as required by the city engineer; and
 - e. If the site will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the site, and the required service(s) can be made available at the site; and
 - f. The site plan and design conforms to the “City of Bainbridge Island Engineering Design and Construction Standards and Specifications,” unless the city engineer has approved a deviation from the standards; and
- ~~6. The site plan and design is consistent with applicable design guidelines in BIMC Title 18; and~~
- 6.7. No harmful or unhealthful conditions are likely to result from the proposed site plan; and
- ~~8. The site plan and design is consistent with the comprehensive plan and other applicable adopted community plans; and~~
- 7.9. If the subject property contains a critical area or buffer, as defined in Chapter 16.20 BIMC, the site plan and design review permit conforms to all requirements of that chapter; and

~~8~~ 10. If the subject property is within the shoreline jurisdiction, as defined in Chapter 16.12 BIMC, the site plan and design review permit conforms to all requirements of that chapter; and

~~9~~ 11. If the applicant is providing privately owned open space and is requesting credit against dedications for park and recreation facilities required by BIMC 17.20.020.C, the requirements of BIMC 17.20.020.D have been met;

~~10~~ 12. The Bainbridge Island fire department has reviewed the application and determined that the site plan has been properly designed to ensure fire protection; and

~~11~~ 13. The site plan and design has been prepared consistent with the purpose and review procedures of this chapter.

Section 5. Section 2.16.110.E.4. of the Bainbridge Island Municipal Code is hereby amended to read as follows:

4. Review by Director.

- a. The director shall review the application materials, staff report, and the recommendations of the planning commission and shall prepare a report to the hearing examiner recommending approval, approval with conditions, or disapproval of the application.
- b. The planning commission's recommendation shall hold substantial weight in the consideration of the application by the director. Any deviation from that recommendation shall be documented in the director's report.
- c. The director shall adopt a planning commission recommendation of denial of an application unless the director concludes that the recommendation:
 - i. Reflects inconsistent application of design guidelines, the Comprehensive Plan, or any applicable provisions of this code;
 - ii. Exceeds the authority of the design review board or planning commission;
 - iii. Conflicts with SEPA conditions or other regulatory requirements applicable to the project; or
 - iv. Conflicts with requirements of local, state, or federal law.

Section 6. Section 2.16.110.E.5 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

5. Review and Public Hearing with Hearing Examiner.

- a. The hearing examiner shall consider the application materials and the director's recommendation at a public hearing following the procedures of BIMC 2.16.100.C and applicable provisions of BIMC 2.16.020.
- b. The hearing examiner shall make compliance with the recommendations of the planning commission a condition of approval, unless the hearing examiner concludes that the recommendations:
 - i. Reflect inconsistent application of design guidelines or any applicable provisions of this code;
 - ii. Exceed the authority of the design review board or planning commission;
 - iii. Conflict with SEPA conditions or other regulatory requirements applicable to the project; or
 - iv. Conflict with requirements of local, state, or federal law.
- c. The hearing examiner shall adopt a planning commission recommendation of denial of an application unless the hearing examiner concludes that the recommendation:
 - i. Reflects inconsistent application of design guidelines, the Comprehensive Plan, or any applicable provisions of this code;
 - ii. Exceeds the authority of the design review board or planning commission;
 - iii. Conflicts with SEPA conditions or other regulatory requirements applicable to the project; or
 - iv. Conflicts with requirements of local, state, or federal law.
- d. The hearing examiner may approve, approve with conditions, deny, or remand an application.

Section 7. Section 2.16.125.E.7. of the Bainbridge Island Municipal Code is hereby amended to read as follows:

7. Review and Public Hearing with Hearing Examiner.

- a. The hearing examiner shall consider the application materials and the director's recommendation at a public hearing following the procedures of BIMC 2.16.100.C and applicable provisions of BIMC 2.16.020.

- b. The hearing examiner shall make compliance with the recommendations of the planning commission a condition of approval, unless the hearing examiner concludes that the recommendations:
 - i. Reflect inconsistent application of design guidelines or any applicable provisions of this code;
 - ii. Exceed the authority of the design review board or planning commission;
 - iii. Conflict with SEPA conditions or other regulatory requirements applicable to the project; or
 - iv. Conflict with requirements of local, state, or federal law.
- c. The hearing examiner shall adopt a planning commission recommendation of denial of an application unless the hearing examiner concludes that the recommendation:
 - i. Reflects inconsistent application of design guidelines, the Comprehensive Plan, or any applicable provisions of this code;
 - ii. Exceeds the authority of the design review board or planning commission;
 - iii. Conflicts with SEPA conditions or other regulatory requirements applicable to the project; or
 - iv. Conflicts with requirements of local, state, or federal law.

Section 8. Section 2.16.190.G.1. of the Bainbridge Island Municipal Code is hereby amended to read as follows:

- 1. Preapplication Conference. Prior to submittal of a comprehensive plan amendment application, the applicant or applicant's representative shall attend a preapplication conference in accordance with the procedures of BIMC 2.16.020.I. City staff will notify the planning commission if preapplication conferences are scheduled and representatives from the planning commission may attend the preapplication meeting to provide early identification of potential comprehensive plan consistency issues. Interested persons ~~citizens~~ may attend the preapplication meeting.

Section 9. Table 18.09.020 of the Bainbridge Island Municipal Code is hereby amended as shown in Exhibit A.

Section 10. Section 18.09.030.D.1. of the Bainbridge Island Municipal Code is hereby amended to read as follows:

D. Commercial Sales and Service.

1. ~~Hotel. In the ferry overlay district, hotels are permitted south of Winslow Way only.~~

Section 11. Severability. Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 12. This ordinance shall take effect and be in force five (5) days from its passage and publication as required by law.

PASSED by the City Council this 13th day of April, 2021.

APPROVED by the Mayor this 13th day of April, 2021.



Rasham Nassar, Mayor

ATTEST/AUTHENTICATE:



Christine Brown, CMC, City Clerk

FILED WITH THE CITY CLERK:	March 19, 2021
PASSED BY THE CITY COUNCIL:	April 13, 2021
PUBLISHED:	April 16, 2021
EFFECTIVE DATE:	April 21, 2021
ORDINANCE NUMBER:	2021-03

Exhibit A to Ordinance No. 2021-03

Table 18.09.020 Use Table

“P” = Permitted Use			“A” = Accessory Use								Additional use restrictions for Chapters 16.12 and 16.20 BIMC may apply to shoreline or critical area properties									
“C” = Conditional Use			“CA” = Conditional Accessory Use																	
Blank = Prohibited Use			“T” = Temporary Use																	
ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
USE CATEGORY/TYPE											CC	MA	EA	Gate	Ferry [1]					
COMMERCIAL SALES AND SERVICE																				
Note: Commercial Sales and Service uses may be subject to additional requirements in BIMC 16.12.040.D, Commercial Development.																				
Accommodation																				
Bed and Breakfast (3+ bedrooms)	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P			
Inn											P	P	P	P	P	P	P			
Hotel											€			€	€	P				D-1

Planning Commission Recorded Motion

Planning Commission Meeting Date:	July 25, 2019
Project Proposal Name and Number:	Winslow Hotel PLN50880 CUP/SPR
Documents available at:	<u>Online Permit Portal</u>
Public Hearing Date:	To Be Determined
Decision Maker:	Hearing Examiner

Purpose: For major site plan and design review and recommendation and major conditional use permit review and recommendation, the purpose of the Planning Commission's review and recommendation is to determine if a proposed project is consistent with the comprehensive plan and applicable design guidelines, BIMC Title 17.

Consideration: The planning commission shall consider the project application at a public meeting where public comment will be taken. The Planning Commission shall recommend approval, approval with conditions, or denial of the proposed project. In making a recommendation, the planning commission shall consider the applicable decision criteria, all other applicable law, and the recommendation of the design review board. If the applicable criteria are not met, the planning commission shall recommend the proposal be modified or denied.

The planning commission will forward its written findings of facts and conclusions, their determination of the project's consistency with the comprehensive plan, and their recommendation, including any conditions attached by the planning commission and design review board, to the staff planner. The planning commission's written findings will be included in the staff report transmitted to the director.

Findings of Fact and Reasons for Action

1. The project is either:

_____ Found to meet the recommendations by the Design Review Board; **OR**

 X Recommended for deviation from the Design Review Board's recommendation for the following reasons:

See attached Findings of Fact and Conclusions dated July 25, 2019.

Planning Commission Recorded Motion

Recommendation:

The Planning Commission recommends the Director of Planning and Community Development and the Hearing Examiner:

- _____ Approve the proposal as recommended.
 _____ Approve the proposal with the following changes:
 X Deny the proposal for the following reasons:

See attached Findings of Fact and Conclusions dated July 25, 2019.

Recorded motion on July 25, 2019:

I move that we deny the application for a major conditional use permit and a major site plan review for the Winslow Hotel project for the reasons stated in the Findings of Facts and Conclusions attached to this recommendation document.

Motion and second: McCormick Osmond/Paar

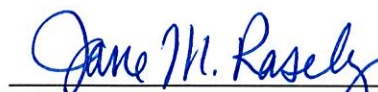
Planning Commission Record of Vote:

Commissioner	Support	Oppose	Absent	Abstain
Chester	X			
McCormick Osmond	X			
Pearl	X			
Quitslund	X			
Macchio	X			
Doman	X			
Paar	X			
Total	7			

CITY OF BAINBRIDGE ISLAND PLANNING COMMISSION


Chair

Date: 7/25/2019


Administrative Specialist, Planning and Community Development

Date: 7-25-19

WINSLOW HOTEL PROJECT
FINDINGS OF FACT AND CONCLUSIONS

FINDINGS OF FACT

I. Project Description

1. The applicant submitted a Master Land Use Application, dated December 27, 2018 (MLUA), for the Winslow Hotel project, project numbers PLN50880 SPR and PLN 50880 CUP. The MLUA describes the project as a hotel with approximately 75 rooms, with associated banquet and meeting rooms, restaurant and bar, spa and back of house spaces, with landscaped courtyard and both under building and surface parking. The project is located on two parcels – 272502-4-098-2009 and 272505-4-097-2000.

2. The application was revised on April 26, 2019, to add 12 rooms and 12 parking spaces. The applicant also updated the traffic study, State Environmental Policy Act (SEPA) checklist and water/sewer availability request.

3. The application was revised again on June 4, 2019, to clarify locations of disabled access parking, electric vehicle charging stations, bicycle parking and street trees.

4. The MLUA seeks two land use approvals: (1) a major conditional use permit (CUP) and (2) a major site plan and design review approval. The two land use approvals are being reviewed under the consolidated project review process under BIMC 2.16.040.E(7).

5. The project is subject to SEPA review. The Revised Notice of Application/SEPA Comment Period, renoticed April 26, 2019, describes the project as an 87-room hotel, associated banquet space and meeting rooms, restaurant and bar, spa, and back of house spaces. The hotel is designed around a courtyard that includes preservation of a Giant Sequoia (62.5" in diameter), a reflecting pond, ceremony space, a band shell and landscaping. All parking is located on site, both under the building and in surface parking lots, totaling a minimum of 132 spaces.

6. In a presentation to the Planning Commission on June 13, 2019, the applicant described the project as follows: Redevelopment of two properties with an 87-room hotel, banquet space and meeting rooms, restaurant and bar, and spa. All parking is located on site, both under the building and in surface parking lots, totaling 136 spaces. The landscaped courtyard includes preservation of a giant sequoia and other significant trees, a reflecting pond, and a bandshell. Frontage improvements include a six-foot wide sidewalk, bike lane, two on-street parking spaces, an electric vehicle charging station, planting strips, and street trees.

7. Proposed lot coverage is 39% (31,535 sf) and proposed Floor Area Ratio (FAR) is 0.91 (73,571 sf).

8. The site is directly adjacent to residential townhomes on the west, residential senior housing on the south (four buildings), mixed residential/office to the east, and residential/retail to the north.

9. Proposed building base height is 35 feet, with a bonus height of 45 feet due to proposed underground parking on 12,240 sf. The building as proposed is taller than buildings adjacent to it on all four sides.

10. Base FAR permitted is 0.6 FAR (48,513 sf). Max FAR permitted with bonus is 1.00 FAR (80,855 sf). Proposed FAR is 0.91 (73,571 sf), with hotel use of 57,010 sf; spa of 3,916 sf; event and meeting space of 7500 sf; restaurant/bar/lobby of 2,775 sf; kitchen of 2,370 sf. Total bonus FAR needed is 25,058 sf.

11. Average weekly daily vehicle trips for the hotel are 727, as stated in the SEPA Checklist and the Heath & Associates traffic study submitted by the applicant. Peak hour trips are 52.

12. Proposed parking is 136 parking spaces – 82 under building, 38 surface, 14 service entrance and 2 on-street.

13. Peak occupancy demand for parking is 191 parking spaces (7,350 sf of event space in use and full occupancy of hotel rooms), according to a memorandum from the applicant's parking consultant, Walker Consultants, dated June 12, 2019. It is undecided how the additional 55 parking spaces will be provided.

II. Major Conditional Use Permit

14. BIMC 2.16.110.A. states: "A major conditional use permit is a mechanism by which the city may require specific conditions on development or the use of land to ensure that designated uses or activities are compatible with other uses in the same zone and in the vicinity of the subject property. If imposition of conditions will not make a specific proposal compatible the proposal shall be denied."

15. BIMC 18.09.020 classifies a hotel as a conditional use in the Mixed Use Town Center (MUTC), Central Core Overlay District (Core), Gateway and Ferry districts.

16. BIMC 18.09.020 allows a hotel as a permitted use in the High School Road (HSR) I and II districts. BIMC 18.36.030(130) defines "hotel" as "a building or group of buildings containing guest rooms, where, for compensation, lodging is provided for transient visitors. A hotel or motel may contain one or more restaurants. A hotel or motel is not a bed and breakfast lodging or inn as defined and regulated elsewhere in this code. Short-term rental (less than 30 days at a time) of a single-family residence does not constitute a hotel."

17. All of the hotels currently existing in the Winslow area are located in the HSR districts. The project as proposed would be the largest hotel on Bainbridge by 32 rooms and the only full service hotel.

18. BIMC 18.09.020 allows a bed and breakfast as a permitted use in the MUTC and Core district. BIMC 18.36.030(34) defines "bed and breakfast" as "a single-family residence that is owner-occupied and in which (a) three or more guest rooms are provided within the residence or within accessory buildings, for compensation, as overnight accommodations for transient visitors who remain no longer than two weeks in any one visit, and (b) breakfast is customarily included in the charge for the room. A bed and breakfast lodging is not a hotel, motel, inn, home occupation or other use defined or regulated elsewhere in this title, except that bed and breakfast establishments containing one or two sleeping rooms may be considered a minor home occupation as defined and regulated elsewhere in this title."

19. BIMC 18.09.020 allows an inn as a permitted use in the MUTC and Core district. BIMC 18.36.030(132) defines "inn" as "a building or group of buildings containing up to 15 guest rooms, where, for compensation, lodging is provided for transient visitors. An inn may contain a kitchen and/or

dining room for serving meals to its guests. Individual rooms may include a bar-type sink and under-counter refrigerator but may not include a full sink, full-sized refrigerator or cooking range. An inn is not a hotel, motel or bed and breakfast lodging as defined and regulated elsewhere in this title.”

20. The project as proposed includes a hotel with almost 6 times the number of rooms (87) that are permitted in the MUTC and Core district (15 rooms for an inn).

21. Under BIMC 2.16.110.F(2), “if no reasonable conditions can be imposed that ensure the application meets the decision criteria of this chapter, then the application shall be denied.”

22. Under BIMC 2.16.110.F(1), the following criteria are applicable to the proposed Winslow Hotel (emphasis added):

- a. **The conditional use is harmonious and compatible in design, character and appearance with the intended character and quality of development in the vicinity of the subject property** and with the physical characteristics of the subject property; . . . and
- b. The conditional use will be served by adequate public facilities including roads, water, fire protection, sewage disposal facilities and storm drainage facilities; and
- c. **The conditional use will not be materially detrimental to uses or property in the vicinity of the subject property;** and
- d. **The conditional use is in accord with the comprehensive plan and other applicable adopted community plans, including the Island-Wide Transportation Plan;** and
- e. **The conditional use complies with all other provisions of the BIMC . . . ;** and
- f. **All necessary measures have been taken to eliminate or reduce to the greatest extent possible the impacts that the proposed use may have on the immediate vicinity of the subject property;** and
- g. **Noise levels shall be in compliance with BIMC 16.16.020 and 16.16.040.A;** and
- h. The vehicular, pedestrian, and bicycle circulation meets all applicable city standards, unless the city engineer has modified the requirements of BIMC 18.15.020.B.4 and B.5, allows alternate driveway and parking area surfaces, and confirmed that those surfaces meet city requirements for handling surface water and pollutants in accordance with Chapters 15.20 and 15.21 BIMC; and
- i. The city engineer has determined that the conditional use meets the following decision criteria:
 - i. The conditional use conforms to regulations concerning drainage in Chapters 15.20 and 15.21 BIMC; and
 - ii. The conditional use will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use and enjoyment of properties downstream; and
 - iii. The streets and pedestrian ways as proposed align with and are otherwise coordinated with streets serving adjacent properties; and
 - iv. The streets and pedestrian ways as proposed are adequate to accommodate anticipated traffic; and

v. If the conditional use will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the conditional use, and the applicable service(s) can be made available at the site; and

vi. The conditional use conforms to the “City of Bainbridge Island Engineering Design and Development Standards Manual,” unless the city engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of BIMC Title 17.

23. Under BIMC 2.16.110.F(1)(a) and (d), the decision criteria for approval of a major conditional use permit require that the project be harmonious and compatible in design, character and appearance with the intended character and quality of development in the vicinity of the subject property, and in accord with the comprehensive plan and other applicable adopted community plans.

24. The 2016 Comprehensive Plan and the Winslow Master Plan, dated May 21, 1998 and updated November 8, 2006, emphasize the importance of maintaining Winslow’s small town atmosphere and maintaining it as place for people to live, shop and work.

25. Comprehensive Plan Guiding Principle #1 states: Preserve the special character of the Island, which includes downtown Winslow’s small town atmosphere and function.

26. Comprehensive Plan Land Use Element states (emphasis added):

- Winslow Town Center – The Winslow Master Plan (Appendix D) encourages development of a neighborhood that contains a strong, vital downtown where people want to live, shop and work.
- Goal LU-7 – **The Winslow mixed use and commercial districts are designed to strengthen the vitality of downtown Winslow as a place for people to live, shop and work. The Winslow Mixed Use Town Center (MUTC) is intended to have a strong residential component to encourage a lively community during the day and at night. The high residential density of Winslow requires the Central Core Overlay District to provide services and products that meet the needs of residents as well as visitors.**
- Policy LU 7.1 – **Development within the MUTC and High School Road Districts shall be consistent with the Winslow Master Plan. . . . The use of FAR may result in an increase in the base level of development (density) over the existing zoning, but will provide greater flexibility in type and size of housing units that will further the goals of this plan.**

27. Comprehensive Plan Economic Element states, regarding Tourism (emphasis added):

- Policy EC 11.2 – **The predominant focus of downtown Winslow is to serve the commercial and social needs of Island residents.** A lively, pedestrian-oriented town center that provides a mix of commercial and residential uses creates a potential tourist destination.
- Policy EC 11.3 – Support the Island as a visitor destination by preserving and enhancing the unique qualities of our community

- Policy EC 11.5 – Encourage bed and breakfasts and other creative tourist accommodations.

28. The Winslow Master Plan (WMP) states (emphasis added):

Winslow Way is the Centerpiece of Downtown: A simple streetscape retains small-town character and a “sense of place.”

- Overall Land Use Goal WMP 2-1: Strengthen Winslow – the Island’s commercial, cultural and commuter hub – as a sustainable, affordable, diverse, livable and economically vital community by:
 - Encouraging downtown living;
 - Providing an enhanced pedestrian experience, with linked access to retail shopping, the ferry, major public facilities, open space and residential areas, and promoting and retaining visual access to Eagle Harbor
 - Promoting the efficient use of land;
 - Encouraging the retention and expansion of retail that serves the needs of community members and visitors;
 - Providing opportunities for business expansion and private reinvestment;
 - Promoting development that is sustainable and supports community values; and
 - Developing strategies that result in the creation of less expensive housing and retail space, thereby increasing diversity while minimizing dependence on the automobile.
- Goal WMP 2-3: Maintain and **Enhance Community Character** in the Mixed-Use Town Center:
 - Through the use of design guidelines, development standards and incentives, promote the development of courtyards that create a pattern of linked public and private gardens and gathering places, providing opportunities for pedestrian movement.
 - Through the use of design guidelines, development standards and incentives encourage stepped-back buildings that result in a softer street edge, the retention and enhancement of visual connections to Eagle Harbor and the creation and preservation of sun-filled public gathering spaces.
- Policy WMP 2-3.2: Through the use of design guidelines, development standards and incentives, promote the development of courtyards that create a pattern of linked public and private gardens and gathering places, providing opportunities for pedestrian movement.
- Policy WMP 2-3.3: Through the use of design guidelines, development standards and incentives encourage stepped-back buildings that result in a softer street edge, the retention and enhancement of visual connections to Eagle Harbor and the creation and preservation of sun-filled public gathering spaces.

- Goal WMP 2-5: Determine density and intensity of development in the Mixed Use Town Center and High School Road Districts through the Floor Area Ratio (FAR) method.
- Policy WMP 2-5.1: The bonus FAR provisions are a means of advancing specific Comprehensive Plan policies and community values.
- Policy WMP 2-5.2: Establish maximum FAR levels of development beyond the base for each of the districts through the use of bonus FAR provisions. The bonus FAR provisions are a means of advancing specific Comprehensive Plan policies and community values.

Central Core Overlay District

- **Policy WMP 2-6.1: Establish FARs and development standards that support mixed-use development at a level that encourages downtown living with a variety of housing sizes and types, provides commercial and retail services that meet the needs of the community, and enhances the vitality of the downtown.**

High School Road I and High School Road II Specific Policies

- Policy WMP 2-11.1: Establish FARs and development standards that provide for a variety of commercial uses that complement downtown Winslow and benefit from automobile access near the highway, while creating a pedestrian-friendly retail area.

III. Major Site Plan and Design Review

29. BIMC 2.16.040.C Major site plan and design review requires design review board and planning commission review and recommendation

30. BIMC 2.16.040.E(4) Review and Recommendation by Design Review Board

a. The purpose of the design review board review and recommendation meeting is to review a proposed project for compliance with applicable design guidelines and to ensure that the project reflects any revisions recommended by the design review board at the design guidance review meeting. The design review board will also consider any requested departures from the design guidelines.

b. The design review board will forward written findings, their determination of the project's consistency with the design guidelines, the design guideline checklist, and their recommendation, including any conditions, to the staff planner. Any condition attached to a recommendation must be intended to achieve consistency with one or more specific design guidelines. The design review board's written findings will be included in the staff report transmitted to the director or planning commission.

31. BIMC 2.16.040.E(5) Review and Recommendation by Planning Commission

a. In the case of a major site plan and design review application, the planning commission shall review the application prior to the review and final decision by the director.

b. **The purpose of the planning commission review and recommendation meeting is to review a proposed project for consistency with applicable design guidelines, BIMC Title 17, and the comprehensive plan.**

c. The planning commission shall consider the application at a public meeting where public comments will be taken. **The planning commission shall recommend approval, approval with conditions or denial of an application.** In making a recommendation, the planning commission shall consider the applicable decision criteria, all other applicable law, and the recommendation of the design review board. **If the applicable criteria are not met, the planning commission shall recommend the proposal be modified or denied.**

d. The design review board's recommendation shall hold substantial weight in the consideration of the application by the planning commission. Any deviation from the recommendations shall be documented in their written findings of facts and conclusion.

32. BIMC 2.16.040.F – Site Plan and Design Review Decision Criteria. The director and planning commission shall base their respective recommendations or decisions on site plan and design review applications on criteria that include:

1. The site plan and design is in conformance with applicable code provisions and development standards of the applicable zoning district . . .

5. The site plan and design is consistent with all applicable design guidelines in BIMC Title 18. . . .

7. The site plan and design is in conformance with the comprehensive plan and other applicable adopted community plans.

11. The site plan and design has been prepared consistent with the purpose of the site design review process and open space goals.

33. Development is governed by both zoning regulations and design guidelines. As explained in the Design Guidelines for Mixed Use Town Center and High School Road Zoning Districts and the Design Guidelines Applicable to the Central Core Overlay District:

- Zoning regulations address standards such as permitted uses, density, building height, parking requirements and building bulk.
- Design guidelines address site design, building design, signs and lighting.
- Projects proposed in the Core must address design guidelines applicable to the Central Core Overlay District, Mixed Use Town Center and Commercial and Mixed Use projects.

34. The DRB considered this project on December 7, 2018; January 7, 2019; May 6, 2019 and June 3, 2019. The DRB reviewed the proposed project's major site plan for consistency with the applicable design guidelines. It did not review the project for consistency with zoning regulations, which includes whether the project is a permitted use in the Core, or whether it is consistent with the Comprehensive Plan or Winslow Master Plan.

35. The Staff Report included DRB Findings and Recommendation, dated June 7, 2019, as an appendix. The DRB finds that the north facing façade on Winslow does not technically meet the MUTC and HSR District Design Guideline 8 requirement for upper level setbacks, but that the purpose of the Design Guideline was met because the building was “very light and airy, lots of glass and contributes to the street rather than creating a corridor affect.” The DRB also finds the east and west facing facades “are large and not well articulated and do not meet this guideline” with respect to Design Guideline 9, but references the addition of trees to break up large linear walls on both facades. The June 7, 2019 DRB Findings and Recommendation also included a recommendation that a study of noise levels should be undertaken because the levels are not known and cannot be evaluated adequately.

36. On June 17, 2019, the DRB issued a second set of Findings and Recommendations regarding the project’s consistency with applicable design guidelines. The DRB found that the project, as conditioned, was consistent with applicable design guidelines and that the project was not proposing any departures from the design guidelines. There was no further discussion of Design Guidelines 8 or 9, referenced in the June 7, 2019 Findings and Recommendation.

37. All of the DRB conditions pertained to the design of the structure itself and were included as proposed Condition 14 in the Staff Report. The DRB did not make any recommendations regarding the project’s consistency with the Comprehensive Plan or Winslow Master Plan, or whether it satisfied the decision criteria for a Major Conditional Use Permit.

38. On June 18, 2019, DRB Chair Joe Dunstan provided an email to the Planning Commission, stating the following as reflecting DRB consensus:

“[D]uring the first few presentations to the DRB the Winslow Hotel project was presented as striving to meet the Living Building Challenge. The targets of collecting rainwater from roofs for all water demands and collecting more energy than is used by the project on an annual basis resonated with the DRB as a means for providing meaningful community benefits and reducing the impact on city infrastructure. Although the sustainability targets are not part of the current design guidelines, it was in this context that the DRB approvals were made for the Winslow Hotel. In the most recent DRB meeting on June 3rd the project as presented as possibly not seeking the Living Building Challenge. As with many aspects of this project, the goals and aspirations of the hotel continue to be moving targets. The Design Review Board encourages the applicant to maintain its previously stated level of commitment to meeting the Living Building Challenge targets and seek certification under this program.”

The applicant’s representative has stated in public comment to the Planning Commission that the applicant is unable to make a commitment to pursue the Living Building Challenge at this time, and there is nothing in the Staff Report indicating that such a commitment has been made or will be a condition of the project.

CONCLUSIONS

Major Conditional Use Permit

1. BIMC 2.16.110.F(1)(a) is not satisfied

*a. The conditional use is **harmonious and compatible in design, character and appearance with the intended character and quality of development in the vicinity of the subject property and with the physical characteristics of the subject property.***

The project as proposed is directly adjacent to residential condominiums to the west, senior housing to the south (four buildings), mixed residential and office to the east and residential to the north. The building includes 87 hotel rooms, which is almost 6 times the number of rooms that is permitted for an inn in the Core district. The building has a height of 45 feet, which is taller than all adjacent buildings, and a proposed Floor Area Ratio (FAR) of 0.91 (73,571 sf). Permitted base FAR is 0.6 FAR (48,513 sf). Permitted max FAR with bonus is 1.00 FAR (80,855 sf). Proposed FAR for the project of 0.91 (73,571 sf) produces hotel use of 57,010 sf; spa of 3,916 sf; event and meeting space of 7500 sf; restaurant/bar/lobby of 2,775 sf; kitchen of 2,370 sf. Total bonus FAR needed is 25,058 sf.

The Winslow Master Plan explains that while bonus FAR is allowed in the MUTC, it is intended to be used to advance Comp Plan and WMP policies and community values, to support greater flexibility in types of housing, and to enhance the vitality of the downtown.

- Comp Plan Policy LU 7.1 -- Development within the MUTC and High School Road Districts shall be consistent with the Winslow Master Plan. . . . **The use of FAR may result in an increase in the base level of development (density) over the existing zoning, but will provide greater flexibility in type and size of housing units that will further the goals of this plan.**
- Policy WMP 2-5.1: **The bonus FAR provisions are a means of advancing specific Comprehensive Plan policies and community values.**
- Policy WMP 2-6.1: **Establish FARs and development standards that support mixed-use development at a level that encourages downtown living with a variety of housing sizes and types, provides commercial and retail services that meet the needs of the community, and enhances the vitality of the downtown.**

The FAR bonus is being used here to support hotel rooms, a spa, event and meeting space, a restaurant/bar/lobby and a kitchen. These do not provide greater flexibility in housing, advance specific Comprehensive Plan policies and community values, or encourage downtown living with a variety of housing sizes and types.

The Staff Report states that the project satisfies CUP Decision Criterion (a) because the Comprehensive Plan and BIMC Title 18 identify the Central Core as the most densely developed district and promotes the concentration of nonresidential development that reduces reliance on automobiles. This conclusion is inconsistent with the Comp Plan and WMP policies and goals cited above. The project also does not reduce reliance on automobiles but is projected to add 727 vehicle trips per day to the Winslow Core and MUTC, according to the SEPA Checklist and the Heath & Associates traffic study (pg. 40 – Hotel trip generation per room average rate is 8.36 trips). Staff has added a condition requiring the hotel to operate

an accessible van to shuttle hotel patrons to and from the ferry terminal and other local destinations, but the extent to which this will reduce the number of vehicle trips generated by the project is unclear.

2. BIMC 2.16.110F(1)(c) is not satisfied

c. The conditional use will not be materially detrimental to uses or property in the vicinity of the subject property.

The Staff Report concludes that CUP Decision Criterion (c) is satisfied because the proposed use will result in impacts including but not limited to noise, light, and traffic, but as conditioned the use will not be materially detrimental to uses or property in the vicinity of the subject property. There is no explanation for this conclusion, particularly in light of (1) the amount of noise that will be generated by the occupants of 87 hotel rooms, people using meeting rooms and conference rooms, the restaurant, bar and spa, and entertainment in the outdoor amphitheater/bandshell; and (2) noise, congestion and air pollution generated by an additional 727 vehicle trips per day.

There is no analysis of the amount of noise generated by the various elements of the project, such as onsite vehicle traffic, including truck traffic associated with garbage collection, linen service and food/beverage delivery; garbage collection activities; loading dock activity; and outdoor events. There is also no analysis of whether the level of noise would be “materially detrimental” to uses or property in the vicinity of the project, or the extent to which the noise will occur continually. The Staff Report includes Project Condition (10) that requires construction activities to comply with noise limitations per BIMC 16.16.020, and prohibits any use from exceeding maximum environmental noise levels pursuant to WAC Chapter 173-60 and BIMC Chapter 16.16, but this condition does not address noise levels generated by project uses and operations.

The Staff Report includes Project Condition (56) that requires a traffic analysis for the site under BIMC 15.32 and 15.40 to evaluate for concurrency, and states that a certificate of concurrency was issued based on the April 24, 2019 Heath & Associates traffic impact analysis. This report, however, did not analyze the impacts to uses or property adjacent to or within the vicinity of the project resulting from the estimated 727 vehicle trips per day generated by the project, or whether those impacts would be “materially detrimental” to those uses or properties. It is also unclear whether the 727 vehicle trips per day includes trips generated by events or represents only trips generated by the hotel and restaurant. The traffic impact study must analyze the number of trips per day generated by all proposed uses of the project to accurately determine whether the traffic impacts will be “materially detrimental” to uses and property adjacent to and in the vicinity of the project. Finally, the traffic impact study did not take into account traffic surges from ferry loading and unloading, which could affect the concurrency determination. .

3. BIMC 2.16.110F(1)(d) is not satisfied

d. The conditional use is in accord with the comprehensive plan and other applicable adopted community plans, including the Island-Wide Transportation Plan;

Comprehensive Plan Guiding Principle #1 states: Preserve the special character of the Island, which includes downtown Winslow’s small town atmosphere and function.

The Comp Plan Land Use Element states (emphasis added):

- Winslow Town Center – The Winslow Master Plan (Appendix D) encourages development of a neighborhood that contains a strong, vital downtown where people want to live, shop and work.

- **Goal LU-7 – The Winslow mixed use and commercial districts are designed to strengthen the vitality of downtown Winslow as a place for people to live, shop and work. The Winslow Mixed Use Town Center (MUTC) is intended to have a strong residential component to encourage a lively community during the day and at night. The high residential density of Winslow requires the Central Core Overlay District to provide services and products that meet the needs of residents as well as visitors**
- **Policy LU 7.1 – Development within the MUTC and High School Road Districts shall be consistent with the Winslow Master Plan. . . . The use of FAR may result in an increase in the base level of development (density) over the existing zoning, but will provide greater flexibility in type and size of housing units that will further the goals of this plan.**

The Winslow Master Plan (WMP) describes the vision for Winslow as including:

The Island is a complete community: Winslow develops as a sustainable, affordable, diverse, livable and economically vital downtown. Development is allowed in a manner that encourages environmentally and economically sound growth, and also protects and conserves resources and lifestyles that would otherwise be impacted in outlying areas of the Island.

Winslow Way is the Centerpiece of Downtown: Pedestrians gather on a street with vibrant retail and attractive places. A simple streetscape retains small-town character and a “sense of place.”

- **Overall Land Use Goal WMP 2-1: Strengthen Winslow – the Island’s commercial, cultural and commuter hub – as a sustainable, affordable, diverse, livable and economically vital community by:**

Encouraging downtown living;

Providing an enhanced pedestrian experience, with linked access to retail shopping, the ferry, major public facilities, open space and residential areas, and promoting and retaining visual access to Eagle Harbor;

Promoting the efficient use of land;

Encouraging the retention and expansion of retail that serves the needs of community members and visitors;

Providing opportunities for business expansion and private reinvestment;

Promoting development that is sustainable and supports community values;

and

Developing strategies that result in the creation of less expensive housing and retail space, thereby increasing diversity while minimizing dependence on the automobile.

- **Goal WMP 2-3: Maintain and Enhance Community Character in the Mixed-Use Town Center:**

- Policy WMP 2-3.2: Through the use of design guidelines, development standards and incentives, promote the development of courtyards that create a pattern of linked public and private gardens and gathering places, providing opportunities for pedestrian movement.
- Policy WMP 2-3.3: Through the use of design guidelines, development standards and incentives encourage stepped-back buildings that result in a softer street edge, the retention and enhancement of visual connections to Eagle Harbor and the creation and preservation of sun-filled public gathering spaces.
- Goal WMP 2-5: Determine density and intensity of development in the Mixed Use Town Center and High School Road Districts through the Floor Area Ratio (FAR) method
- Policy WMP 2-5.1: The bonus FAR provisions are a means of advancing specific Comprehensive Plan policies and community values.
- Policy WMP 2-5.2: Establish maximum FAR levels of development beyond the base for each of the districts through the use of bonus FAR provisions. The bonus FAR provisions are a means of advancing specific Comprehensive Plan policies and community values.

Central Core Overlay District Specific Policies

- Policy WMP 2-6.1: Establish FARs and development standards that support mixed-use development at a level that encourages downtown living with a variety of housing sizes and types, provides commercial and retail services that meets the needs of the community, and enhances the vitality of the downtown.

High School Road I and High School Road II Specific Policies

- Policy WMP 2-11.1: Establish FARs and development standards that provide for a variety of commercial uses that complement downtown Winslow and benefit from automobile access near the highway, while creating a pedestrian-friendly retail area.

Both the Comprehensive Plan Land Use Element and the Winslow Master Plan Land Use Chapter emphasize development of a strong, vital downtown in the MUTC and Core where people live, shop and work. Office and retail are encouraged to provide services for residents of downtown and the island. FAR is intended to support mixed-use development that encourages downtown living with a variety of housing types and sizes, and to provide commercial and retail services that meet the needs of the community. Commercial uses that benefit from highway vehicle access are intended to be located in the HSR districts. In contrast, the proposed project provides services primarily for guests of the hotel, and the inclusion of meeting and conference rooms, a restaurant and bar, a spa and an outdoor bandshell suggest it will be an “inclusive” establishment designed to provide all services to guests onsite. It will generate a significant amount of vehicle traffic (727 trips per day for the hotel alone) in the Core and requires an estimated 191 parking spaces during peak event times.

Comprehensive Plan Economic Element states, regarding Tourism (emphasis added):

- Policy EC 11.2 – **The predominant focus of downtown Winslow is to serve the commercial and social needs of Island residents. A lively, pedestrian-oriented town**

center that provides a mix of commercial and residential uses creates a potential tourist destination.

- **Policy EC 11.3 – Support the Island as a visitor destination by preserving and enhancing the unique qualities of our community.**
- **Policy EC 11.5 – Encourage bed and breakfasts and other creative tourist accommodations.**

The Comprehensive Plan Economic Element includes the support of tourism as a key sector of the island's economy, but underscores the predominant focus of downtown Winslow as serving the commercial and social needs of the island's residents and encourages the preservation and enhancement of the unique qualities of the community and the development of bed and breakfasts and creative tourist accommodations. The proposed project does not accomplish these goals because it is designed to be a full service hotel, with most or all of guests' needs met onsite. Its size – almost 6 times the number of rooms that is a permitted use for an inn in the Core district – does not preserve or enhance the unique qualities of the community or provide creative tourist accommodations.

The Staff Report, dated June 7, 2019, concludes that, as conditioned, the proposed development satisfies CUP Decision Criteria (d) because it is in conformance with the Bainbridge Island Comprehensive Plan, the Winslow Master Plan, and the Island-Wide Transportation Plan. This conclusion, however, relies solely on a discussion of street standards, project frontage and public pedestrian easements. It does not address the many ways in which the project's proposed uses are not in accord with the Comprehensive Plan and the Winslow Master Plan. Commercial services in the Core must meet the needs of the community, enhance the vitality of the downtown and contribute to the design for Winslow Way as the community's "living room."

4. **BIMC 2.16.110F(1)(f) is not satisfied**

f. All necessary measures have been taken to eliminate or reduce to the greatest extent possible the impacts that the proposed use may have on the immediate vicinity of the subject property;

The Staff Report concludes that CUP Decision Criterion (f) is satisfied because, as conditioned, all necessary measures have been taken to eliminate or reduce to the greatest extent possible the impacts that the proposed use may have on the immediate vicinity of the subject property. The applicant made multiple revisions in response to public comment including keeping all parking on-site, increasing on-site parking, enclosing trash and recycling, adding perimeter landscaping, and adding a bandshell, and eliminating amphitheater seating for outdoor music. The applicant obtained a letter from Bainbridge Disposal, agreeing to limit pick-up times to after 10:00 a.m. to minimize noise. The City has considered all public comment and has proposed conditions to mitigate impacts including a wall along the west property line to mitigate noise, light and exhaust. The applicant has provided greater parking than the minimum recommended by the parking consultant in response to neighborhood concerns about parking shortages.

As discussed above, the proposed 87-room hotel is almost 6 times the size of a 15-room inn that would be a permitted use in the Core. The project also includes meeting rooms, a conference room, restaurant, bar, spa and outdoor entertainment amphitheater/bandshell. There is no analysis of noise impacts generated by all of these proposed uses and there are no daily or hourly restrictions on noise generating activities, with the exception of the time at which garbage will be collected. The traffic impact analysis is

insufficient with respect to both the extent of the traffic impacts that will occur (based on number of vehicle trips generated) and the concurrency determination (failure to consider surge traffic from ferry loading/unloading). Without this important information, it cannot be concluded that all necessary measures have been taken to eliminate or reduce “to the greatest extent possible” the impacts of the proposed uses on the immediate vicinity of the proposed project.

5. BIMC 2.16.110F(1)(g) is not satisfied

g. Noise levels shall be in compliance with BIMC 16.16.020 and 16.16.040.A

The Staff Report concludes that CUP Decision Criterion (g) is satisfied because “as conditioned, noise levels shall be in compliance with BIMC 16.16.020 and 16.16.040A.” As discussed above, there is no analysis of the level of noise generated by the proposed uses and therefore no support for this conclusion. Without knowing the level of impact, it is not possible to conclude that the proposed conditions – landscaping green walls, a bandshell, enclosed trash and recycling under the building, building orientation, bandshell orientation and tree retention – will produce the required compliance with BIMC 16.16.020 and 16.16.040A.

6. The project as proposed (87 guest rooms, meeting rooms, conference room, restaurant, bar, spa, outdoor bandshell) is sized and designed as a full service event center to meet the needs of persons from outside the community who seek to hold large events in Winslow. It is almost 6 times larger than the closest permitted use in the Core – a 15-room inn – and also includes a conference center, meeting rooms, a restaurant, a bar, a spa and an outdoor bandshell for entertainment events. As proposed, the project is out of scale with the Core, not compatible with its surroundings (residential to the west, south and north and residential/office/retail to the east) and inconsistent with major elements of the Comp Plan and Winslow Master Plan. Its purpose and function are to serve visitors, which will be at the expense of Island residents. It does not maintain Winslow’s small town atmosphere, and will be materially detrimental to uses and/or property in the vicinity of the project. The project’s noise resulting from the proposed uses, and its estimated generation of 727 vehicle trips per day, will overwhelm the Core and do irreparable harm to Winslow’s small town atmosphere and to the residential communities and office/retail adjacent to and in the vicinity of the project site.

7. Recommendation - For all of the reasons outlined in these findings of fact and conclusions, the Planning Commission concludes that no reasonable conditions can be imposed on the project as proposed that would satisfy the CUP Decision Criteria. As described above, the building is taller (45 feet) than the adjacent buildings on all sides; is too large (73,571 sq. ft., of which 25,058 sq. ft. is bonus FAR); includes an intensity and scale of uses (87 hotel rooms, meeting rooms, conference center, restaurant, bar, outdoor amphitheater/bandshell/courtyard, continuous operations 24/7) that are not compatible with the project’s surroundings; and will result in parking, traffic and noise impacts that either have not been adequately analyzed or are incompatible with the project’s surroundings. Specific conditions cannot remedy these problems without resulting in a significantly different project. The Planning Commission therefore recommends that the application for a Major Conditional Use Permit be denied.

Major Site Plan And Design Review

The major site plan and design review does not meet the following decision criteria in BIMC 2.16.040.F:

1. BIMC 2.16.040 F(1) is not satisfied

1. *The site plan and design is in conformance with applicable code provisions and development standards of the applicable zoning district*

The requirement for a major conditional use permit is a code provision and development standard for the proposed project in the Winslow Core District. As discussed above, the Planning Commission recommends denial of the application for a major conditional use permit. The site plan and design review consequently is not in conformance with applicable code provisions and development standards requiring a major conditional use permit.

2. BIMC 2.16.040F(5) is not satisfied

5. *The site plan and design is consistent with all applicable design guidelines in BIMC Title 18. . . .*

The DRB has issued two different Findings of Fact and Recommendation documents and also has provided clarifying language that its recommendations were made in the context of the applicant's commitment to pursue the Living Building Challenge. The applicant's representative subsequently has stated to the Planning Commission that the applicant cannot make that commitment. The differences between the two DRB Findings of Fact and Recommendation, and the subsequent DRB clarifying language, create uncertainty about what the DRB ultimately recommends for this project. It is unclear, therefore, whether Decision Criterion 5 is satisfied.

3. BIMC 2.16.040F(7) is not satisfied

7. *The site plan and design is in conformance with the comprehensive plan and other applicable adopted community plans.*

The findings of fact and conclusion with respect to the Major Conditional Use Permit are also applicable to the Major Site Plan/Design Review with respect to the project's lack of conformity with the Comprehensive Plan and Winslow Master Plan.

4. BIMC 2.16.040F(11) is not satisfied

11. *The site plan and design has been prepared consistent with the purpose of the site design review process and open space goals.*

The Winslow Master Plan includes the following open space policies and goals:

- Goal WMP 4-1: Incorporate open space and green spaces throughout Winslow by:
 - enhancing existing parks and developing new parks;
 - providing street trees, small gardens and other landscaping that provides visual relief and enhances the character;
 - providing a series of green spaces, plazas and corridors that connect the community, define character and protect resources; and
 - celebrating and connecting the town to the Harbor and the Ravine.

To address open space policies, goals and requirements, the project proposes an enclosed interior amphitheater/bandshell/courtyard that is accessed by the public through the hotel; street trees; and a 3-foot wider planter strip between the sidewalk and road. The courtyard has been designed for use by hotel guests and visitors, to accommodate activities and events within the event center. The public can access the courtyard only by entering the hotel. This is in contrast to the open plaza at Winslow Green, located northeast of the project, which is used for community gatherings and concerts and is easily accessible to the public. Questions have arisen regarding whether the project has met the open space goals, particularly in light of the project's size and intensity of use.

5. Recommendation – For all of the reasons outlined in these Findings of Fact and Conclusions, the Planning Commission recommends the application for Major Site Plan and Design Review be denied. The project requires a CUP as a condition of approval of the Major Site Plan and Design Review. As described above, the project does not meet the CUP Decision Criteria. The Major Site Plan and Design Review also are not in conformance with the Comprehensive Plan and Winslow Master Plan goals and policies. Finally, while the Planning Commission has given serious consideration to the two DRB Findings and Recommendation documents dated June 7, 2019 and June 17, 2019, there are inconsistencies between them, and the email from the DRB dated June 18, 2019 raises significant questions about the context of the DRB recommendations for approval of the site plan and design review. The Planning Commission therefore does not adopt the DRB recommendations for approval of the Site Plan and Design Review.

City of Bainbridge Island Planning Commission



Chair

7/25/2019
Date

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF BAINBRIDGE ISLAND**

In the Matter of the Application of	)	No. PLN 50880 SPR/CUP
	)	
Michael & Darden Burns, LLC,	)	
On Behalf of Madison Avenue	)	Winslow Hotel SPR/CUP
Development, Inc.	)	
	)	
For Approval of Major Site Plan/	)	
Design Review and Approval of	)	FINDINGS, CONCLUSIONS,
<u>A Major Conditional Use Permit</u>	)	AND DECISION

SUMMARY OF DECISION

The request for approval of a major site plan/design review and a major conditional use permit to develop a 1.85-acre site with an 87-room hotel, a banquet space, meeting rooms, a restaurant/bar, and a spa at 253 and 241 Winslow Way West is **APPROVED**, subject to conditions. Conditions are necessary to mitigate the impacts of the proposed development and to ensure compliance with the criteria for approval as established by the City Council, including detailed conditions related to mitigation of traffic impacts and potential noise impacts. A condition allowing for re-opening of the hearing, if unanticipated negative impacts occur following operation of the hotel, is also provided to help address Applicant, City, and citizen concerns.

SUMMARY OF RECORD

Hearing:

The Hearing Examiner held an open record hearing on January 23, 2020, to receive testimony and documents on a request for approval of two applications required by City ordinances¹ for development of the proposed 87-room Madison Hotel. The record was kept open until January 31, 2020, to allow additional documents to be submitted, and to allow the attorneys for the Applicant and the City to respond both to those documents and to public testimony presented at the hearing. A post-hearing order established the date of February 7, 2020, as the time allowed for the attorneys for the Applicant, the City, and the Winslow Neighbors to submit a request to reopen the hearing if the additional material raised new issues needing additional hearing time. In a post-hearing order, dated February 11, 2020, the Hearing Examiner determined that there was no reason to reopen the hearing. The record was closed on that date, and this decision is now issued.

¹ City ordinances require that the proposed development obtain approval of a major conditional use permit (CUP) and of a major site plan/design review application. *Testimony of Ms. Wright; See Exhibit 1, Staff Report, for citations to applicable ordinances.*

*Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP*

Testimony:

The following individuals testified under oath at the open record hearing:

Heather Wright, City Planning Director
David Greetham, City Planning Manager
Mike Michael, City Engineering Project
Manager
Michael Burns, Property Owner &
Applicant
Bruce Anderson, Architect for Applicant
Greg Heath, Traffic Expert for Applicant
Jeff Weckstein, Parking Expert for
Applicant
Ross Tilghman, Traffic Expert for Winslow
Neighbors
Adam Jenkins, Noise Expert for Winslow
Neighbors
John Adams, Design Expert and Architect
for Winslow Neighbors
James Cutler
Kathryn Lafond
Barbara Kirk
Allison Davy
Phyllis Carlyle
Jon Quitslund
Cindy Bellas

Pam Cole
Natalia Ilyin
Scott Schirmer
Dave Mackenzie
Gail Hiestand
Jack Sheridan
Holly White
Priscilla Zimmerman
Ruth Urbach
Ed Cannard
Wendy Hinman
Jack Sjolseth
Cheryl Crist
Debbie Hollyer
Caroline Clarke
Kjell Stoknes
Maradel Gale
Sheila Curwen
Joanna Pyle
Roger van Gelder
Robin Simons
Fran Korten

Attorney David Bricklin represented Winslow Neighbors.

Attorney Nancy Rogers represented the Applicant.

Attorney James Haney represented the City.

Exhibits:

A list of the exhibits admitted into the record, and information on the orders, legal briefs, and other pleadings, are provided as Attachment A, attached to this decision.

The Hearing Examiner enters the following findings and conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

Application and Notice

1. Michael & Darden Burns, LLC, and Madison Avenue Development, Inc. (Applicant), request approval of a major conditional use permit (CUP) and major site plan/design

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

review to redevelop two parcels on a 1.85-acre site with an 87-room hotel.² In addition to the 87 rooms, the hotel would include a banquet space, meeting rooms, a restaurant/bar, and a spa. The hotel would be designed around a courtyard that would preserve a Giant Sequoia tree, and provide a reflecting pond, ceremony space, a band shell, and additional landscaping. All parking would be located on-site, both as underground and as surface parking, with 143 spaces. There would be capacity for an additional 37 vehicles using stacked parking valet services. Frontage improvements would include a six-foot-wide sidewalk, a bike lane, two on-street parking spaces, an electric vehicle charging station, planting strips, and street trees. The property is located at 253 and 241 Winslow Way West.³ *Exhibit 1, Staff Report, page 1; Exhibit 2; Exhibit 6; Exhibit 7; Exhibit 10; Exhibit 11; Exhibit 13.*

2. Several iterations of the proposed Winslow Hotel were submitted to the City of Bainbridge Island (City) for its review. Of particular note, the Applicant submitted materials seeking a CUP and major site plan/design review to develop a 75-room hotel on December 27, 2018. The City determined that the application was complete on January 24, 2019, and provided notice of the application for this version of the proposal, as required by the municipal code. On April 26, 2019, however, the Applicant submitted revised application materials for the present proposal, which includes a request for approval of a CUP and major site plan/design review to develop an 87-room hotel, with associated development, as described above. The City provided notice of the revised application, as required by the municipal code, by mailing notice to surrounding property owners, publishing notice, and posting notice at the City Hall Kiosks and the City website.⁴ The Applicant also posted notice of the revised application on the project site on April 26, 2019. On November 29, 2019, the City provided notice of the open record hearing associated with the revised application by publishing notice, mailing or emailing notice to surrounding property owners and reviewing government departments and agencies, and posting notice at City Hall Kiosks and the City website. The Applicant also posted notice of the hearing on the revised application at the subject property on or about November 29, 2019. The City received several comments from reviewing government departments and agencies in response to its notice materials, as detailed throughout this decision. The City also received over 300 written comments from

² The Applicant filed a single Master Land Use Application seeking both a major conditional use permit and major site plan and design review. BIMC 2.16.040.E.7 allows an applicant to seek site plan and design review with other land use permits in a consolidated project review.

³ The property is identified by tax parcel numbers 27502-4-097-2000 and 27502-4-098-2009 *Exhibit 1, Staff Report, page 1.*

⁴ On October 8, 2019, the Applicant submitted additional revisions to the project that would include adding 11 residential studio units. Ultimately, however, the Applicant withdrew this request. *Exhibit 1, Staff Report, page 8.*

members of the public. Information on these comments is detailed later in this decision. *Exhibit 1, Staff Report, pages 8 through 10, 18, and 19; Exhibit 3; Exhibit 4.*

State Environmental Policy Act

3. The City acted as lead agency to analyze the environmental impacts of the proposal, as required by the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). The City reviewed the Applicant's Environmental Checklist and other information on file and determined that, with mitigation measures, the proposal would not have a probable significant adverse impact on the environment. Accordingly, the City issued a Mitigated Determination of Nonsignificance (MDNS) for the proposal on November 25, 2019, with an appeal deadline of December 9, 2019.⁵ *Exhibit 1, Staff Report, page 19; Exhibit 23; Exhibit 30.*
4. Because MDNS conditions are incorporated and enforced as conditions on permits issued by the City, it is important to consider in detail the MDNS conditions when reviewing applications for approval of City permits. Here, the filing of requests for approval of a major conditional use permit (CUP) and major site plan/design review triggered a review of the proposal under SEPA, resulting in the issuance of a MDNS. The MDNS details twenty requirements for the proposed development that must be adhered to by the Applicant if the requested permits are approved. A summary of the mitigation measures is given here, but the reader is encouraged to refer to Attachment B of this decision for the complete list of MDNS mitigation requirements.

As required by the MDNS, the Applicant must immediately stop construction if any historical or archaeological artifacts are discovered during excavation or construction. The Applicant must also photograph and document an existing building on the site, to be displayed at the hotel. In addition, the Applicant must develop the frontage of adjacent property to the east of the site, install a crosswalk on Winslow Way West, and repave the right of way along the Winslow Way West frontage of the property and the adjacent property to the east. The Applicant must provide a shuttle service and shared bicycle program and communicate these transportation services to guests. Additionally, the Applicant must have staggered check-in times corresponding with the Ferry schedule and must display appropriate parking signs at various vehicle entrances. To the extent feasible, the Applicant must inform abutting neighbors of events taking place at the hotel. The Applicant must also submit monitoring reports to the City regarding traffic, parking, and noise impacts, which the City could use to administratively impose additional conditions. The Applicant must comply with clean air regulations and must submit a dust control plan to the City prior to site activity. The Applicant must enclose solid waste facilities within the building, with pick-up required to take place under the building at

⁵ A citizens group, "Winslow Neighbors," timely appealed the MNDS on December 9, 2019. The appeal was withdrawn on January 17, 2020, less than one week prior to the scheduled appeal hearing. Accordingly, the appeal was dismissed, and the City's SEPA determination is final.

specified hours, and delivery services to the hotel must occur at loading docks in the west wing of the building. Additionally, the Applicant must install a solid six-foot wall or fence along the west property line abutting an access drive to adjacent townhomes and must plant vegetation to mitigate impacts to neighboring properties. The limits for clearing and grading must be clearly marked in the field and inspected prior to site work. Finally, the City's arborist must be present during the preconstruction meeting to advise on best practices for excavation around the root zones of trees to be preserved both on and off the site.

Exhibit 30; See Attachment B.

Comprehensive Plan, Zoning, & Surrounding Uses

Comprehensive Plan

5. Winslow is the name given to the downtown area of the city of Bainbridge Island. The property is located in the Winslow Town Center and is designated as part of the Central Core Overlay District, within the Mixed Use Town Center designation, under the Comprehensive Plan. The City developed a Winslow Master Plan to refine the Comprehensive Plan's goals and policies as they relate to Winslow. The City's Comprehensive Plan and Winslow Master Plan encourage development of a neighborhood in the Winslow Town Center that contains a strong, vital downtown where people want to live, shop, and work, with development outside of the mixed-use, higher-density center to contain a variety of housing choices, from higher-density multifamily areas immediately adjacent to the downtown to single-family residential neighborhoods. The Central Core Overlay district is the most densely developed district within the Mixed Use Town Center. The City Comprehensive Plan encourages residential development within the Central Core Overlay district, but also permits office and/or retail uses. *City Comprehensive Plan, updated February 2017, pages LU-11 through 12; Winslow Master Plan, updated November 2006; Exhibit 1, Staff Report, pages 1, 6, and 23 through 25; Exhibit 7.*
6. City staff reviewed the proposal for consistency with the Comprehensive Plan, as well as with the Winslow Master Plan, and identified several dozen goals and policies applicable to the proposal.⁶ Following this review, City staff determined that the proposal would meet the intent of the Introductory Guiding Principles and Goals of the Comprehensive Plan and would satisfy several goals and policies of various elements of the Comprehensive Plan, including the Land Use Element, the Economic Element, the Environmental Element, the Water Resources Element, the Housing Element, the Transportation Element, and the Capital Facilities Element. More specifically, the City determined that the hotel would implement creative tourist accommodations through a building design orienting most rooms to the courtyard, which would contain an existing

⁶ Specifically, City Staff identified the Comprehensive Plan and Winslow Master Plan goals and policies listed in Attachment C as applicable to the proposed development. *Exhibit 1, Staff Report, pages 10 through 17.*

Giant Sequoia tree, as well as retain over 100 trees on the site, including the existing landmark trees on the site. The City also determined that the development would increase employment opportunities.

The City review noted that the proposed development would include construction of a 42,000 gallon cistern system to recycle 500 to 700 gallons of water a day and would prepare plans to incorporate an on-site sewage system as well as a rainwater catchment system for roof and impervious surface runoff. The City review also determined that the proposed development could reduce reliance on automobiles through frontage improvements and proximity to ferry service and public transit, as well as provide up to fifty jobs for local residents. The City expressed concern, however, about lack of affordable housing for employees, and therefore recommended that the Applicant provide a minimum of six affordable housing units on-site.

In its review, the City noted that the Applicant consulted with an acoustical engineer to reduce noise impacts, noting that the proposed development includes a bandshell to reduce noise escapement in addition to landscaping, green walls, and enclosed underground trash facilities. The City recommended additional conditions to reduce noise impacts, including requirements for sound monitoring, landscaping, and a wall along the west property line.

Finally, City staff determined that, with 83 conditions of approval, the proposal would be consistent with the goals and policies of the Winslow Master Plan by providing an enhanced pedestrian experience, through frontage improvements and better connectivity to retail spaces, the ferry, public facilities, open spaces, and residential areas, and by expanding the customer base for local businesses, providing community gathering spaces, and using sustainable building practices.

Exhibit 1, Staff Report, pages 10 through 18.

Zoning

7. The property is within the “Mixed Use Town Center, Central Core” (MUTC-CC) zoning district. Permitted uses within the MUTC-CC zone include entertainment facilities, restaurants, personal services, and retail sales. *Bainbridge Island Municipal Code (BIMC) 18.09.020*. Hotels are allowed within the MUTC-CC zone with the approval of a CUP. *BIMC 18.09.020*. BIMC 18.36.030.130 defines “hotel” as “a building or group of buildings containing guest rooms where, for compensation, lodging is provided for transient visitors. A hotel or motel may contain one or more restaurants.” City staff determined that, with 83 recommended conditions, the proposal would meet the purpose of development in the MUTC-CC zone by providing a facility that would serve as a place for people to shop and work, encourage a lively community during the day and night, and promote a pedestrian atmosphere. *Exhibit 1, Staff Report, page 23.*

8. Performance standards for uses in the MUTC zone under BIMC 18.06.030.B relate to noise, air quality, and lighting. These performance standards provide that no use in the MUTC zone shall exceed the maximum environmental noise level established under City code; produce emissions of smoke, dust, and/or odors that may unreasonably interfere with any other property owners' use and enjoyment of their property; or contravene the lighting standards established under City code. *BIMC 18.06.030.B*. Noise impacts of the proposed hotel, in particular, were raised as a concern in public testimony at the hearing and are further discussed below in Findings 21 through 23. *Exhibit 1, Staff Report, pages 23 and 24; Testimony of Adam Jenkins; Testimony of Phyllis Carlyle; Testimony of Pam Cole; Testimony of Scott Schirmer; Testimony of Dave Mackenzie; Testimony of Debbie Hollyer; Testimony of Caroline Clarke; Testimony of Maradel Gale; Testimony of Sheila Curwen.*
9. BIMC Table 18.12.020-3 provides dimensional standards applicable to development in the MUTC-CC zone. The Applicant's proposal would comply with dimensional standards relating to lot coverage and setbacks for front, rear, and side yards. The Applicant proposes to have a 0.91 Floor Area Ratio (FAR), which would exceed the standard 0.6 maximum FAR generally applicable to development in the MUTC-CC zone. The Applicant would be eligible, however, for a maximum 1.0 FAR through the provisions of BIMC 18.12.030.E. BIMC 18.12.030.E provides several options for eligible properties to obtain a bonus FAR, which may be combined to achieve the maximum level of development above the base FAR. These options include providing affordable housing, purchasing development rights, providing public amenities and/or infrastructure on-site, preserving heritage trees on-site, and providing community open space. *BIMC 18.12.030.E*. The Applicant proposes achieving a portion of the bonus FAR necessary for the project through the preservation of heritage trees on the site, which would require a city council resolution clarifying the amount of credit awarded. *BIMC 18.12.030.E.3*. The maximum building height for development in the MUTC-CC zone is 35 feet, or 45 feet if the building contains underground parking. *BIMC Table 18.12.020-3*. The Applicant's proposal would comply with these building height requirements when accounting for the proposed underground parking facility. Additionally, the Applicant's proposal complies with the development standards in BIMC 18.15.010 relating to landscaping, screening, and tree retention and replacement. *Exhibit 1, Staff Report, pages 25 through 28; Exhibits 5 through 10; Exhibit 28; Exhibit 29.*

Surrounding Uses

10. The 1.86-acre site consists of two contiguous rectangular lots located at 241 Winslow Way West and 253 Winslow Way West. Winslow Way West fronts the lots to the north between Wood Avenue SW and Finch Place SW. Residential units fronting Wood Avenue SW are located directly west of the site. The site slopes downward to the southwest at a gradient average of 6 percent. Current development on the site includes a

commercial structure leased by the Seattle Children's Bargain Boutique, a demolished commercial structure foundation that was last used as a bar, and a 1,500 square foot vacant structure that was last used as a restaurant. The site contains three landmark trees that would be retained, including a Giant Sequoia tree on the boundary of the two lots. *Exhibit 1, Staff Report, pages 6 and 23; Exhibits 6 through 8; Exhibit 28; Exhibit 29.*

Site Plan/Design Review

11. City code requires that certain development proposals, including this one, meet criteria related to site plan and design review, as detailed in BIMC 2.16.040.F. The Planning Director and Planning Commission are to make recommendations on development proposals that are consistent with these criteria. The criteria generally require that the site plan and design comply with applicable code provisions and district development standards; that the locations of the building and structures, open spaces, landscaping, pedestrian, bicycle and vehicular circulation systems be adequate, safe, efficient, and in conformance with the Island-Wide Transportation Plan; that the site plan and design be consistent with applicable code design guidelines; that the proposed site plan be unlikely to result in harmful or unhealthful conditions; and that the site plan and design be consistent with the purpose of the site design review process and open space goals. *BIMC 2.16.040.F.*
12. One element to be reviewed to help determine compliance with site plan/design review are building design guidelines. Some public testimony presented at the hearing alleged non-compliance with building design guidelines as a reason to deny approval of the proposed development. Building design guidelines specific to development in the MUTC-CC zone address a building design's overall massing and variation, street level elements, upper level setbacks, blank walls, and roof appearance. These guidelines provide, in part, that:
 - Buildings shall incorporate articulation on all sides, with street-facing sides receiving the greatest amount of attention in terms of richness of forms, details, materials, and craft.
 - Building frontages along a street shall include elements to avoid long, monolithic facades.
 - Building facades along Winslow Way and Madison Avenue shall be stepped back above the second story. But this is not intended to produce a rigid, uniform stepback along the street, and certain specified alternatives are acceptable. Additionally, alternatives to the stepback requirement may be proposed, so long as the effect is that the upper floors appear to recede from view and that the impacts of massing on light and air are addressed.
 - Flat, unembellished roofs are not desired, but flat roofs may be appropriate for green building purposes, such as the use of solar panels.

*Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP*

- Buildings located within 100 feet of residential zones outside of the Core shall incorporate pitched roof forms, with slope between 4:12 and 12:12 in order to create a transition in development pattern.

Design Guidelines for Mixed Use Town Center and High School Road Zoning Districts, pages 47, and 50 through 52.

Some public testimony alleged that the proposed buildings violate several building design guidelines, including lack of pitched roofs, lack of elements to avoid monolithic facades, and lack of appropriate setbacks. *Testimony of John Adams, Phyllis Carlyle, Cindy Bellas, and Robin Simons.*

13. Unlike fixed zoning standards, the design guidelines for development in the MUTC zone are intended to be flexible. The introductory section of the design guidelines applicable to the MUTC zone states that “(d)esign guidelines are not intended to be like quantitative, fixed zoning standards. They are to be applied with an attitude of flexibility.” The guidelines are careful to articulate they are not to be ignored, stating that “(w)hile the design criteria contained in this document are guidelines and not regulations, each proponent of a project has an obligation to demonstrate how each relevant guideline has been addressed” and that “if criteria have been insufficiently addressed, conditions will be placed upon a project to assure that the criteria are sufficiently addressed.” *Design Guidelines for Mixed Use Town Center and High School Road Zoning Districts, pages 1 and 2.*
14. The Applicant prepared a Design Review Checklist assessing the applicable design guidelines. In particular, the Applicant asserted that the proposal would meet the guidelines applicable to the design of facades, articulation, roofs, and upper level setbacks: the overall building form would be broken into three major blocks, with linking elements to address scale on Winslow Way; the Winslow Way frontage would be highly articulated with three building blocks connected with linking elements; the east and west roofs would be designed to accept solar panels, and the north roof would be pitched in the opposite direction to give scale to the street; and the overall building forms would vary in their positions relative to the street to provide scale, with linking elements designed to be shorter than the major building forms. *Exhibit 20.*
15. A proposal requiring site plan/design review must be reviewed by the City’s Design Review Board (DRB), as well as by the City’s Planning Commission, to ensure the proposal complies with the City’s design review guidelines. *BIMC 2.16.040.E; BIMC 2.16.110.E.* An Applicant may request that review of a site plan and design be consolidated with review of other land use permits, such as a CUP. *BIMC 2.16.040.E.7.* The Applicant for this proposal consolidated review of its site plan and design with its request for approval of a CUP. *Exhibit 2.*

*Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP*

Both the DRB and the Planning Commission reviewed the proposed development prior to the open record hearing before the Hearing Examiner. Both the DRB and the Planning Commission held multiple meetings to review the proposed development, and both issued recommendations that were considered by the Planning Director and this Hearing Examiner. *Exhibit 1, Staff Report, pages 6 through 10.*

Design Review Board Review

16. BIMC 2.16.040.D requires an Applicant to engage in three meetings with the Design Review Board (DRB) prior to submitting an application for site plan/design review. The DRB reviewed the Applicant's proposed site plan and design at three pre-application meetings on September 11, 2017; May 7, 2018; and December 17, 2018. The DRB expressed concerns about the proposed development during its initial review, including the scale of the façade, adequate parking, timing of guest arrivals, and the service area plans. The DRB suggested that the proposed site plan and building be scaled down with greenery and public spaces, that the need for parking be reduced by providing car share opportunities, and that additional proposals include drawings that account for the scale and proximity of surrounding buildings. Following the initial DRB review, the Applicant submitted revised application materials on December 27, 2018, which proposed a 75-room hotel. The DRB met on January 7, 2019, to review the proposal. It met again on May 6, 2019, and June 3, 2019, to receive updates from the Applicant.

On June 7, 2019, the DRB entered findings of fact in which it determined that the project, with conditions, would be consistent with the applicable design guidelines. It recommended approval of the design with conditions related to additional landscaping for the parking areas, a description of the material pallet, and specific plans for the roof drainage/gutter system. The DRB noted that additional review by it may be necessary to make a final determination.

*Exhibit 1, Staff Report, pages 7 and 8; Exhibit 21.*⁷

Planning Commission Review

17. The City Planning Commission reviewed the proposal at four meetings between June 13, 2019, and July 25, 2019. On July 25, 2019, the Planning Commission voted to recommend denial of the proposal and issued written findings in support of its recommendation. The Planning Commission determined that the Applicant's proposed development did not comply with several criteria listed in BIMC 2.16.040.F. Specifically, the Planning Commission found that the site plan/design is not in

⁷ On April 26, 2019, the Applicant revised the proposal to add 12 more guest rooms (with no increase in floor area), 12 parking spaces, and 9 windows in the courtyard, and to remove proposed seating near the bandshell. The DRB was briefed on the revisions on May 6, 2019, deemed the revisions minor, and concluded that the revisions did not require further DRB review. The DRB again met on June 3, 2019, to review additional revisions proposed by the Applicant, but the Applicant ultimately elected to proceed on the proposal presented to the DRB on May 6, 2019. *Exhibit 1, Staff Report, pages 7 through 9; Exhibit 21.*

conformance with development standards (without specifying which ones); is not consistent with the design guidelines; is not in conformance with the Comprehensive Plan and Winslow Master Plan; and is not consistent with open space goals because the interior courtyard, as proposed, can only be accessed by first entering the hotel so it is not readily accessible to the public. *Exhibit 1, Staff Report, page 9; Exhibit 25.*

City Staff Review

18. The City Planning Director reviewed the DRB recommendation, the Planning Commission recommendation, and the development proposal, itself, for consistency with the City's design review guidelines, as required by BIMC 2.16.040.E.6. The Planning Director disagreed with the findings of the Planning Commission in several areas, including the compliance of the proposed development with City code, consistency with applicable design guidelines, and conformance with the Comprehensive Plan and Winslow Master Plan. The Planning Director noted that her determination was based on the DRB's final June 17, 2019, decision, recommending approval, whereas the Planning Commission appeared to rely on an earlier draft decision of the DRB.

The Planning Director determined that, with 83 conditions, the project would meet the site plan/design review criteria of BIMC 2.16.040. Specifically, City staff concluded that the proposed development would conform to the Comprehensive Plan, the Winslow Master Plan, and all applicable code provisions; would conform with the Island-Wide Transportation Plan; would be developed consistent with the street standards for an urban collector roadway in the Winslow Core, including a five-foot-wide right of way dedication conveyed to the City by a right-of-way deed, a six-foot-wide bike lane, concrete curb and gutter with adjacent three-foot planter strip, and a minimum five-foot-wide concrete sidewalk; and would be consistent with the purpose of the site design review process. City staff determined that the proposed development would be outside any critical area and shoreline area, and that no harmful or unhealthful conditions would likely result from the proposed site plan.

The City engineer found that the site plan would meet the decision criteria of BIMC 2.16.110.f.1.i, including detailed criteria for drainage, streets and pedestrian ways, water and sewer capacity, and compliance with the City Design and Construction standards. *Declaration of Heather Wright; Exhibit 1, Staff Report, pages 30 through 33; Exhibit 21; Exhibit 25.*

19. The Attorney for the Applicant, Nancy Rogers, submitted a legal memorandum addressing the site plan/design review criteria, which incorporated City staff's assessment of each criterion, as described above, and disputed the Planning Commission's site plan/design review findings. She urged approval of the application. *Exhibit 40.*

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

Conditional Use Permit Review

20. The Applicant's proposed development for an 87-room hotel in the MUTC-CC zone requires approval of a major CUP. A major CUP is the mechanism by which the City may require specific conditions on the development or use of land to ensure that designated uses or activities are compatible with other uses in the same zone and in the vicinity of the subject property. *BIMC 2.16.110.A*. The Applicant submitted materials in support of the CUP application, specifically addressing topics such as noise, traffic, parking, stormwater, the adequacy of infrastructure/utilities, and landscaping. Each of these elements of a CUP application was a focus at the open record hearing and is more thoroughly discussed below, followed by findings on the review of the CUP by the Planning Commission and City staff. *Exhibit 5 through 19*.

Noise

21. The City adopted noise levels established by Chapter 173-60 WAC. *BIMC 16.16.020*. The maximum permissible noise level from a source within a residential zone upon the property of another within a residential zone is 55 dBA⁸ between the hours of 7:00 a.m. and 10:00 p.m., and 45 dBA between the hours of 10:00 p.m. and 7:00 a.m. *BIMC 16.16.020; BIMC 16.16.040; WAC 173-60-040*. The maximum permissible noise level from a source within a commercial zone upon the property of another within a residential zone is 57 dBA between the hours of 7:00 a.m. and 10:00 p.m., and 47 dBA between the hours of 10:00 p.m. and 7:00 a.m. *BIMC 16.16.020; BIMC 16.16.040; WAC 173-60-040*. A violation of the noise regulations may result in a civil infraction, consisting of a warning if a prior violation has not been committed within the two-year period preceding the most recent violation, and consisting of a monetary fine if a prior violation has been committed within the two-year period preceding the most recent violation. *BIMC 16.16.050*. Noise violations are enforced by the police department and code enforcement officers. *BIMC 16.16.060*. Enforcement of noise regulations may be undertaken only upon receipt of a complaint by a person who resides, owns property, or is employed in the area affected by the noise. *BIMC 16.16.020; WAC 173-60-040*.
22. Of particular concern to the public is the sound level of any music that might be played outdoors in ceremony spaces proposed by the Applicant. As part of its CUP application, the Applicant submitted correspondence with Acoustical Consultant Michael Yantis about the potential noise impacts of the proposed development, including how outdoor music might impact surrounding property. Mr. Yantis noted that he did not have any sound level data for unamplified outdoor music, but he predicted a sound level at the southern boundary of the site to be 69 dBA without a bandshell. Mr. Yantis stated that a practical limit for barrier attenuation due to reflection from nearby surfaces to be 15 dBA, which would put a predicted sound level at the southern boundary to be 54 dBA, which

⁸ WAC 173-60-020.2 defines dBA as "the sound pressure level in decibels measured using the 'A' weighting network on a sound level meter. The sound pressure level, in decibels, of a sound is 20 times the logarithm to the base 10 of the ratio of the pressure of the sound to a reference pressure of 20 micropascals."

would be within the noise limitations during daytime hours and would exceed the limitations between the hours of 10:00 p.m. and 7:00 a.m. He also noted that the barrier attenuation could be less than 15 dBA based on multiple reflections off nearby buildings. Mr. Yantis suggested that the Applicant install a sound monitoring system to notify musicians when they are exceeding noise code limits. *Exhibit 19.*

23. In response to public comment, and to meet the criteria for approval of a CUP, the Applicant proposes to provide landscaping, green walls, and a bandshell and to enclose trash and recycling under a building to reduce noise impacts. Additional conditions proposed by City staff to reduce impacts from noise include informing the neighbors about events taking place on-site to the extent feasible; limiting solid waste pick-up to between 10:00 AM and 12:00 PM; enclosing solid waste facilities within the building, with pick-up occurring under the building; limiting delivery services at loading docks in the west wing of the building; constructing a solid six-foot-high wall or fence along the west property line abutting the townhome access drive; and planting additional vegetation along specific property lines. SEPA conditions require the Applicant to submit a monitoring report to the City, prepared by qualified professionals, after the first and second year following the certificate of occupancy for the building, as well as to track complaints. The City would use the monitoring reports to determine if additional administrative conditions should be imposed. *Exhibit 1, Staff Report, pages 13, 23, 24, 39, and 40; Exhibit 19; Exhibit 31.*

Traffic

24. The proposed development would front Winslow Way West and take access from either end of the site. An additional driveway would be provided for shuttle ingress/egress. Winslow Way is an east-west, two-lane collector and local access street, with a posted limit of 20 mph. To the east, the intersection of Winslow Way with Madison Avenue forms the division between Winslow Way West and Winslow Way East. *Exhibit 12.*
25. On behalf of the Applicant, and as part of its submittal for approval of a CUP, Heath & Associates, Inc., prepared a traffic impact analysis (TIA), dated April 2019. The TIA reviewed the proposed 87-guest-room hotel, with a restaurant, spa, and banquet rooms.⁹ The TIA determined that the existing level of service (LOS) at surrounding intersections and a roundabout during the weekday peak hours of travel to be LOS C or better.¹⁰ The TIA forecast that the weekday peak hour level of service with and without the project

⁹ The City Planning Commission reviewed the Applicant's proposal on July 5, 2019, which included an outdoor entertainment amphitheater/bandshell. *Exhibit 25.* The TIA did not include a review of this feature. *Exhibit 12.*

¹⁰ Level of Service (LOS) is a range from LOS A to LOS F with the former indicating the best operating conditions with low control delays and the latter indicating the worst conditions with heavy control delays. *Exhibit 12.*

would remain at LOS C or better except for the intersection of SR-305 and High School Road, which would remain at LOS D with the project. The TIA determined that the proposed project would generate approximately 41 AM and 52 PM peak-hour trips. The Applicant would be responsible for paying City traffic impact fees, with credit for the existing uses. The TIA did not recommend any mitigation other than payment of impact fees, but the MDNS conditions include several requirements related to mitigation of traffic impacts (See Attachment B, Conditions 3-12. *Exhibit 1, Staff Report, pages 28 and 29; Exhibit 12.*

26. In response to concerns that the TIA did not account for summer traffic patterns, Heath & Associates conducted traffic counts at the intersection of Madison Avenue and Winslow Way in June 2019. The Thursday PM peak count taken on June 20, 2019, showed 851 entering vehicles, and the Friday AM peak count taken on June 21, 2019, showed 504 entering vehicles. Heath & Associates concluded that the summer peak counts corroborated its analysis in the April 2019 TIA, which had relied on data, showing a PM peak count of 853 entering vehicles and an AM peak count of 593 entering vehicles on December 4, 2018. Heath & Associates also conducted a Saturday traffic count at the intersection in response to concerns that the TIA did not account for weekend traffic. The Saturday count taken on June 22, 2019, showed a peak in traffic between noon and 1:00 p.m., with 908 entering vehicles, which Heath & Associates opined was not a significant increase from the 851 entering vehicles in the December 4, 2018, weekday PM peak count. *Exhibit 15.*
27. The City Engineering Project Manager Mike Michael determined that the TIA submitted by the Applicant provided a thorough review of the proposed development's traffic impacts, which appropriately examined the maximum traffic impact of the proposed development, ferry traffic surges, and pedestrian effects on traffic delay projections. City staff determined that, with conditions, the traffic impacts from the proposed development would not be materially detrimental to other uses or property in the vicinity of the site. *Testimony & Declaration of Mike Michael; Exhibit 1, Staff Report, page 34.*

Parking

28. On behalf of the Applicant, and as part of its submittal for approval of a CUP, Walker Consultants prepared a shared parking analysis for the proposed project, dated March 24, 2018. The shared parking model recommended 179 parking spaces to accommodate peak parking demand, assuming all 7,359 square feet of event space is in use concurrently, as well as full occupancy of the hotel rooms (70 rooms were proposed at that time).

The Applicant provided a revised parking analysis, including a valet stacking analysis, on January 14, 2020, for a hotel with 87 rooms and event spaces of 5,880 square feet, a reduction from the 7,359 square feet used in the Walker Consultant analysis. The

Applicant calculated that 132 parking spaces would be required, with 59 parking spaces for the 87 rooms and 57 parking spaces for events, employees, and external patrons.

In a Winslow Hotel Parking Analysis Update, dated September 13, 2019, Walker Consultants recommended potential transportation demand management measures to reduce traffic impacts, including shuttle service to and from the ferry, subsidized transit for employees, availability of traditional and/or electric bicycles for hotel guests, and use of rideshare vehicles.

Exhibit 10; Exhibit 11; Exhibit 32.

29. The City engineer determined that the capacity of transportation facilities affected by the proposed development of 87 hotel rooms is equal to or greater than the capacity required to maintain the level of service standard for the impact of the development. City Engineer Peter Corelis issued a Certificate of Concurrency, dated December 9, 2019, based on the April 2019 TIA, with addenda dated July 2019.¹¹ *Exhibit 15.*
30. In its review of the proposed development, City Planning Department staff determined that the proposed 143 striped parking spaces, plus an additional 37 spaces through stacked parking by valet attendants, would provide sufficient on-site capacity for the proposed development, if a condition of approval limits the simultaneous use of the banquet and meeting rooms to 6,200 square feet. City staff noted that the Applicant would provide six disabled access parking spaces, 42 compact parking spaces, and eight electric vehicle charging stations, to comply with BIMC 18.15.020, and the Applicant would provide 36 bicycle spaces and 36 bicycles as part of an on-site shared bicycle program, in compliance with BIMC 18.15.030. *Exhibit 1, Staff Report, pages 28, 29, and 41.*

Stormwater

31. The Applicant's proposed stormwater system would capture site and roof run-off to a 42,000-gallon rainwater underground cistern for recycling, reusing approximately 500-700 gallons per day for irrigation. Excess runoff would be discharged to the Winslow Way West public storm water conveyance system. The Applicant would install permeable surface parking and driveways. The Applicant would submit to the City a Stormwater Pollution Prevention Plan, prepared by a civil engineer prior to construction activities, and a downstream analysis, to demonstrate that adequate capacity exists from the site to the main storm drain in Madison Avenue. *Exhibit 1, Staff Report, pages 13, 37, and 44.*

¹¹ Exhibit 14 is also a Certificate of Concurrency, issued June 6, 2019, based on a Heath & Associates traffic study, dated October 2019.

Utilities and Services

32. City staff reviewed the application and determined that the proposed development would be served by adequate public facilities, including roads, water, fire protection, sewer, and storm drainage. The City of Bainbridge Island Police Department would provide police services to the property. Bainbridge Island Fire District would provide emergency fire services to the property. The City would provide water and sewer services. The City issued a non-binding commitment for water and sewer capacity. Additionally, water service would be provided by rainwater recycling. The proposed development would use an 8-inch city sewer main located at the southeast property corner to connect to the public sewer system. The Applicant would extend the sewer main approximately 300 feet north, through and across the property along the eastern boundary, to serve the site and adjacent properties. An on-site sewage system is being considered to help reduce impact on the city sewer system. Bainbridge Island Fire Department submitted written comments recommending that the proposed development comply with the adopted Fire Code by installing fire sprinklers and alarms, providing a 1,500 gpm fire flow, and allowing aerial apparatus access of not less than 16 feet in drivable width, as required for a building over 30 feet high. *Exhibit 1, Staff Report, pages 6, 15, 34, and 43; Exhibit 17; Exhibit 18.*

Landscaping

33. City landscape requirements require 30 tree units per acre, or 55.8 tree units for this project. *BIMC 18.15.010.G.4.* The Applicant would retain 101.4 tree units and proposes an additional 137 new tree units for a total of 238.4 tree units. The Applicant has submitted a tree retention and landscaping plan that must be approved by the City prior to any construction. *Exhibit 1; Staff Report, pages 27, 45, and 46; Exhibit 8.f.*
34. On behalf of the Applicant, and as part of its submittal for approval of a CUP, Tree Solutions, Inc., prepared a Preliminary Arborist Report (PAR), dated December 27, 2018. The PAR inventoried and assessed 43 trees at 253 Winslow Way West. The PAR concluded that 31 trees qualify as significant trees, four trees qualify as landmark trees, and 28 trees qualify as part of a tree stand. The proposed development would remove 10 significant trees and two landmark trees. Nine significant and one landmark tree would be retained. The PAR included tree protection specifications and root pruning recommendations. *Exhibit 29.*
35. On behalf of the Applicant, and as part of its submittal for approval of a CUP, Ribeiro Consultants prepared a Tree Health Evaluation, dated November 23, 2018, for a Giant Sequoia located on the site. The evaluation identified the tree as the largest in the downtown area, with a diameter of 62.5 inches at breast height, a height of 104 feet, and an average canopy spread of 44 feet. The entire area around the tree is covered with concrete slabs and impervious pavement. A Douglas fir is located adjacent to the Sequoia. The evaluation recommended actions to protect the trees, including removing the concrete foundation and other impervious surfaces around the trees, cabling terminal

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

co-dominant stems to avoid breakage, applying a treatment to help prevent infections by wood decay fungi, and using a root barrier on the building side of the tree. The evaluation also included recommended tree protection protocols for use during construction. *Exhibit 28.*

*Planning Commission
Review of CUP Application*

36. The City Planning Commission reviewed the Applicant's proposal at four meetings and ultimately voted to recommend denial of the proposal.¹² Specific to the criteria for approval of a CUP, the Planning Commission determined that the proposed development did not comply with several CUP criteria listed in BIMC 2.16.100.F. Specifically, the Planning Commission found that the proposed development would not be compatible in design, character, and quality of development in the vicinity because the proposed floor area ratio (FAR) bonus would be used to support facilities that would not provide greater flexibility in housing, advance Comprehensive Plan goals, or encourage downtown living. The Planning Commission also found that the proposed development would not be in accord with the Comprehensive Plan because it would provide services primarily for guests of the hotel. Additionally, the Planning Commission found that there was insufficient analysis of noise and traffic impacts of the proposed development to determine whether it would satisfy several CUP criteria. *Exhibit 1, Staff Report, page 9; Exhibit 25.*

City Staff Review of CUP Application

37. The Planning Director, the City engineer, and other City staff reviewed the CUP application as required by BIMC 2.16.110.E.4, and determined that, as conditioned, the project would satisfy the decision criteria of BIMC 2.16.110.F. The Planning Director and City staff found that the proposed development would meet design guidelines and be compatible with development in the vicinity; would be served by adequate public facilities; would not be materially detrimental to uses or property in the vicinity; would conform with the Comprehensive Plan, Winslow Master Plan, and Island-Wide Transportation Plan; would comply with City code; and would implement noise mitigation measures and be required to comply with noise regulations. City staff also noted that pedestrian and bicycle circulation would meet all applicable City standards and that the Applicant obtained a certificate of concurrency following submittal of its TIA. *Exhibit 1, Staff Report, pages 33 through 37.*

¹² Under BIMC 2.16.110.E.3, the Planning Commission is tasked with reviewing major conditional use permits for consistency with the City's design review guidelines, requirements of the zoning code, and consistency with the Comprehensive Plan. The Planning Commission's findings concerning consistency with the City's design review guidelines are addressed here, in Finding 36. Under BIMC 2.16.110.E.2, the DRB is also tasked with reviewing major CUPs for consistency with the City's design review guidelines. Because the DRB's findings concerning design review guidelines are already addressed in Finding 16, that information is not repeated here.

38. The City engineer determined that the proposed development would conform to drainage regulations so that no undue burden on water quality would be created by the development, that pedestrian ways align with the streets serving the proposed development and are adequate to accommodate increased traffic, that adequate capacity exists in the water and sewer system for the proposed development, and that the proposed development would conform to the “City of Bainbridge Island Engineering Design and Development Standards Manual.” *Exhibit 1, Staff Report, page 37; Exhibit 15; Exhibit 18.*
39. The Applicant’s attorney submitted a legal memorandum addressing the CUP criteria, which incorporated City staff’s assessment of each criterion as described above and disputed the Planning Commission’s CUP findings. *Exhibit 40.*

Written Public Comment on the Development Proposal
Site Plan/Design Review & CUP Applications

40. The City received comments from agencies in response to its notice materials. The Multi-Modal Transportation Advisory Committee (MTAC) commented that the project should keep sidewalks level across driveways, consider additional street trees, move the sidewalk to the back edge of the right-of-way, ensure that the sidewalk is at least 6 feet wide, and ensure that, where the building meets the sidewalk, there is an 18-inch minimum shy zone. The MTAC also questioned whether the project would require on-street parking. The Bainbridge Island Fire District Fire Marshal recommended approval with conditions on May 1, 2019. The City Building Official provided preliminary comments on May 7, 2019, noting that a full review would be performed during the building permit application process. The City Public Works Development Engineer recommended approval with conditions on June 5, 2019; issued a Certificate of Concurrency on June 6, 2019; and issued an updated Certificate of Concurrency on December 9, 2019. The City Department of Public Works provided a non-binding commitment for water and sewer system capacity letter on June 7, 2019. City staff reviewed the comments received and incorporated the recommendations for conditions offered by other department and agencies into its recommend list of conditions for approval of a CUP. *Exhibit 1, Staff Report, pages 8 and 22; Exhibits 14 through 18; Exhibit 22; Exhibit 27.*
41. The City received numerous written comments from the public in response to its notice materials.¹³ These comments generally related to the following topics:
- **Building Design and Scale:** Comments on this topic expressed concerns that the proposed hotel would have too many rooms, that the structure would be too large, that the project site would be too small for the hotel, that the hotel would exceed

¹³ The City received over 300 public comments on the proposal. *Exhibit 1, Staff Report, pages 18 and 19; Exhibits 33 through 35; Exhibit 37; Exhibit 38.*

two stories, that the hotel's height and building type would not be harmonious with the appearance of downtown, and that the public would not see the redwood that would be incorporated into the building design.

- **Preserving the Character of Winslow:** Comments on this topic expressed concerns that the project would change the experience of the Island, that inadequate parking and traffic impacts would compromise the scale of Winslow, that the project would lead to a loss of the small-town feel of Winslow, that the project would create a frenzied and busy environment, and that the project would negatively impact an already overcrowded downtown.
- **Impacts to Adjacent Residences:** Comments on this topic expressed concerns about the location of the development near dense residential areas and quiet side streets and that the proposed project is not sympathetic to existing residences and does not provide landscaping between building and residents on the west side for screening, that the project would diminish the value of adjoining homes, and that the project would be detrimental to the long-term mental and physical health of citizens and guests.
- **Not a Preferred Use:** Comments on this topic expressed concerns that the project site should be limited to residential uses, that a hotel district should be provided in another location, and that the proposed development would be incompatible with other uses in the vicinity. Comments also expressed concerns that the proposed hotel would be located next to homes, condos, senior living, community gardens, schools, and small commercial businesses. Additionally, comments raised concerns that the project would not contribute to local businesses, that the hotel would provide no local benefits, that employees of the hotel would not live on the Island, that the trash would be left behind from events, and that the area has no need for the proposed banquet space, meeting rooms, or a restaurant.
- **Economic Impact:** Comments on this topic expressed concerns that the hotel business could fail and become an abandoned eyesore. Comments also expressed concerns that other hotels on the Island are not at capacity, that the project would displace the Seattle Children's store, and that it would reduce the quality of existing stores.
- **Parking and Traffic Impacts:** Comments on this topic expressed concerns that the hotel would reduce the supply of off street parking, that the traffic study failed to consider summer traffic patterns, that the project would result in more traffic congestion and accidents, that the intersection of Madison needs a traffic signal, and that the project did not consider pedestrian and bike safety. Comments also suggested that the project incorporate a shuttle service to reduce traffic impacts.
- **Noise, Light, and Odor Impacts:** Comments on this topic expressed concerns about noise impacts from the proposed outdoor courtyard, outdoor events, amplified music, and service drive. Other comments on this topic suggested noise monitoring, enclosing the loading dock and drive area, and installing sound

barriers around external HVAC units. Comments also expressed concerns about light impacts and restaurant exhaust and cooking odors.

- **Utilities and Environmental Impact:** Comments on this topic expressed concerns about water supply, sewage capacity, aging pipes, on-site septic odor, woodboring impacts, landfill impacts, and strains on aquifers.
- **Support for the Project.** Several comments expressed support for the proposal, noting that the hotel would have aesthetically pleasing qualities and that it would provide a community space, provide a place for families of locals to stay on the Island, support local business, provide jobs, and utilize environmentally sound development practices.

Exhibit 1, Staff Report, pages 19 through 22; Exhibits 33 through 35; Exhibit 37.

42. On behalf of the Winslow Neighbors, Ross Tilghman, Tilghman Group, prepared a memorandum, dated June 10, 2019, analyzing the Applicant's TIA. In summary, the following concerns were raised by Mr. Tilghman:
- The TIA does not evaluate Saturday transportation demands when the project would generate its highest volumes.
 - The TIA's weekday trip generation does not account for use of the event space.
 - The TIA's findings are based on low-volume winter traffic counts, not on higher volume summer traffic.
 - Ferry traffic surges have not been adequately considered.
 - The project's compliance with zoning requirements for parking remains unknown, but may be between 160 and 195 spaces.
 - It is unclear how and where the project can secure off-site parking.

Exhibit 43.A-1.

Mr. Tilghman also prepared a memo, dated July 11, 2019, with comments on the updated traffic counts submitted by the Applicant. Mr. Tilghman commented that the June and December traffic counts were comparable, that Ferry ridership is greater in summer than in winter, that greater traffic congestion occurs east on Winslow Way between SR-305 and Erickson Avenue and should be further evaluated for summer traffic conditions, that the highest traffic volumes occurred on Friday between 4:00 and 5:00 PM and on Saturday between noon and 1:00 PM, and that the summer traffic count occurred when school was still in session. *Exhibit 43.A-3.*

Mr. Tilghman prepared a follow-up memorandum, dated September 30, 2019, after reviewing the project's separate parking analysis, dated March 24, 2018; the supplemental analysis, dated June 12, 2019; and other material. In summary, he raised concerns that the proposed development's compliance with zoning requirements for parking remained unknown; that the parking analysis omitted restaurant and banquet employee parking demands; that it remained unclear whether the proposed development would be able to secure off-site parking; that the TIA did not evaluate Saturday

transportation demands; that the TIA's weekday trip generation did not account for event space use; that the supplemental study's summer counts should have evaluated traffic volumes in July through September, rather than in June; that the TIA's LOS analysis omitted pedestrian volumes and their effects on traffic operations; and that the TIA failed to adequately consider ferry traffic surges.

Exhibit 43.A-2.

43. On behalf of Winslow Neighbors, Adam Jenkins, a principal noise consultant with Greenbusch Group, Inc., submitted an acoustical review memorandum. He concluded that the City's proposed conditions for monitoring noise impacts would be insufficient because there are several fixed elements for the project that could not be retrofitted without major reconstruction. Mr. Jenkins also noted that the Applicant had not conducted any noise study to determine the potential noise impacts from the proposed development.

Exhibit 45.

44. City staff assessed the written comments submitted on the proposal and, in response, stated that the proposed development would be visually split into three elements and would therefore comply with design guidelines for buildings exceeding 10,000 square feet; would comply with dimensional standards for lot coverage, floor area ratio (FAR), setbacks, and building height; would incorporate elements that capture the area's character and standard for quality development; would mitigate impacts to adjacent properties, through landscape buffers, tree retention, the location of the hotel entrance, and a minimum six-foot-high wall along the west property line; and would provide all parking on-site. City staff also explained that hotels are a permitted use in the Central Core district and that the CUP process would allow the City to impose conditions to ensure compatibility with other uses, noting that such conditions would require the proposed development to provide frontage improvements, new sidewalks, and a bike lane, and to ensure the project meets noise standards with monitoring requirements. Additionally, City staff noted that the TIA concluded that no mitigation for traffic impacts would be required and that the proposed development would maintain the existing grade of the site, exceed tree retention and landscaping requirements, have permeable surface parking and drives for natural drainage, and incorporate low impact design (LID) and green design features. *Exhibit 1, Staff Report, pages 19 through 22; Exhibits 33 through 35; Exhibit 37.*

Hearing Testimony

45. Thirty-seven individuals testified at the open record hearing on the application, including seven expert witnesses, and three attorneys presented argument at the hearing. Consideration of all testimony at the hearing is an important step in making a decision on an application. Information is contained in documents, as well as in testimony from the Applicant, the City, and the public. A summary of the hearing testimony follows.

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

City Testimony

46. City Planning Director Heather Wright testified generally about the application review process, explaining that her role as Planning Director is to review the project, to make a decision on SEPA, and to make a recommendation to the Hearing Examiner based on the City Comprehensive Plan, applicable development regulations, and recommendations from the Design Review Board, the Planning Commission, and the public. She stated that she had examined the project site and neighboring properties with the City review team to evaluate whether the project would meet code requirements, whether it would be consistent with the City Comprehensive Plan, and whether impacts of the project and community concerns could be adequately mitigated. Ms. Wright discussed the City Comprehensive Plan's guiding principle of preserving the special character of downtown Winslow's small-town atmosphere. She explained that this guiding principle is implemented through Code regulations and design guidelines, which City staff have determined have been complied with by the proposed development. *Testimony of Ms. Wright.*
47. City Planning Manager David Greetham testified generally about the project through a slide presentation, admitted as Exhibit 39. He noted that a 15-room hotel is a permitted use outright in the Mixed Use Town Center - Central Core zone, but that the Applicant's proposed 87-room hotel required a CUP. Mr. Greetham highlighted aspects of the project that included the proposed lot coverage, floor area ratio, building height, tree retention, and landscaping, and he discussed how the proposed project, with recommended conditions, would be consistent with the City's Comprehensive Plan and would comply with applicable code requirements. He noted that the Applicant's site plan depicted in Exhibit 7 reflected the final site plan reviewed by the DRB, which had reduced the west wing of the proposed hotel to accommodate parking and had reduced the east wing to accommodate screening. Mr. Greetham also noted corrections to the City staff report.¹⁴ *Testimony of Mr. Greetham.*
48. City Engineering Project Manager Mike Michael testified generally about his team's review of the technical aspects of the project's public infrastructure impacts, particularly traffic impacts, the validity of the Applicant's parking analysis, and the proposed frontage improvements' impacts to non-motorized activity. He noted that the City originally issued a certificate of concurrency to the Applicant on June 6, 2019, but then requested that the Applicant submit an additional traffic impact analysis in response to public comment; following submittal of the additional traffic impact analysis, the City issued a second certificate of concurrency on December 9, 2019. Mr. Michael explained that the

¹⁴ Specifically, Mr. Greetham noted a typographical error at page 26 of the report stating "201-2017" instead of "2015-2017" and an error at 28 of the report that correctly stated the number of proposed parking spaces but incorrectly listed the figures used to calculate the total proposed parking spaces. *Exhibit 1, Staff Report, pages 26 and 28; Testimony of Mr. Greetham.*

Applicant's traffic analysis and supplemental analysis showed a slight increase to PM peak-hour trips as a result of the project, but that mitigation would not be required because the increase did not affect LOS standards. He noted that the Applicant's traffic analysis had examined the maximum draw of the proposed hotel, including traffic generated as a result of hotel events. Mr. Michael stated that the Applicant's analysis of traffic generated from ferry service was included in its analysis of base existing traffic in the area. Mr. Michael noted that City code does not provide parking requirements for this type of project, but that City staff had reviewed and agreed with expert analysis of the parking needs for the proposed hotel and associated facilities. He also noted that the Applicant had agreed to make frontage improvements beyond the project site. *Testimony of Mr. Michael.*

Applicant Testimony and Legal Argument

49. Attorney for the Applicant, Nancy Rogers, presented an overview of the project and argued that the project would be compatible with the character and quality of development in the vicinity of the site. Ms. Rogers noted that the DRB had unanimously recommended approval of the project and that compliance with the Living Building Challenge cannot be made as a condition of approval because compliance with the challenge would be evaluated after project completion. She asserted that the Hearing Examiner is not required to follow the Planning Commission's recommendation to disapprove the project. Ms. Rogers argued that the project would be consistent with the City's Comprehensive Plan because it would meet or exceed all requirements under City code. She further argued that the project would not have any material detriment to the MUTC-CC zone. Regarding noise impacts, Ms. Rogers noted that hotels are incentivized to provide a quiet environment for guests and that the hotel would be required to comply with state and local noise regulations. *Argument of Ms. Rogers.*
50. Michael Burns testified that he is a long-time resident of Bainbridge Island and discussed specific features of the proposed hotel and how those features would be compatible with the special character of downtown Winslow. He noted that the project would pursue the Living Building Challenge and that, if successful, it would be the first hotel to achieve the challenge. Mr. Burns stated that the hotel and courtyard would be open to the public. He presented an email correspondence with a Columbia Hospitality consultant that detailed the approximate number and nature of deliveries and garbage/recycling collections that the proposed hotel would be expected to receive each week, which was admitted as Exhibit 41; according to the correspondence, the hotel would be expected to receive a total of approximately 18 to 22 deliveries and garbage/recycling collections each week. *Testimony of Mr. Burns.*
51. Architect James Cutler testified generally about the project through a slide presentation, admitted for illustrative purposes as Exhibit 42. He discussed aspects of the proposed building design and of existing neighboring property uses, noting that the building would

be designed to both meet the Living Building Challenge and be harmonious and compatible with development in the vicinity. *Testimony of Mr. Cutler.*

52. Architect Bruce Anderson testified generally about the project, noting that the project was in the highest density zone, it would fully comply with land use code, and the Applicant was not seeking any variances. He noted that the other aspects of the hotel facility, including the restaurant, spa, and wedding venue space, were all permitted uses in the zone. Mr. Anderson explained that, under applicable City code, building height limits are measured from average grade to average pitch of a sloped roof, and he asserted that the project would comply with the building height limits. He stated that garbage and recycling collection would be in an enclosed underground space to mitigate noise impacts and that the proposed 143 on-site parking spaces would exceed design requirements. *Testimony of Mr. Anderson.*
53. Traffic consultant Greg Heath testified that Heath & Associates, Inc., prepared two versions of a TIA for the project, and explained the methodology used to evaluate the traffic impacts of the proposed hotel facility. He noted that the analysis considered all uses for the proposed hotel facility, including the restaurant, banquet rooms, and meeting spaces. Mr. Heath concluded that traffic generated by the hotel would not be detrimental to the current LOS in the project area. *Testimony of Mr. Heath.*
54. Parking consultant Jeff Weckstein testified that Walker and Associates, Inc., conducted a parking needs analysis for the project, explaining the methodology used to conduct the analysis. He noted that the analysis had evaluated the parking needs for 100 percent occupancy of the hotel, with simultaneous occupancy of half of the event space, and concluded that 129 spaces would be required. Weckstein stated that the proposed 139 parking spaces would exceed this need and would be adequate to serve maximum occupancy of the hotel facility when used in conjunction with valet/stacked parking services. He concluded that the proposed parking supply would not be materially detrimental to neighboring vicinities of the project site. *Testimony of Mr. Weckstein.*

Public Testimony & Perspectives

55. Jon Quitslund testified that he is a member of the Planning Commission that reviewed the proposed development. He described the Planning Commission's role in making recommendations for approval or disapproval of an application. Mr. Quitslund requested that the Hearing Examiner follow the recommendation of the Planning Commission to deny the CUP for the reasons stated in its recommendation, noting that the Planning Commission concluded that no reasonable conditions could be imposed to mitigate the project's impacts to neighboring vicinities. *Testimony of Mr. Quitslund.*
56. Attorney David Bricklin argued against the proposal on behalf of a citizens group, the Winslow Neighbors. He described the Winslow Neighbors group and its position in

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

opposition to the project as currently proposed. Mr. Bricklin argued that, under BIMC 2.16.110, the Hearing Examiner is required to follow the recommendation of the Planning Commission unless certain criteria are satisfied. He noted that expert and lay testimony demonstrate that: the proposal would not be consistent with the City Comprehensive Plan; the Applicant's traffic impact analysis was insufficient, for failing to account for ferry traffic surges; the project would not meet the requirements for a FAR bonus; the Applicant should have prepared a noise study to determine impacts; the City staff report failed to adequately address CUP approval criteria; and the DRB failed to provide findings of fact regarding how the project would comply with design guidelines, specifically concerning maximum façade length and maximum building height.

Argument of Mr. Bricklin.

57. Transportation Planner Ross Tilghman testified that he reviewed the Applicant's TIAs on behalf of Winslow Neighbors and concluded that the TIAs were insufficient because they omitted weekday peak event traffic and did not evaluate traffic impacts with reference to the likely population at hotel events. He also noted that the TIAs failed to consider LOS impacts to the intersection of Winslow Way West and Ericksen Ave NE, ferry surge traffic, delays caused by pedestrian traffic, and whether the proposed size of the entry plaza would be sufficient to prevent delays on the adjoining street. Mr. Tilghman disputed the demand calculations used to determine the off-site parking needs of the project because it did not account for employee parking demands or restaurant parking demands. He concluded that the parking needs of the project would require 169 vehicle spaces for maximum occupancy. Mr. Tilghman offered a memorandum addressing transportation impacts, admitted as Exhibit 44. *Testimony of Mr. Tilghman.*
58. Adam Jenkins testified that he is a principal noise consultant with Greenbusch Group, Inc., which analyzed environmental noise elements of the proposed project for the Winslow Neighbors group. He noted his recommendation to the Planning Commission that a noise study should have been conducted to provide a quantifiable demonstration of whether the conditional use requirements would be satisfied. Mr. Jenkins explained that computer modeling software could predict the noise impacts of various aspects of the project, including the exterior mechanical equipment, on-site pedestrian traffic, the proposed band shell, garbage collection, and back-of-house deliveries. He stressed that such a study would demonstrate whether the project would comply with noise regulations. *Testimony of Mr. Jenkins.*
59. John Adams testified that he is a licensed architect and reviewed the Applicant's proposed project design for the Winslow Neighbors. He noted his opinion that the proposed design did not conform with design guidelines regarding maximum façade length, building articulation, on-site pedestrian passageways, maximum building footprints, compatibility with neighborhood characteristics, upper level setbacks, or roof design. *Testimony of Mr. Adams.*

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

60. In addition to the expert testimony described above, several members of the public testified regarding their concerns with the proposed project, which included:
- **Concerns with vehicular traffic impacts.** Regarding vehicular traffic concerns, several members of the public testified about the existing traffic problem in the vicinity of the project site and about how residents tend to avoid the downtown core because of the existing traffic conditions. Other members of the public noted that traffic impacts from the project would extend beyond the immediate vicinity of the project site because residents and visitors would use detour routes to avoid traffic on the corridor streets. *Testimony of Kathryn Lafond; Testimony of Barbara Kirk; Testimony of Phyllis Carlyle; Testimony Gail Hiestand; Testimony of Wendy Hinman; Testimony of Jack Sjolseth; Testimony of Debbie Hollyer; Testimony of Caroline Clarke.*
 - **Concerns with pedestrian traffic impacts.** Regarding pedestrian traffic concerns, members of the public raised concerns about increased pedestrian traffic impacts on vehicular traffic and the project's impact on walkability of the neighborhood. *Testimony of Ms. Lafond; Testimony of Ms. Carlyle; Testimony of Ms. Hiestand; Testimony of Mr. Sjolseth; Testimony of Cheryl Crist; Testimony of Joanna Pyle.*
 - **Concerns with parking demands.** Regarding parking demand concerns, members of the public testified that parking availability is an existing problem in the area and that residents avoid downtown Winslow because of the lack of available parking. *Testimony of Ms. LaFond; Testimony of Ms. Kirk; Testimony of Ms. Carlyle; Testimony of Ms. Hollyer.*
 - **Concerns with noise impacts.** Several members of the public testified to their concerns that noise from the hotel would negatively impact residential neighbors of the hotel, specifically noise from wedding events, hotel and event guests, delivery services, garbage collection, and exterior mechanical equipment. Members of the public also expressed concerns with the ability to enforce noise regulations, noting the current limited ability to enforce those regulations. Members of the public also remarked that design elements to reduce noise need to be implemented prior to construction. *Testimony of Ms. Carlyle; Testimony of Pam Cole; Testimony of Scott Schirmer; Testimony of Dave Mackenzie; Testimony of Ms. Hollyer; Testimony of Ms. Clarke; Testimony of Maradel Gale; Testimony of Sheila Curwen.*
 - **Concerns with building design.** Several members of the public expressed concerns with the proposed building design and the process by which the DRB approved the proposed design. Specifically, members of the public raised concerns with the proposed building size, length of the façade, pedestrian passageways, and building height with respect to the proposed roof design. *Testimony of Ms. Carlyle; Testimony of Mr. Quitslund; Testimony of Cindy*

Bellas; Testimony of Ms. Hiestand; Testimony of Kjell Stoknes; Testimony of Roger van Gelder; Testimony of Robin Simons.

- **Concerns with the project's compatibility with the City Comprehensive Plan.** Several members of the public expressed concerns about the project's compatibility with the City Comprehensive Plan, particularly in regard to the hotel's fit with the unique characteristics of the downtown Winslow neighborhood. *Testimony of Ms. Hiestand; Testimony of Jack Sheridan; Testimony of Ms. Crist; Testimony of Mr. Stoknes; Testimony of Ms. Gale; Testimony of Ms. Pyle; Testimony of Ms. Simons; Testimony of Fran Korten.*
- **Concerns with economic impacts to neighboring businesses.** Members of the public expressed concerns with the project's economic impacts to neighboring businesses. Members of the public noted that other hotels and event spaces in the vicinity are currently underutilized, that traffic and parking impacts will cause residents to shop outside of the downtown area, that only a small portion of the economic benefits of the hotel will go to local retail merchants, and that the development of the hotel will lead to more large-scale business development in the area. *Testimony of Ms. Lafond; Testimony of Ms. Kirk; Testimony of Natalia Ilyin; Testimony of Mr. Sheridan; Testimony of Ms. Hollyer; Testimony of Ms. Simons.*
- **Other concerns.** Additionally, members of the public raised concerns with the project overtaxing existing emergency medical services and with the project's impacts to sewage services. *Testimony of Ruth Urbach; Testimony of Ms. Hinman.*

61. Several members of the public testified in support of the project, noting that the proposed hotel and associated facilities would bring needed lodging facilities to the area, generate jobs, provide a community gathering space, incorporate environmentally sound building practices, be consistent with the Comprehensive Plan, use local talent to meet local needs, and serve the needs of a growing community. *Testimony of Allison Davy; Testimony of Holly White; Testimony of Priscilla Zimmerman; Testimony of Ed Cannard.*

Post-Hearing Submittals

62. At the conclusion of the open record hearing, the Hearing Examiner entered an order permitting Ms. Carlyle and Attorney Bricklin to submit certain documents for the record by January 24, 2020, permitting the attorneys for the Applicant and the City to submit a response to public testimony by January 31, 2020, and permitting the attorneys for the Applicant, for the City, and for the Winslow Neighbors to submit a request to reopen the hearing by February 7, 2020. *Post-Hearing Order, dated January 24, 2020.*
63. The Applicant filed the following declarations pursuant to the January 24, 2020, Post-Hearing Order:

*Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP*

- a. Greg Heath submitted a declaration that stated he had prepared the TIA for the project. In response to testimony regarding the effect of Saturday traffic impacts, he noted that the no data is available regarding Saturday peak hours or indicating that hotel peak traffic would occur at the same time as other Saturday peak traffic. Mr. Heath states that professional traffic reports focus on traffic impacts during the PM peak hour because it is the known time of the week when maximum street volumes generally occur. In response to testimony about the Institute for Transportation Engineers (ITE) Trip Generation Manual's definition of hotel, Mr. Heath noted that the ITE is the industry standard and includes supporting facilities in its definition of hotel, such as banquet facilities and restaurant activity traffic. In response to testimony about the effect of ferry traffic, Mr. Heath noted that the AM and PM field counts in the TIA were taken over two hours and included ferry traffic over each time period. He further noted that the LOS analysis accounted for the ferry surge by showing lower peak-hour factors, explaining that the peak-hour factor is used in traffic engineering analysis to focus more traffic in to the 15-minute window that characterizes ferry traffic. In response to testimony about the pedestrian traffic impacts, Mr. Heath noted that pedestrian movements have little effect on intersection operations. In response to testimony about event traffic impacts, Mr. Heath noted that the project is conditioned to monitor event traffic for two years to provide additional data that could lead to additional conditions if a problem becomes evident. In response to comments that the TIA did not analyze impacts at the Winslow Way/Erickson intersection, Mr. Heath noted that the City did not require analysis of this intersection because it is a minor T intersection located between two larger intersections that were both included in the TIA analysis. He concluded that the TIA shows that the project would not create significant traffic impacts.
- b. Jeff Weckstein submitted a declaration that stated he had prepared the parking needs analysis for the project. In response to concerns raised about the proposed on-site parking spaces not meeting zoning requirements, he noted that City code does not specify a minimum parking requirement for hotels. In response to concerns that the parking analysis failed to account for employee parking demands, Mr. Weckstein noted his opinion that the employee drive ratio assumptions used to analyze parking needs were appropriate. In response to concerns about valet service availability, he noted that valet services would be arranged in accordance with the hotel's event schedule to anticipate parking needs. Mr. Weckstein further noted that, if the proposed parking supply would not be adequate to capture the site's parking demands, SEPA mitigation monitoring conditions would provide a backstop against parking spillover by requiring the hotel to make adjustments or risk losing its ability to host concurrent events.

- c. Bruce Anderson submitted a declaration that stated he is one of the architects working on the project. In response to testimony raising concerns about the project meeting design guidelines, he noted that the design guidelines provide for flexibility and are not required to be strictly enforced. Regarding the proposed façade length, Mr. Anderson states that the east and west wings of the building are not included within the common definition of a building façade because they are not the front of the building facing a street. He further states that the building façade along Winslow Way is broken into pieces that are each less than 128 feet in length and that the main entry is designed to be open through the building, connecting the street to the courtyard during favorable weather. In response to concerns about adequate articulation of the east and west wings of the building, Mr. Anderson noted that the building wings demonstrate articulation through patterns of fenestration and expression of structural bays. In response to concerns about pedestrian passageways, Mr. Anderson states that such passageways are recommended but not required. In response to concerns about building size, Mr. Anderson states that the proposed hotel is visually split into wings and that the guidelines do not require that every building module must be 10,000 square feet or less. In response to concerns about upper level setbacks, Mr. Anderson noted that the overall building forms of the façade vary in angles and positions to the street to assure a pedestrian sense of scale, light, and air, which meet the intent of the setback guidelines. In response to concerns about roof design, Mr. Anderson noted that the hotel would use a shallow-pitched shed roof for the installation of solar panels as allowed by applicable design guidelines. He further noted that the project would provide sufficient distance and view protection measures to provide an adequate transition to the R-8 zone. In response to concerns raised about the project's noise impacts, Mr. Anderson noted that outdoor music performances already occur in the downtown Winslow area, that the courtyard and bandshell would be designed to keep courtyard activity noise internal to the hotel, and that the hotel is intended to be designed to avoid external mechanical equipment on the roof.
- d. Michael Burns submitted a declaration that stated he is the owner of the site and developer for the project. In response to concerns with noise impacts of the project, he requested that the Hearing Examiner impose the following condition for approval:
- Prior to or together with its building permit application, the Applicant shall provide to the City a description of changes to the garbage and recycling pick-up area designed to provide additional noise protection. These changes may include enclosing the garbage and recycling pick-up area by adding sound protective garage doors, or providing other noise protective or operational measures. Prior to or together with its building permit application,

the Applicant shall also provide to the City an analysis confirmed by a qualified noise professional that the projected noise from garbage and recycling trucks will meet applicable City noise standards.

In response to concerns regarding the difference between general “green” building practices and the Living Building Challenge, Mr. Burns asked the Hearing Examiner to add language to City staff’s recommended Condition 30, as underlined below:

30. The Applicant shall implement, where feasible, green building practices. The Applicant shall provide information to the city with the associated building permit applications detailing which green building standards were pursued, which were rejected as infeasible and which were incorporated into the building design. Without limiting the foregoing, the Applicant shall continue to pursue the Living Building Challenge, and provide a report on those efforts together with the associated building permit applications.

Mr. Burns also stated that the primary use of the shuttle van or vans would be to meet arriving guests at the Ferry Terminal and to return guests to the Ferry Terminal. He noted that the shuttle vans may also be available to transport guests to local sites and to transport employees from the Ferry bus terminal.

Declaration of Greg Heath; Declaration of Jeff Weckstein; Declaration of Bruce Anderson; Declaration of Michael Burns.

64. The City filed the following post-hearing declarations:
- a. City Engineering Manager Mike Michael submitted a declaration, which stated that the format and content for the project’s TIA was consistent with methodologies and analysis used to establish LOS in the Island Wide Transportation Plan (IWTP) and that City staff have used such methodologies as a basis for accepting “thorough” TIA reports since at least 2015. In response to concerns that the TIA relied on ITE trip generation rates for hotels that were too low for hotels with restaurants, spas, and banquet facilities, he noted that the ITE trip generation rates are the industry standard and are universally used by jurisdictions throughout Washington that conduct traffic analyses. Mr. Michael further noted that the definition of hotel in the ITE manual includes hotel supporting facilities, such as restaurants, cocktail lounges, and meeting and banquet rooms, as well as limited recreational facilities, such as pools, fitness rooms, and retail shops. In response to concerns about the TIA not considering ferry surges or pedestrian traffic, Mr. Michael stated that ferry traffic surges are accounted for in the traffic volumes used in the TIA for LOS because the counts

were taken every fifteen minutes during the AM and PM peak hours and that pedestrian-caused traffic delays are accounted for in the TIA's delay projections. In response to parking concerns, he noted that MDNS conditions would require all parking to be contained on-site and would impose limits on room occupancy and events if off-site parking becomes an issue.

- b. City Planning Director Heather Wright submitted a declaration, which stated that the City code does not require the Hearing Examiner to adopt the Planning Commission's recommendation to deny the applications. She noted that, in making her determination as Planning Director, she relied the DRB's signed, final findings, which determined the project was not proposing any departure from the design guidelines, but that the Planning Commission appeared to have relied on the DRB's draft findings, not its final findings.
- c. City Planning Manager David Greetham submitted a declaration that stated design guidelines are intended to be flexible. In response to concerns that the project did not meet design guidelines for maximum façade length, Mr. Greetham noted that the face of the hotel would be divided into three sections and that the visual and physical access to the courtyard open space would meet the general intent of the façade design guideline. In response to concerns about the proposed roof design, Mr. Greetham noted that the over-arching design principle for development in the Central Core district focuses on building appearance from a street level. He also noted the proposed roof design would meet the intent of the roof design guidelines when accounting for flexibility afforded to green building elements like solar panels. In response to concerns about the project's reliance on a bonus FAR being approved, Mr. Greetham requested that the Hearing Examiner not deny the project pending approval of the bonus FAR because, even if the City Council would not pass a resolution approving the bonus FAR, the Applicant could pursue the bonus FAR through other means.

Declaration of Mike Michael; Declaration of Heather Wright; Declaration of David Greetham.

- 65. The Applicant filed a post-hearing brief in which it argued that the proposed hotel and associated facilities would be consistent with development in the Mixed Use Town Center – Central Core zone, that the Hearing Examiner has independent authority to deviate from the Planning Commission's recommendation to deny the application, that substantial evidence supports the conclusion that all CUP criteria for approval have been met, and that no meaningful evidence has been presented to demonstrate that the proposed development failed to meet all site plan/design requirements for approval. *Applicant's Post-Hearing Brief, dated January 31, 2020.*

66. The City also filed a post-hearing brief, arguing that the Hearing Examiner is not bound to follow the Planning Commission's recommendation to deny the SPR and CUP applications; a material detriment from traffic, noise, and parking cannot be shown under the CUP criteria because an MDNS was issued with a determination that no significant adverse impacts from traffic, noise, and parking existed; the TIA prepared for the project provided a thorough analysis, as required under BIMC 15.40.025; the traffic, noise, and parking impacts of the proposed development would not have a materially detrimental effect on uses and property in the vicinity; the spa, retail shop, and banquet facilities proposed for the hotel are permitted uses in the Core District, and only the hotel requires a CUP; the project is consistent with City design guidelines, building height requirements, and Comprehensive Plan; and the Hearing Examiner should not deny the project pending approval of the bonus FAR. *City Post-Hearing Brief, dated January 31, 2020.*
67. On February 3, 2020, the Hearing Examiner entered a post-hearing order admitting a legal brief prepared by Attorney Bricklin, on behalf of the Winslow Neighbors, dated January 23, 2020. The February 3, 2020, post-hearing order permitted the attorneys for the Applicant and the City to file a response to Mr. Bricklin's brief by February 14, 2020. *Order in Response to Post-Haring Motion, dated February 3, 2020.*
68. In his brief, Mr. Bricklin argued that the Hearing Examiner is required to adopt the Planning Commission's recommendation to deny the application because none of the four conditions specified in BIMC 2.16.110.E.5.b is present; the DRB failed to consider applicable design guidelines related to maximum façade length, roof design, articulation, and upper-level setbacks; the proposed development would not meet FAR and building height requirements; and the Applicant failed to provide a thorough evaluation of the project's traffic impacts. Additionally, Mr. Bricklin argued that the application does not meet CUP decision criteria because the proposed development would not be not harmonious with the character and quality of development in the vicinity; would not qualify for a FAR bonus; would be materially detrimental to uses or property in the vicinity of the subject property due to noise, parking, scale, and traffic impacts; would not be consistent with Comprehensive Plan policies related to economic development; and would not take all necessary measures to eliminate or reduce its impacts on the immediate vicinity of the subject property. *Legal Memorandum of David Bricklin on Behalf of Winslow Neighbors, dated January 23, 2020.*
69. In answer to Mr. Bricklin's Winslow Neighbors' brief, the Applicant filed a response asserting that a conditional use could not be denied based on alleged impacts to neighboring properties when such impacts would be no greater than that of uses permitted outright under City code, citing *Hansen v. Chelan County*, 81 Wn. App. 133, 139, 913 P.2d 409 (1996). And the Applicant contends that there is no evidence that the project's traffic, parking, or noise impacts would be any greater than those of other uses

permitted outright in the zone under BIMC Table 18.09.020, such as multifamily dwellings, commercial/residential mixed-use developments, educational facilities, government or religious facilities, or health care facilities. *Applicant Response Brief, dated February 14, 2020.*

70. The City filed a response to the Winslow Neighbors' brief, which asserted that strict compliance with the City Comprehensive Plan is not required when evaluating a development proposal and, instead, that only general consistency with the plan is required for approval. The City contends that the City Planning Director exceeded the general consistency requirement for development approval by analyzing the project's consistency with over 150 guiding principles, goals, and policies of the City Comprehensive Plan and did not find that the proposal would be inconsistent with any of those principles, goals, or policies. *City Response Brief, dated February 14, 2020.*

Staff Recommendation

71. City staff determined that, with 83 conditions, the proposal would be consistent with the Bainbridge Island Comprehensive Plan and Winslow Master Plan, would meet the criteria for a major conditional use permit under BIMC 2.16.110, and would meet the criteria for a major site plan/design review under BIMC 2.16.040. City staff recommends that the CUP and SPR applications be approved, with conditions. *Exhibit 1, Staff Report, pages 10 through 18, and 30 through 37.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and approve, approve with conditions, or deny applications for conditional use permits under BMIC 2.14.030 and BMIC 2.16.110.D. City Hearing Examiner Rule of Procedure 1.9.2 provides that the Hearing Examiner may remand an application.¹⁵

If requested by the Applicant, a site plan/design review application that is part of a proposal requiring multiple land use permits may be combined in a consolidated project review. Related applications requiring a public hearing must be considered at one public hearing in accordance with BIMC 2.16.170. The applications have been consolidated for review before the Hearing Examiner. *BIMC 2.16.170. Exhibit 1, Staff Report, page 2.* Decisions are needed for the applications for site plan/design review and the CUP. The City Council has established criteria

¹⁵ Although authority to remand an application is provided in the rules, because the authority to remand is not expressly provided for in ordinance, it is not entirely certain if the Hearing Examiner has that authority. The preference of the Hearing Examiner would be for the City to clarify that authority by amending its ordinances to allow for a remand, or at a minimum, issue a code interpretation to that effect. Without clear authority to remand for specific actions, the Hearing Examiner is limited to the outcomes of approval or denial.

for review of each of these applications, which the Hearing Examiner must follow when deciding whether to approve a specific application.

In the case of a major conditional use permit application, the planning commission reviews the application prior to the review and final decision. The planning commission recommends approval, approval with conditions, or denial of an application. The planning commission is directed by ordinance to recommend denial of the application if it determines that the applicable decision criteria are not met. *BIMC 2.16.110.E.3.*

The planning commission's recommendation is given substantial weight in the consideration of the application by the Director when preparing a staff recommendation to the Hearing Examiner. The Director must review the application materials, staff report, and recommendations of the planning commission and prepare a report to the Hearing Examiner recommending approval, approval with conditions, or disapproval of the application. *BIMC 2.16.110.E.4.*

The Hearing Examiner is directed by ordinance to consider the application materials and the Director's recommendation at a public hearing. The Hearing Examiner must "make compliance with the recommendations of the planning commission a condition of approval," unless the Hearing Examiner concludes that the recommendations:

- i. Reflect inconsistent application of design guidelines or any applicable provisions of this code;
- ii. Exceed the authority of the design review board or planning commission;
- iii. Conflict with SEPA conditions or other regulatory requirements applicable to the project
- iv. Conflict with requirements of local, state, or federal law.

BIMC 2.16.110.E.5.a-b.

This provision does not require the Hearing Examiner to adopt the recommendations of the Planning Commission unless certain conditions are present but requires only that the Hearing Examiner make compliance with the recommendations "a condition of approval" unless certain conditions are present. The Hearing Examiner cannot make denial of an application "a condition of approval," and therefore *BIMC 2.16.110.E.5.1.a-b* does not apply in these circumstances. In other words, the Hearing Examiner has no obligation to follow a recommendation of denial made by the Planning Commission. He may choose to do so, but is not required by law to do so.

Criteria for Review *Conditional Use Permit*

A major conditional use permit is a mechanism by which the city may require specific conditions on development or the use of land to ensure that designated uses or activities are compatible with other uses in the same zone and in the vicinity of the subject property. If imposition of conditions will not make a specific proposal compatible the proposal shall be denied.

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

BIMC 2.16.110.A.

A conditional use may be approved or approved with conditions if:

- a. The conditional use is harmonious and compatible in design, character and appearance with the intended character and quality of development in the vicinity of the subject property and with the physical characteristics of the subject property; provided, that in the case of a housing design demonstration project any differences in design, character or appearance that are in furtherance of the purpose and decision criteria of BIMC 2.16.020.Q shall not result in denial of a conditional use permit for the project; and
- b. The conditional use will be served by adequate public facilities including roads, water, fire protection, sewage disposal facilities and storm drainage facilities; and
- c. The conditional use will not be materially detrimental to uses or property in the vicinity of the subject property; and
- d. The conditional use is in accord with the comprehensive plan and other applicable adopted community plans, including the Island-Wide Transportation Plan; and
- e. The conditional use complies with all other provisions of the BIMC, unless a provision has been modified as a housing design demonstration project pursuant to BIMC 2.16.020.Q; and
- f. All necessary measures have been taken to eliminate or reduce to the greatest extent possible the impacts that the proposed use may have on the immediate vicinity of the subject property; and
- g. Noise levels shall be in compliance with BIMC 16.16.020 and 16.16.040.A; and
- h. The vehicular, pedestrian, and bicycle circulation meets all applicable city standards, unless the city engineer has modified the requirements of BIMC 18.15.020.B.4 and B.5, allows alternate driveway and parking area surfaces, and confirmed that those surfaces meet city requirements for handling surface water and pollutants in accordance with Chapters 15.20 and 15.21 BIMC; and

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

- i. The city engineer has determined that the conditional use meets the following decision criteria:
 - i. The conditional use conforms to regulations concerning drainage in Chapters 15.20 and 15.21 BIMC; and
 - ii. The conditional use will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use and enjoyment of properties downstream; and
 - iii. The streets and pedestrian ways as proposed align with and are otherwise coordinated with streets serving adjacent properties; and
 - iv. The streets and pedestrian ways as proposed are adequate to accommodate anticipated traffic; and
 - v. If the conditional use will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the conditional use, and the applicable service(s) can be made available at the site; and
 - vi. The conditional use conforms to the “City of Bainbridge Island Engineering Design and Development Standards Manual,” unless the city engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of BIMC Title 17.
- j. If a major conditional use is processed as a housing design demonstration project pursuant to BIMC 2.16.020.Q, the above criteria will be considered in conjunction with the purpose, goals, policies, and decision criteria of BIMC 2.16.020.Q.

BIMC 2.16.110.F.1.

Site Plan and Design Review

The stated purpose of the City’s site plan and design review code provisions is:
to establish a comprehensive site plan and design review process that ensures compliance with the adopted plans, policies, and ordinances of the city. The overall goal of this chapter is to minimize land alteration, provide greater site development flexibility and consequently provide more creative and imaginative design than generally is possible under conventional zoning regulations. It is further intended to provide for the review of development proposals with respect to overall site design and to provide a means for guiding development in a logical,

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

safe, attractive, and expedient manner, while also allowing property to be developed in phases. An additional purpose is to promote those specific purposes for each zoning district stated in Chapter 18.06 BIMC.

BIMC 2.16.040.A.

The following criteria apply to recommendations or decisions on site plan and design review applications:

1. The site plan and design is in conformance with applicable code provisions and development standards of the applicable zoning district, unless a standard has been modified as a housing design demonstration project pursuant to BIMC 2.16.020.S;
2. The locations of the buildings and structures, open spaces, landscaping, pedestrian, bicycle and vehicular circulation systems are adequate, safe, efficient and in conformance with the Island-Wide Transportation Plan;
3. The Kitsap County health district has determined that the site plan and design meets the following decision criteria:
 - a. The proposal conforms to current standards regarding domestic water supply and sewage disposal; or if the proposal is not to be served by public sewers, then the lot has sufficient area and soil, topographic and drainage characteristics to permit an on-site sewage disposal system.
 - b. If the health district recommends approval of the application with respect to those items in subsection E.3.a of this section, the health district shall so advise the director.
 - c. If the health district recommends disapproval of the application, it shall provide a written explanation to the director;
4. The city engineer has determined that the site plan and design meets the following decision criteria:
 - a. The site plan and design conforms to regulations concerning drainage in Chapters 15.20 and 15.21 BIMC; and
 - b. The site plan and design will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use and enjoyment of properties downstream; and
 - c. The streets and pedestrian ways as proposed align with and are otherwise coordinated with streets serving adjacent properties; and
 - d. The streets and pedestrian ways as proposed are adequate to accommodate anticipated traffic; and
 - e. If the site will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the site, and the applicable service(s) can be made available at the site; and

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

- f. The site plan and design conforms to the “City of Bainbridge Island Design and Construction Standards,” unless the city engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of BIMC Title 18;
5. The site plan and design is consistent with all applicable design guidelines in BIMC Title 18, unless strict adherence to a guideline has been modified as a housing design demonstration project pursuant to BIMC 2.16.020.S;
6. No harmful or unhealthful conditions are likely to result from the proposed site plan;
7. The site plan and design is in conformance with the comprehensive plan and other applicable adopted community plans;
8. Any property subject to site plan and design review that contains a critical area or buffer, as defined in Chapter 16.20 BIMC, conforms to all requirements of that chapter;
9. Any property subject to site plan and design review that is within shoreline jurisdiction, as defined in Chapter 16.12 BIMC, conforms to all requirements of that chapter;
10. If the applicant is providing privately owned open space and is requesting credit against dedications for park and recreation facilities required by BIMC 17.20.020.C, the requirements of BIMC 17.20.020.D have been met;
11. The site plan and design has been prepared consistent with the purpose of the site design review process and open space goals.

BIMC 2.16.040.F.

The director may approve, approve with conditions, or disapprove the application for site plan and design review. Conditions may be imposed to enable the proposal to meet the standards of the decision criteria.

BIMC 2.16.040.G.

The criteria for review adopted by the City Council are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusions Based on Findings

Site Plan and Design Review

1. **With the recommended conditions, the proposed development complies with the criteria for site plan/design review approval.** The site plan and design is in conformance with applicable code provisions and development standards of the MUTC-

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

CC zone. Although open space and perimeter landscaping is not required for the proposed use, the building would be designed around a courtyard, which would be open to the public.

The project would be in conformance with the Island-Wide Transportation Plan. Water and sewage services would be provided by the City. Additional water service would be provided through a rainwater recycling system. The City engineer determined that the site plan meets all decision criteria and issued a Certificate of Concurrency. The project would conform to the City's Design and Construction standards. The DRB reviewed the proposal over a period of six meetings and recommended approval, finding that, as conditioned, the site plan and design would be consistent with all applicable design guidelines in Title 18 BIMC.

Although aspects of the building design would not strictly conform to applicable design guidelines, strict conformity is not required. The Applicant addressed each relevant guideline and demonstrated how the proposed site plan and design would be consistent with the guidelines when applied with some flexibility. As a condition for approval, the Applicant is required to provide an additional drawing showing the perpendicular two-foot planters along the parallel parking on the east side, a description of the material pallet, and plans for the hydraulic design of the roof drainage/gutter system prior to issuance of the building permit for the structure. As an additional condition, the Applicant is required to submit any substantial changes to building materials and roof articulation for review by the DRB. No harmful or unhealthful conditions are likely to result from the proposed development. Although some public testimony and comments raised concerns about compliance with all building design criteria, the DRB and City staff determined that there would be substantial compliance with the guidelines so that, when applied in a flexible manner, the building design should be approved, with conditions, as consistent with the applicable guidelines. *Findings 1-19, 24-27, 29-38, 40-71.*

2. **With the recommended and additional conditions, the proposed development would meet the major CUP criteria of BIMC 2.16.110.F.1.** The City reviewed the proposed development, the Applicant's Environmental Checklist, and other information on file. No critical areas were identified. The City issued an MDNS, with 20 conditions. The MDNS was not appealed. The proposed 87-room hotel and associated facilities would be located in the Central Core district, which is the most densely developed district in the Mixed Use Town Center. As discussed in Conclusion 1 above, the proposed development would meet all design guidelines for development in the Central Core district. The proposed development, as conditioned, would also meet all dimensional standards for building height, lot coverage, setbacks, and floor area ratio and would exceed the tree retention and landscaping requirements. The proposed use would be adequately served by public facilities, including roads, water, fire, sewer, and storm

drainage. The Applicant would be required to submit a stormwater pollution prevention plan prior to construction. The City determined that the Applicant provided a thorough traffic impact analysis, and the City Engineer issued a Certificate of Concurrency after determining that the traffic impacts of the proposed development would maintain existing level of service standards. The City Engineer also determined that the proposed development would conform to drainage regulations, that it would not create an undue burden on water quality, that pedestrian ways would align with streets serving the development, that the streets and pedestrian ways would be adequate to accommodate anticipated traffic, that there would be adequate water and sewer system capacity to serve the proposed development, and that the proposed development would conform to the City of Bainbridge Island Engineering Design and Development Standards Manual. As conditioned, the proposed development would comply with the City Comprehensive Plan, Winslow Master Plan, Island-Wide Transportation Plan, and all other applicable provisions of City Code.

Additional conditions are necessary to ensure that noise impacts of the proposed development would comply with the noise regulations of BIMC 16.16.020 and .040.A and would not be materially detrimental to uses or property in the vicinity of the subject property. The record here does not show that City staff reviewed any noise impact studies to determine whether such impacts would be materially detrimental to property in the vicinity of the site or would comply with applicable noise regulations. The Applicant's acoustical consultant performed a limited analysis that did not employ any data reflecting sound levels of music from outdoor venues and, based on assumptions about the sound levels of unamplified music at outdoor venues, concluded that such unamplified music would exceed noise regulations without the use of barrier attenuation. Additionally, the Applicant's acoustical consultant concluded that the noise impacts would likely be near or exceed daytime noise regulation limits and would likely exceed nighttime noise regulation limits even with the use of barrier attenuation. Accordingly, to ensure compliance with CUP criteria, the Applicant should prepare and submit to the City a noise impact analysis and noise impact mitigation plan prior to issuance of building permits. The noise impact analysis should include predicted noise impacts to property in the vicinity of the site from outdoor events, hotel and event guests, delivery services, garbage collection, and exterior mechanical equipment. The noise impact mitigation plan must detail measures to reduce noise impacts and must demonstrate that such measures would, at a minimum, be adequate to comply with applicable noise regulations under BIMC 16.16.020. Upon submittal and review of the Applicant's noise impact analysis and mitigation plan, and prior to issuance of building permits, the Applicant must work with the City to implement mitigation measures designed to bring the proposed development into compliance with applicable noise regulations. Such measures may include, but are not limited to, muffling of HVAC systems, adding additional sound protective garage doors or other noise protective or operational measures, specifying suitable musical instruments and amplification systems to be used at outdoor events,

limiting hours for outdoor events, installing a sound monitoring system to provide notification that an event is exceeding noise code limits, and/or specifying the height of fence to capture noise emissions. *Findings 1-71.*

DECISION

Based on the preceding findings and conclusions, the request for approval of major conditional use permit and major site plan/design to redevelop two parcels within the Mixed Use Town Center-Central Core Overlay District to construct an 87-room hotel on a 1.85-acre site at 253 and 241 Winslow Way West is **APPROVED**, with the following conditions:¹⁶

SEPA Conditions:

1. If any historical or archaeological artifacts are uncovered during excavation or construction, work shall immediately stop, and the Department of Planning and Community Development and the Washington State Department of Archaeology and Historic Preservation shall be immediately notified. Construction shall only continue thereafter in compliance with the applicable provisions of law.
2. The existing building at the south end of TA# 272502-4-098-2009 shall be photographed prior to demolition. Any architecturally significant craftsmanship shall be documented, and materials salvaged where feasible. Photographs and any other historic documentation of the site shall be made available for viewing in a gallery space within the development. This shall be viewable upon certificate of occupancy for the building.
3. To mitigate traffic impacts on adjacent properties and with permission of the property owner, the Applicant shall develop the frontage of the adjacent property to the east (TA#: 272502-4-099-2008) consistent with the street standard for an urban collector roadway in the Winslow Core per drawing DWG. 7-030. The frontage shall include a 5-foot-wide right of way dedication along the full property's Winslow Way West frontage conveyed to the City by a Right of Way Deed (or through a permanent pedestrian easement), a 6-foot-wide bike lane (5 feet of asphalt and 1-foot gutter pan), concrete curb and gutter with an adjacent 3-foot planter strip, and a minimum 5-foot-wide concrete sidewalk. A public pedestrian easement shall be dedicated to the City for sidewalk improvements proposed outside of the future right of way boundaries. All work shall be completed or bonded for prior to certificate of occupancy for the building, unless otherwise agreed to by the City.

¹⁶ Conditions include both ordinance requirements applicable to all developments and requirements to mitigate the specific impacts of this development.

4. To mitigate traffic impacts, the Applicant shall install a crosswalk on Winslow Way W at a point approximately midway between the crosswalk at Wood Avenue SW and the crosswalk at Finch Place SW. Additional site evaluation may be required to determine the specific design and location. A right of way permit is required for this work and will be reviewed by the Public Works Department at the time of application. All work shall be completed or bonded for prior to certificate of occupancy for the building, unless otherwise agreed to by the City.
5. To mitigate traffic and infrastructure impacts, the Applicant shall repave the right of way along the Winslow Way W frontage of the subject properties and adjacent property to the east (TA#: 272502-4-099-2008). Repaving shall extend from the frontage of the above described properties to the centerline of Winslow Way W. All work shall be completed or bonded for prior to certificate of occupancy for the building, unless otherwise agreed to by the City.
6. To mitigate traffic and parking impacts, the Applicant shall operate a minimum of one ADA compliant shuttle to transport guests to and from the Washington State Ferry terminal and other local destinations. This service shall be operational upon certificate of occupancy for the building.
7. To mitigate traffic and parking impacts, the Applicant shall provide a shared bicycle (or equivalent electric-assisted bicycle) program on-site with a minimum of 36 bicycles and 36 bicycle parking spaces (one per five of the 180 parking spaces) that allow secure locking of both the frame and wheels of a bicycle. This service shall be operational upon certificate of occupancy for the building.
8. To mitigate traffic and parking impacts, the Applicant shall incorporate communications to their guests regarding the alternative modes of transportation available to reduce the use of single occupancy vehicles. Communication with guests shall address at a minimum: the ADA-compliant shuttle service to and from the Washington State Ferry terminal and other local destinations, the shared bicycle program and location of bike lanes, and walkability with suggested routes. The Applicant shall inform the City of their plan and periodically update them of any changes.
9. To mitigate traffic impacts, the hotel shall have staggered check-in times that coincide with the Washington State Ferry schedule.
10. To mitigate traffic and parking impacts, the Applicant shall place parking signs near each vehicle entrance to denote the purpose. Examples may include employee parking, service and delivery vehicle entrance, shuttle entrance, valet

parking, parking garage, and restaurant parking. The signs shall be installed prior to certificate of occupancy for the building.

11. To ensure traffic, parking, and noise impacts are successfully mitigated, the Applicant shall submit to the City a monitoring report, prepared by the respective qualified professionals, after the first and second year following the certificate of occupancy for the building. During the first two years following the certificate of occupancy for the building, the Applicant shall also track complaints, the nature of the complaint, the time/date the impact was noted and provide this to the professionals preparing the reports. The monitoring report shall evaluate traffic, parking, and noise for a minimum of six events occupying the large banquet room and the courtyard. The reports shall include, at a minimum, information about the level of occupancy of the hotel rooms during the events, the method of travel for hotel guests, the number of parking spaces (including stacked vehicles) occupied, the number of people attending the event, and measured noise levels. The Applicant shall work with the City's Public Works Department Development Engineer to determine other traffic and parking variables to measure for the monitoring report.
12. To ensure traffic, parking, and noise impacts are successfully mitigated, the City shall use the monitoring reports to determine if additional conditions are necessary. Additional conditions may be administratively imposed and may include but not be limited to:
 - Limitations on room occupancy, the frequency, size, and hours of events;
 - Testing by an acoustical engineer to establish appropriate noise reduction measures;
 - Offsite parking agreements;
 - Additional screening;
 - Infrastructure improvements; and/or
 - An event and courtyard management plan.
13. Dust shall be managed in compliance with WAC 173-400 and Puget Sound Clean Air Agency – Regulation I, 9.15 (PSCCA Reg). “It shall be unlawful for any person to cause or allow visible emission of fugitive dust...” – PSCCA Reg, 9.15(a). The project proponent or contractor shall prepare and implement a “Dust Control Plan” in conformance with Department of Ecology Publication 96-433. Prior to any site activity, the “Dust Control Plan” shall be submitted to the City and it shall be actively managed for the duration of the project. Unlawful emissions (see below) shall be corrected immediately and/or dust generating operations ceased until additional or alternate BMPs can be implemented to maintain emissions below allowable levels.

“Fugitive dust” means a particulate (especially soil/dirt) emission made airborne by forces of nature, man’s activity, or both, that leaves the subject site. Unlawful emissions shall generally be defined as emissions leaving the subject property that are visible to an untrained observer. Where continuous monitoring equipment is used particulate matter concentrations shall be monitored for 10µm particle (PM10) size. The 24-hr average PM10 emissions shall not exceed a concentration equivalent to the EPA Air Quality Index (AQI) of 50 (54µg/m³) and any instantaneous PM10 emissions shall not exceed a concentration equivalent to an AQI of 100 (154µg/m³).

14. To mitigate noise impacts, the Applicant shall inform immediately abutting neighbors of events taking place on-site to the extent feasible. For example, the Applicant may install a kiosk near the building entrance where dates and times of events can be posted for public viewing, information on a webpage, and/or an email listserv with information on who to contact with questions or concerns. The Applicant shall inform the City of their method and periodically update them of any changes.
15. To mitigate noise impacts, solid waste pick-up shall occur between 10:00am and 12:00pm in accordance with the letter from Bainbridge Disposal dated December 5, 2018.
16. To mitigate noise impacts, solid waste facilities shall be enclosed within the building and pick-up shall occur under the building. Delivery services shall occur at the loading docks in the west wing of the building.
17. To mitigate noise and light impacts to the adjacent Wood Avenue Townhomes to the west, a solid six-foot-high wall or fence shall be installed along the west property line abutting the townhome access drive.
18. The limits of clearing and grading shall be clearly marked in the field and inspected by the Department of Planning and Community Development staff prior to start of any clearing, grading, or other site work.
19. The City’s Arborist shall be present during the preconstruction meeting to advise on best practices for excavation around the root zones of trees to be preserved both on- and off-site.
20. To mitigate visual, noise, and light impacts to adjoining properties, additional vegetation shall be planted along the southerly lot boundary of TA# 272502-4-097-2000, beginning at the NW corner of the surface parking lot and extending westerly to the SW corner, then continuing northerly along the west lot line to the

edge of paved parking. Additional vegetation shall also be planted from the SE corner of TA# 272502-4-098-2009, extending northerly the full length of the abutting residential lot TA# 272502-4-102-2003. A planting plan shall be submitted with the building permit, reviewed by the City and installed or bonded for prior to certificate of occupancy.

Project Conditions:

General

21. Except for modifications reflecting compliance with these conditions of approval, the project shall be in substantial conformance with the site plan and landscape plan dated June 4, 2019.
22. Prior to construction activity, the Applicant shall obtain the appropriate permits from the City of Bainbridge Island, including but not limited to clearing, grading, right-of-way, and building permits.
23. All work shall adhere to the City's seasonal work limitations between October 1 and April 30 of any year. During this period, no soils shall remain exposed and unworked for more than two days. From May 1 to September 30, no soils shall remain exposed and unworked for more than seven days.
24. Prior to any construction, a temporary erosion and sedimentation control plan (TESCP) shall be submitted and approved by the City. Construction shall be restricted to the dates occurring between May 1 and September 30 unless a wet weather erosion control plan is submitted and approved by the City prior to construction.
25. No use shall exceed the maximum environmental noise level, established by Chapter 173-60 WAC, as adopted in Chapter 16.16 BIMC. All construction activities shall comply with noise limitations per BIMC 16.16.020.
26. No use in this district shall produce emissions of smoke, dust, and/or odors beyond the property boundary that may unreasonably interfere with any other property owners' use and enjoyment of his/her property. In addition, all sources and emission units are required to meet the emission and the ambient air quality standards specified in Chapter 173-400 WAC, and administered by the Puget Sound Clean Air Agency (formerly the Puget Sound Air Pollution Control Authority), and shall apply to all air contaminants listed in that regulation.
27. Lighting standards set forth in BIMC 18.15.040 apply. A post-installation inspection of the lighting is required prior to certificate of occupancy for the building permit. All outdoor lighting fixtures installed on private and public

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

property shall comply with this chapter. This chapter does not apply to interior lighting; provided that if, upon inspection, it is determined by the director that any interior lighting emitting light outside of the building or structure in which it is located creates a light trespass, the interior lighting shall be subject to the requirements of BIMC 18.15.040.

28. The Applicant has proposed 180 parking spaces on-site, 143 of which are striped and 37 spaces using stacked parking by valet attendants. The maximum event scenario in the Parking Analysis by Walker Consultants recommends 196 spaces. In order to accommodate the balance of 16 parking spaces, the site is limited to simultaneous occupancy of up to 6,200 sq.ft. of the 7,964 sq.ft. of event space at one time unless a parking agreement to accommodate an additional 16 spaces has been identified, or unless modified per SEPA conditions 11 and 12. For example, the pre-function space shall not be used for events separate and unrelated to the large event space if the large banquet room, small banquet room, and meeting rooms are occupied.
29. To mitigate the impact of additional employees and their potential need for affordable workforce housing, the Applicant shall provide a minimum of six (6) affordable residential units on-site within the proposed hotel, if found to still meet level of service and traffic concurrency. Each unit proposed shall have one designated parking stall. The affordable units shall serve a residential use and shall not be used as short term rentals or additional hotel rooms. In the event that the units cannot be contained within the existing hotel, or require additional parking that cannot be provided on-site, the proposal may require an adjustment to the Site Plan Review.
30. The Applicant shall implement, where feasible, green building practices. The Applicant shall provide information to the City with the associated building permit application detailing which green building standards were pursued, which were rejected as infeasible and which were incorporated into the building design. Without limiting the foregoing, the Applicant shall continue to pursue the Living Building Challenge, and provide a report on those efforts together with the associated building permit applications.
31. If any historical or archaeological artifacts are uncovered during excavation or construction, work shall immediately stop and contact the Department of Planning and Community Development and the Washington State Department of Archaeology and Historic Preservation shall be immediately notified. Construction shall only continue thereafter in compliance with the applicable provisions of law.

32. Prior to building permit issuance, the Design Review Board (DRB) shall review a drawing showing the perpendicular two-foot planters along the parallel parking on the east side, description of the Winslow Hotel – PLN50880 SPR/CUP Page 42 of 46 material pallet, plans for the hydraulic design of the roof drainage/gutter system, and any other substantial changes to building materials and roof articulation.
33. The sidewalk shall remain level across driveways. Where the building abuts the sidewalk, there shall be an 18-inch-wide minimum shy zone.
34. Prior to building permit issuance, the tax parcels (272502-4-097-2000 and 272502-4-098-2009) shall be aggregated or the boundary line adjusted so that all provisions in Title 18 BIMC are met.
35. Prior to building permit issuance, a business license shall be acquired from the City for any proposed or changes in occupancy.
36. Pursuant to BIMC 2.16.110.I, once a conditional use permit is approved, no building, use, or development shall occur contrary to that specified in the Conditional Use Permit. The owner shall record a declaration with the Kitsap County auditor showing the land to be bound by a conditional use permit. No building permit shall be issued for structures other than those specified in the conditional use approval. The declaration shall reference the official files of the City through which the permit was granted. The declaration shall be a covenant running with the land. No building permit shall be issued unless such declaration is recorded.

Building Official

37. The project shall comply with the City of Bainbridge Island (COBI) construction codes as adopted by Chapter 15.04 of the Bainbridge Island Municipal Code (BIMC). The Applicant is encouraged to consult with the Building Official, as necessary, to ensure compliance with applicable codes and standards.
38. The project shall comply with the requirements of the Department of Labor and Industries (L&I) for Electrical permits. COBI does not issue electrical permits but does monitor and coordinate electrical approvals with L&I.
39. The project shall comply with the provisions of the International Building Code (IBC) for fire separation, fire protection, access and the application of fire suppression systems as required by State Building Codes and the Bainbridge Island Fire District. The Applicant is encouraged to consult with the Fire District, as necessary, to ensure compliance with applicable standards.

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

40. A geotechnical report shall be provided for the project which coordinates geotechnical engineering and structural design requirements. The report shall address the design requirements and recommendations of the International Building Code (IBC) for foundation structural design criteria.
41. The project shall comply with the provisions of the International Building Code (IBC), Chapter 11 and ANSI 117.1 2009 for the application of accessibility and accessible features, including but not limited to parking, accessible routes, path of travel, entry and egress components and exterior and interior features for accessible rooms and restrooms.
42. Disabled access parking shall comply with the International Building Code (IBC) edition currently adopted by the City of Bainbridge Island.
43. The project shall comply with the provisions of the International Building Code (IBC) as amended by the State of Washington under Chapter 427 of the IBC for electric vehicle charging and infrastructure. The Applicant shall follow this statute, as applicable, and include necessary information with the building permit submittal.
44. The project shall comply with the provisions of the International Building Code (IBC) for required number of restroom and other fixtures including in public areas, restaurants, assembly areas.
45. A demolition permit is required for any demolition work occurring. If demolition is proposed for any structure which is older than 50 years, the project is required to be reviewed by the Bainbridge Island Historic Preservation Commission (HPC) prior to the issuance of a demolition permit and prior to any demolition work occurring. Prior to demolition permit issuance, an application is required to be submitted to the Puget Sound Air Quality District. All demolition shall be documented with a minimum 8.5 x 11 drawing showing the location of structures to be demolished, existing utilities, and any other infrastructure. All utilities shall be identified and properly abandoned or protected during demolition.
46. Should the project include a restaurant as discussed within the project narrative; the facility would be identified as a "Food Facility" and is required to comply with the Kitsap County Health Department regulations for such facilities.
47. The City of Bainbridge Island (COBI) enforces provisions of the State Plumbing Code specific to the collection of fats, oils and grease and the application of specific equipment, interceptors or other apparatus associated to or that may be

required for food or other facilities. The Applicant is responsible for strict adherence to the specific provisions for installation and maintenance of these systems and shall coordinate with COBI for compliance with the Plumbing Code and applicable COBI Engineering Standards.

Fire District

48. To the satisfaction of the Bainbridge Island Fire Department, the project shall comply with all applicable provisions of the adopted Fire Code.
49. Fire sprinklers and alarms are required for the project.
50. Fire flow of 1500 gpm is required.
51. Buildings over 30 feet high require aerial apparatus access of not less than 16 feet drivable width.

Health District

52. Prior to building permit issuance, the Kitsap Public Health District shall review and approve the rainwater recycling system and any permits required for a permanent food establishment.
53. If the Applicant proposes a large on-site sewage system, the permit may require an amendment or adjustment.

Public Works

54. Civil improvement plans, reports, and computations, prepared by a civil engineer registered in the State of Washington shall be submitted with the application(s) for a construction permit [building, grading, right-of-way (ROW), etc.] to the City for review and approval to construct all necessary infrastructure and utilities serving the site. Certificate of occupancy will not be issued for any building until all civil improvements are completed and finalized.
55. As-built civil construction plans stamped by a civil engineer shall be provided by the Applicant prior to final.
56. A Developer Extension Agreement (DEA) shall be executed at the site or utilities construction permitting application phase for the construction of roads and utilities to be inspected and accepted by the City.
57. A right-of-way (ROW) construction permit will be required prior to any construction activities within the right-of-way in addition to completing the DEA

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

and obtaining other necessary construction permits. The ROW permit will be subject to separate conditions and bonding requirements.

58. The project frontage shall be developed consistent with the street standard for an urban collector roadway in the Winslow Core per drawing DWG. 7-030. The frontage shall include a five-foot-wide ROW dedication along the full parcels' Winslow Way West frontage conveyed to the City by a Right of Way Deed, a six-foot-wide bike lane (five feet of asphalt and one-foot gutter pan), concrete curb and gutter with an adjacent three-foot planter strip, and a minimum five-foot-wide concrete sidewalk.
59. A public pedestrian easement shall be dedicated to the City for sidewalk improvements proposed outside of the future ROW boundaries prior to building final.
60. Building overhangs that extend into the ROW shall require an air space license agreement with the City prior to building final.
61. On-site water and sewer main extensions shall include a utility easement granted to the City to the meters and/or backflow prevention devices, fire hydrants and building sewer cleanouts.
62. An 8-inch City sewer main has been extended to the southeast property corner. The main shall be extended approximately 300 feet north through and across the property along the eastern boundary to serve this and adjacent properties. The Applicant may apply for a latecomer reimbursement agreement for future hookups to the facilities.
63. Restaurant drainage fixtures shall be plumbed to an appropriately sized grease trap interceptor prior to discharging to the City's sewer system.
64. A Stormwater Pollution Prevention Plan (SWPPP) prepared by a civil engineer licensed in the State of Washington is required prior to construction activities including clearing or grading or civil improvements for all phases of the project that complies with Chapter 15.20 BIMC.
65. Pumping stormwater to a suitable conveyance system shall require failsafe redundancies to limit potential impacts to downstream properties, including a duplex pump system with backup power generation.
66. Discharging stormwater to the City's system shall be done so as to bypass existing water-quality structures in Winslow Way West. Additional structures or

storm drain lines shall be installed as necessary to avoid impact the existing structures.

67. Where the project discharges to the Winslow Way West storm drain system a downstream analysis shall be conducted to demonstrate that adequate capacity exists from the site to the main storm drain in Madison Avenue.
68. Disturbed project area totals approximately 1.8 acres. A sediment trap(s) per Department of Ecology BMP C240 shall be required where the total of on- and off-site contributing drainage area is less than three acres. Due to the constrained downstream storm drain system, a higher level of flow control protection is warranted. The sediment trap shall be designed with a storage capacity based on the 10-year peak flow of the developed site. Turbidity and pH control shall be required as necessary downstream of the sediment trap to achieve the performance standards of a State Stormwater General Construction Permit.
69. A final stormwater report shall be submitted with the building permit detailing compliance with all applicable minimum requirements as required by Chapter 15.20 BIMC, prepared by a civil engineer licensed in the State of Washington.
70. Prior to building permit final, the Applicant shall submit an operation and maintenance plan for the on-going maintenance of the on-site storm drainage systems.
71. All on-site stormwater facilities shall remain privately owned and maintained. The owner(s) shall be responsible for maintenance of the storm drainage facilities for this development following construction. Annual inspection and maintenance reports shall be provided to the City. A Declaration of Covenant for stormwater system operation and maintenance will be required to be recorded before building final. The approved language for the Declaration of Covenant is found in Chapter 15.21 BIMC, Exhibit A.
72. The surface hotel parking lots and drive aisles shall be constructed of permeable pavements and hardscaping consistent with the preliminary civil site plans submitted with the application. These on-site stormwater management Best Management Practices (BMPs) shall be subjected to the aforementioned facilities maintenance responsibilities of the owner.
73. Prior to issuance of a building permit, the Applicant shall provide binding water and sewer availability letters from the City along with water meter sizing computations.

74. The proposed action(s), phased or concurrent, in their totality would result in more than one (1) acre of earth disturbance on the site and drain to waters of the State. A Construction Stormwater General Permit shall be obtained from the Washington State Department of Ecology and the site shall be monitored for discharge of pollutants and sediment to the wetlands and stream for the duration of the project. No land clearing or construction permits shall be issued prior to obtaining the State permit.
75. A traffic impact analysis was completed for the site per Chapters 15.32 and 15.40 BIMC to evaluate for concurrency. Based on the results of the traffic impact analysis completed by Heath & Associates dated April 24, 2019 and subsequent information submitted on July 3, 2019, a certificate of concurrency was issued per BIMC 15.32.060. Any proposed intensity of use at the site may require analysis and a new evaluation for concurrency.

Trees and Vegetation

76. As proposed, new trees are required to meet the tree unit requirement. Trees planted to meet tree retention requirements shall be planted in accordance with the planting requirements of BIMC 18.15.010.H and the planting plan dated December 27, 2018.
77. Temporary or permanent irrigation within new planting areas that do not have high soil moisture conditions is required in accordance with BIMC 18.15.010.I.
78. Prior to the certificate of occupancy, the required tree units and landscaping shall be planted or a performance assurance shall be accepted by the City.
79. Per BIMC 18.15.010.H.3, performance assurance is required to assure the City that the required tree units and landscaping are properly installed and will become established and be adequately maintained. Prior to the certificate of occupancy, the required tree units and landscaping shall be installed. A Washington landscape architect, Washington certified nursery professional, or Washington certified landscaper shall submit a landscaping declaration to the director to verify installation in accordance with the approved plans. The time limit for compliance may be extended to allow installation of landscaping during the next appropriate planting season as approved if the director determines that a performance assurance device, for a period of not more than one year, will adequately protect the interests of the City. The performance assurance device shall be for 150 percent of the cost of the work or improvements covered by the assurance device. In no case may the property owner delay performance for more than one year. Once the planting is completed, landscape declaration is submitted, and a

maintenance and monitoring assurance is accepted, the performance assurance shall be released.

80. Per BIMC 18.15.010.H.4, the property owner shall replace any unhealthy or dead plant materials in conformance with the approved landscape plan. Prior to the certificate of occupancy, a maintenance assurance device shall be submitted for a period of five years after acceptance by the City of the new planting of vegetation to ensure proper installation, establishment, and maintenance. The maintenance assurance device amount shall not be less than 20 percent of the cost of replacing materials covered by the assurance device. The maintenance surety shall be refunded to the Applicant upon completion of the five year monitoring period and submittal of final compliance documentation as outlined in the landscape plan, minus any funds needed for the City to perform corrective actions or perform monitoring.

Floor Area Ratio (FAR) Bonus

81. Prior to the City issuing a building permit for any structure which exceeds the 0.6 commercial Floor Area Ratio (FAR), the Applicant shall acquire the FAR bonus pursuant to BIMC 18.12.030.E.
82. To the extent feasible, the Applicant shall earn the 25,058 sq.ft. of commercial Floor Area Ratio (FAR) bonus (totaling \$851,972.00 at \$34.00/sq.ft.) in accordance with a city council resolution pursuant to BIMC 18.12.030.E.3, in the following ways:
 - Construct a pavilion as depicted in the Waterfront Park Master Plan as approved by the Comprehensive Plan.
 - Street and utility improvements on Winslow Way West between Grow Avenue and Madison Avenue, including but not limited to utility upgrades, vehicular travel way improvements, sidewalk and bike lane construction, signage, striping, right-of-way acquisition, and landscaping.
 - If the Applicant proposes the above recommendations or other public amenities, they shall first be secured through a city council resolution pursuant to BIMC 18.12.030.E.3.
83. If a heritage tree is chosen to satisfy the FAR bonus option, the Applicant shall work with the City's arborist to determine the FAR value of the heritage tree to be protected on-site. Any Heritage Trees proposed for the purposes of a Floor Area Ratio (FAR) bonus are required to be protected and retained in order to maintain the bonus FAR. If not retained, the FAR bonus earned from the tree shall be earned using other FAR bonus options in accordance with BIMC 18.12.030.E.

Additional Conditions Necessary to Satisfy CUP Criteria

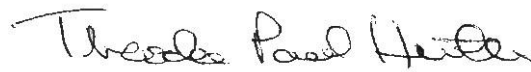
84. Prior to issuance of building permits, the Applicant shall prepare and submit to

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

the City a noise impact analysis of the proposed development. The noise impact analysis shall include predicted noise impacts to property in the vicinity of the site from outdoor events, hotel and event guests, delivery services, garbage collection, and exterior mechanical equipment. The Applicant shall also prepare and submit to the City a noise impact mitigation plan detailing measures to reduce noise impacts of the proposed development and demonstrating that, at a minimum, such mitigation measures would sufficiently reduce noise impacts to comply with applicable noise regulations under BIMC 16.16.020.

85. Upon submittal and review of the Applicant's noise impact analysis and mitigation plan, and prior to issuance of building permits, the Applicant shall work with the City to implement mitigation measures designed to bring the proposed development into compliance with applicable noise regulations that are consistent with all other conditions of CUP approval. Such measures may include, but are not limited to, muffling of HVAC systems, adding additional sound protective garage doors or other noise protective or operational measures, specifying suitable musical instruments and amplification systems (if any) to be used at outdoor events, limiting hours for outdoor events, installing a sound monitoring system to provide notification that an event is exceeding noise code limits, and/or specifying the height of fence or wall to capture noise emissions.
86. The City shall maintain a complaint file from the day the hotel opens for at least one year following that opening. Citizen complaints, if any, shall be logged and detailed in that complaint file. In addition, as detailed in this decision and in conditions 11 and 12, noise and traffic shall be monitored by the Applicant and the City during the first two years of hotel operations. City staff shall compile all concerns associated with hotel operations during this period. Within 30 days following the first year of operations, the City shall determine whether further review of the CUP (including further review by the Hearing Examiner at a re-opened hearing) is appropriate to consider additional conditions to mitigate specific impacts to the surrounding neighborhood that were not anticipated prior to operation of the hotel. .

DECIDED this 28th day of February 2020.



THEODORE PAUL HUNTER
Hearing Examiner
Sound Law Center

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

Attachment A

The following exhibits were admitted into the record:

1. Staff Report, dated January 15, 2020
2. Master Land Use Application, dated April 25, 2019
3. Certification of Public Notice, dated January 16, 2020
4. Certificates of posting
 - a. Certificate of Posting, dated February 12, 2019
 - b. Email from PCD to Jennifer Smith, dated February 13, 2019, with email string
 - c. Certificate of Posting, dated April 27, 2019
 - d. Certificate of Posting, dated October 30, 2019
 - e. Certificate of Posting, dated November 5, 2019
5. Site Survey/Demo Plans, Photos (Sheet A2), revised April 26, 2019
6. Figure Ground Drawing (Sheet A15), dated April 26, 2019
7. Site plan set, dated January 14, 2020
 - a. Sheet Index, Legal Description (Sheet A1)
 - b. Site Survey/Demo Plan, Photos (Sheet A2)
 - c. Landscape Plan (Sheet A3)
 - d. Parking Level P2 Plan (Sheet A4)
 - e. Parking Level P1 Plan (Sheet A5)
 - f. Main Floor Plan (Sheet A6)
 - g. Mezzanine Plan (Sheet A7)
 - h. Second Floor Plan (Sheet A8)
 - i. Third Floor Plan (Sheet A9)
 - j. Elevations (Sheet A10)
 - k. Elevations (Sheet A11)
 - l. Courtyard Elevations (Sheet A12)
 - m. East/West Section (Sheet A13)
 - n. Perspective (Sheet A14)
 - o. Figure Grand Drawing (Sheet A15)
 - p. Street Cross Section & West Property Photo (Sheet A16)
8. Tree plan, dated December 27, 2018
 - a. Tree & Vegetation Retention Plan (Sheet TP101)
 - b. Tree & Vegetation Retention Plan (Sheet TP102)
 - c. Landscape Site Plan (Sheet L101)
 - d. Planting Plan (Sheet LP101)
 - e. Tree Calculation & Protection Detail (Sheet L600)
 - f. Planting Schedule (Sheet L601)
9. Lighting Plan, undated
10. Revised parking plans, dated January 14, 2020

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

- a. Parking Level P2 Plan (Sheet A4), Valet Stack
- b. Parking Level P1 Plan (Sheet A5), Valet Stack
- c. Main Floor Plan (Sheet A6), Arrival Stack
11. Memorandum from Daniel Garcia, Walker Consultants, to Bruce Anderson, parking analysis, dated March 24, 2018
12. Traffic Impact Analysis, Heath & Associates, Inc., dated April 2019
13. Revised parking calculations, undated
14. Certificate of Concurrence, dated June 6, 2019
15. Certificate of Concurrence, dated December 9, 2019, with Traffic Impact Analysis, Heath & Associates, Inc., dated April 2019
16. Memorandum from Peter Corelis, P.E., to Olivia Sontag, dated June 5, 2019
17. Water/Sewer Availability Request, dated August 14, 2019, revised September 2019
18. Non-binding Commitment for Water and Sewer System Capacity letter, dated June 7, 2019
19. Email from Michal Yantis, Stantec, to Bruce Anderson, dated April 20, 2019, with email string
20. Design Review Board Design Guidelines Checklists, undated
21. Design Review Board Findings and Recommendation, unsigned and undated; Design Review Board Findings and Recommendation, dated June 17, 2019
22. Multi-modal Transportation Advisory Committee (MTAC) minutes, dated May 8, 2017
23. Environmental (SEPA) Checklist, dated April 25, 2019
24. Letter from Joe Dunstan, DRB, to COBI Committee, dated June 18, 2019
25. Planning Commission Recorded Motion, dated July 25, 2019, with Findings of Facts and Conclusions, dated July 25, 2019
26. Memorandum from Olivia Sontag to Planning Commission, Winslow Master Plan Analysis, dated June 11, 2019
27. Letter of Transmittal for Health District Review, dated January 7, 2019
28. Tree Health Evaluation: Giant Sequoia, Ribeiro Consultants, dated November 23, 2018
29. Preliminary Arborist Report, Tree Solutions, Inc., dated December 27, 2018
30. Notice of Mitigated Determination of Nonsignificance (MDNS), dated November 25, 2019
31. Letter from Bainbridge Disposal, Inc., to Bruce Anderson, dated December 5, 2018
32. Memorandum from Jeff Weckstein, Walker Consultants, to Bruce Anderson, Winslow Hotel Parking Analysis Update, dated September 13, 2019
33. Public comments, dated February 8-22, 2019
34. Public comments, dated April 26 to May 10, 2019
35. Public comments, dated November 1-15, 2019
36. Planning Commission meeting public comments, received June 13, 2019
37. Additional public comments (received outside of comment periods, so not considered)
38. Public comments, January 16-23, 2020, admitted at January 23, 2020, open record hearing
39. City Planner PowerPoint presentation, admitted at January 23, 2020, open record hearing

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

- 40. Legal memorandum from Applicant, admitted at January 23, 2020, open record hearing
- 41. Email from Mike Burns to Bruce Anderson, dated January 16, 2020, with email string
- 42. PowerPoint slide presentation, admitted for illustrative purposes at January 23, 2020, open record hearing
- 43. Winslow Neighbors brief and exhibits, admitted at January 23, 2020, open record hearing
 - A-1. Tilghman Group Transportation Comments, dated June 10, 2019
 - A-2. Tilghman Group Transportation Comments Updated, dated September 30, 2019
 - A-3. Tilghman Group New Traffic Counts Memorandum, dated July 11, 2019
 - A-4. Excerpt from Bainbridge Island Downtown Parking Strategy: Strategies Report 2018 as prepared by Framework, Rick Williams Consulting Parking Transportation
 - A-5. Statement from Suquamish Clearwater Resort Shuttle Driver Underutilized Shuttle
 - A-6. The Greenbusch Group, Inc., Winslow Hotel CUP – Acoustical Review, dated June 12, 2019
 - A-7. Petition – Impact of Hotel Noise on 4 Senior Buildings
 - A-8. Letter from Dr. Carol Rappaport Regarding Harmful Effects of Frequent Noise and Sleep Disruption on Seniors, dated January 8, 2020
 - A-9. Excerpt from World Health Organization Task Force: Guidelines for Community Noise, dated April 1999
 - A-10. Jonathan Graff-Radfor MD with the Mayo Clinic: Report on Sundowning: Late-day Confusion, dated April 23, 2019
 - A-11. Eric Miller, Professional Musician, Letter Regarding Noise Amplification of Weddings, dated January 14, 2020
 - A-12. City of Bainbridge Island Staff Report for Winslow Hotel File #PLN50880 SPR/CUP, dated June 7, 2019, Page 17 of 39, with Inaccurate Zoning Statement as Highlighted
 - A-13. Next Door Bainbridge Screen Shot Conversation between Bruce Anderson and Allan Bogutz re: Dumpster Pickups, dated January 5, 2020
 - A-14. Cutler/Anderson Drawing, dated July 3, 2019, Showing Marge Williams Center and Winslow Hotel
 - A-15. Photo with Forty Foot Balloons Showing Height of Winslow Hotel Compared to Existing Building
 - A-16. Cutler/Anderson Drawing of Winslow Hotel West Façade Showing Hotel vis a vis Wood Ave Townhomes
 - A-17. Photo of Solar Panels on Marge Williams Center
 - A-18. Jack Sjolseth Email with Greg Epstein BI BBQ Owner Regarding Traffic, dated December 24, 2019
 - A-19. Jim Cutler West Side Operations Drawing with Kitchen, Garbage, Loading Dock with Proximity to Neighbors
 - A-20. 1000 Foot Radius from Site
 - A-21. Kitsap Transit Map and Schedules

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

- A-22. Saturday Parking Lot Utilization
- A-23. Highlighted Design Guidelines indicating mandatory regulations, guidelines subject to modification, and optional guidelines
- A-24. Roger van Gelder presentation regarding Unmet Design Guidelines
- A-25. Response by Winslow Neighbors to the Planning Director's Report
- A-26. Highlighted transcript of the official audio of the June 3, 2019, meeting of the Design Review Board, the portion during which the Winslow Hotel is discussed
- 44. Memorandum from Ross Tilghman, Tilghman Group, Winslow Hotel transportation comments, dated January 23, 2020
- 45. Memoranda from Adam Jenkins, The Greenbusch Group, Inc., to David Bricklin, dated June 12, 2019, and January 22, 2020
- 46. Memorandum from John Adams, Adams Architecture, to David Bricklin, dated January 22, 2020, and annotated illustrations, admitted at January 23, 2020, open record hearing
- 47. Revised Legal Memorandum from David Bricklin, submitted after hearing, marked by City, but not admitted or considered because not provided to City or Applicant and not authorized as a post-hearing document during the hearing.

Post-Hearing Orders and Responses:

- Legal Memorandum of Attorney Bricklin on Behalf of Winslow Neighbors, dated January 23, 2020¹⁷
- Hearing Examiner's Post-Hearing Order, dated January 24, 2020
- Email request and Declaration from Attorney David Bricklin, dated January 31, 2020
- Hearing Examiner's Order in Response to Post-Hearing Motion, dated February 3, 2020Applicant's Post-Hearing Brief, dated January 31, 2020, with attached Declarations of Greg Heath, Jeff Weckstein, Bruce Anderson, and Michael Burns.
- City Post-Hearing Brief, dated January 31, 2020, with attached Declarations of Mike Michael, Heather Wright, and David Greetham
- Applicant Response Brief, dated February 14, 2020
- City Response Brief, dated February 14, 2020

¹⁷ A revised memorandum from David Bricklin, dated January 24, 2020, was submitted to the City after the hearing, but not admitted into record because it was not identified by the Hearing Examiner as a document that was authorized to be submitted post-hearing.

Attachment B

Conditions to Mitigate the Impacts from Proposed Winslow Hotel Proposal *As Determined by the City in its Threshold Determination*¹⁸

1. If any historical or archaeological artifacts are uncovered during excavation or construction, work shall immediately stop, and the Department of Planning and Community Development and the Washington State Department of Archaeology and Historic Preservation shall be immediately notified. Construction shall only continue thereafter in compliance with the applicable provisions of law.
2. The existing building at the south end of TA# 272502-4-098-2009 shall be photographed prior to demolition. Any architecturally significant craftsmanship shall be documented, and materials salvaged where feasible. Photographs and any other historic documentation of the site shall be made available for viewing in a gallery space within the development. This shall be viewable upon certificate of occupancy for the building.
3. To mitigate traffic impacts on adjacent properties and with permission of the property owner, the Applicant shall develop the frontage of the adjacent property to the east (TA#: 272502-4-099-2008) consistent with the street standard for an urban collector roadway in the Winslow Core per drawing DWG. 7-030. The frontage shall include a 5-foot-wide right of way dedication along the full property's Winslow Way West frontage conveyed to the City by a Right of Way Deed (or through a permanent pedestrian easement), a 6-foot-wide bike lane (5 feet of asphalt and 1-foot gutter pan), concrete curb and gutter with an adjacent 3-foot planter strip, and a minimum 5-foot-wide concrete sidewalk. A public pedestrian easement shall be dedicated to the City for sidewalk improvements proposed outside of the future right of way boundaries. All work shall be completed or bonded for prior to certificate of occupancy for the building, unless otherwise agreed to by the City.
4. To mitigate traffic impacts, the Applicant shall install a crosswalk on Winslow Way W at a point approximately midway between the crosswalk at Wood Avenue SW and the crosswalk at Finch Place SW. Additional site evaluation may be required to determine the specific design and location. A right of way permit is required for this work and will be reviewed by the Public Works Department at the time of application. All work shall be completed or bonded for prior to certificate of occupancy for the building, unless otherwise agreed to by the City.
5. To mitigate traffic and infrastructure impacts, the Applicant shall repave the right of way along the Winslow Way W frontage of the subject properties and adjacent property to the

¹⁸ NOTE: These conditions apply to any approval of site plan/design review or CUP permit in addition to any other conditions that may be applied following review of those applications.

east (TA#:272502-4-099-2008). Repaving shall extend from the frontage of the above described properties to the centerline of Winslow Way W. All work shall be completed or bonded for prior to certificate of occupancy for the building, unless otherwise agreed to by the City.

6. To mitigate traffic and parking impacts, the Applicant shall operate a minimum of one ADA compliant shuttle to transport guests to and from the Washington State Ferry terminal and other local destinations. This service shall be operational upon certificate of occupancy for the building.
7. To mitigate traffic and parking impacts, the Applicant shall provide a shared bicycle (or equivalent electric-assisted bicycle) program on-site with a minimum of 36 bicycles and 36 bicycle parking spaces (one per five of the 180 parking spaces) that allow secure locking of both the frame and wheels of a bicycle. This service shall be operational upon certificate of occupancy for the building.
8. To mitigate traffic and parking impacts, the Applicant shall incorporate communications to their guests regarding the alternative modes of transportation available to reduce the use of single occupancy vehicles. Communication with guests shall address at a minimum: the ADA-compliant shuttle service to and from the Washington State Ferry terminal and other local destinations, the shared bicycle program and location of bike lanes, and walkability with suggested routes. The Applicant shall inform the City of their plan and periodically update them of any changes.
9. To mitigate traffic impacts, the hotel shall have staggered check-in times that coincide with the Washington State Ferry schedule. To mitigate traffic and parking impacts, the Applicant shall place parking signs near each vehicle entrance to denote the purpose. Examples may include employee parking, service and delivery vehicle entrance, shuttle entrance, valet parking, parking garage, and restaurant parking. The signs shall be installed prior to certificate of occupancy for the building.
10. To ensure traffic, parking, and noise impacts are successfully mitigated, the Applicant shall submit to the City a monitoring report, prepared by the respective qualified professionals, after the first and second year following the certificate of occupancy for the building. During the first two years following the certificate of occupancy for the building, the Applicant shall also track complaints, the nature of the complaint, the time/date the impact was noted and provide this to the professionals preparing the reports. The monitoring report shall evaluate traffic, parking, and noise for a minimum of six events occupying the large banquet room and the courtyard. The reports shall include, at a minimum, information about the level of occupancy of the hotel rooms during the events, the method of travel for hotel guests, the number of parking spaces (including stacked vehicles) occupied, the number of people attending the event, and measured noise

levels. The Applicant shall work with the City's Public Works Department Development Engineer to determine other traffic and parking variables to measure for the monitoring report.

11. To ensure traffic, parking, and noise impacts are successfully mitigated, the City shall use the monitoring reports to determine if additional conditions are necessary. Additional conditions may be administratively imposed and may include but not be limited to:
 - Limitations on room occupancy, the frequency, size, and hours of events;
 - Testing by an acoustical engineer to establish appropriate noise reduction measures;
 - Offsite parking agreements;
 - Additional screening;
 - Infrastructure improvements; and/or
 - An event and courtyard management plan.
12. Dust shall be managed in compliance with WAC 173-400 and Puget Sound Clean Air Agency – Regulation I, 9.15 (PSCCA Reg). “It shall be unlawful for any person to cause or allow visible emission of fugitive dust...” – PSCCA Reg, 9.15(a). The project proponent or contractor shall prepare and implement a “Dust Control Plan” in conformance with Department of Ecology Publication 96-433. Prior to any site activity, the “Dust Control Plan” shall be submitted to the City and it shall be actively managed for the duration of the project. Unlawful emissions (see below) shall be corrected immediately and/or dust generating operations ceased until additional or alternate BMPs can be implemented to maintain emissions below allowable levels.

“Fugitive dust” means a particulate (especially soil/dirt) emission made airborne by forces of nature, man’s activity, or both, that leaves the subject site. Unlawful emissions shall generally be defined as emissions leaving the subject property that are visible to an untrained observer. Where continuous monitoring equipment is used particulate matter concentrations shall be monitored for 10µm particle (PM10) size. The 24-hr average PM10 emissions shall not exceed a concentration equivalent to the EPA Air Quality Index (AQI) of 50 (54µg/m³) and any instantaneous PM10 emissions shall not exceed a concentration equivalent to an AQI of 100 (154µg/m³).
13. To mitigate noise impacts, the Applicant shall inform immediately abutting neighbors of events taking place on-site to the extent feasible. For example, the Applicant may install a kiosk near the building entrance where dates and times of events can be posted for public viewing, information on a webpage, and/or an email listserv with information on who to contact with questions or concerns. The Applicant shall inform the City of their method and periodically update them of any changes.
14. To mitigate noise impacts, solid waste pick-up shall occur between 10:00 AM and 12:00 PM in accordance with the letter from Bainbridge Disposal dated December 5, 2018.

Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP

15. To mitigate noise impacts, solid waste facilities shall be enclosed within the building and pick-up shall occur under the building. Delivery services shall occur at the loading docks in the west wing of the building.
16. To mitigate noise and light impacts to the adjacent Wood Avenue Townhomes to the west, a solid six-foot-high wall or fence shall be installed along the west property line abutting the townhome access drive.
17. The limits of clearing and grading shall be clearly marked in the field and inspected by the Department of Planning and Community Development staff prior to start of any clearing, grading, or other site work.
19. The City's Arborist shall be present during the preconstruction meeting to advise on best practices for excavation around the root zones of trees to be preserved both on and off-site.
20. To mitigate visual, noise, and light impacts to adjoining properties, additional vegetation shall be planted along the southerly lot boundary of TA# 272502-4-097-2000, beginning at the NW corner of the surface parking lot and extending westerly to the SW corner, then continuing northerly along the west lot line to the edge of paved parking. Additional vegetation shall also be planted from the SE corner of TA# 272502-4-098-2009, extending northerly the full length of the abutting residential lot TA# 272502-4-102-2003. A planting plan shall be submitted with the building permit, reviewed by the City and installed or bonded for prior to certificate of occupancy.

Attachment C

Comprehensive Plan Goals and Policies and Winslow Master Plan Goals and Policies relevant to the proposal, identified by City staff, include: (Guiding Principles) Principle 1, Policy 1.2, Policy 1.3, Principle 2, Policy 2.1, Policy 2.2, Principle 4, Policy 4.1, Policy 4.2, Principle 5, Policy 5.1, Policy 5.2, (Land Use Element) Goal LU-1, Goal LU-2, Goal LU-3, Goal LU-4, Policy LU 4.1, Goal LU-5, Policy LU 5.7, Goal LU-6, Policy LU 6.1, Policy LU 6.5, Goal LU-7, Policy LU 7.3, Goal LU-17, (Economic Element) Goal EC-1, Policy EC 1.1, Policy EC 1.2, Goal EC-3, Policy EC 3.1, Goal EC-6, Policy EC 6.1, Policy EC 6.2, Policy EC 6.7, Goal EC-8, Policy EC 8.1, Policy EC 8.3, Goal EC-9, Goal EC-10, Goal EC-11, Policy EC 11.1, Policy EC 11.2, Policy EC 11.3, Policy EC 11.4, Policy EC 11.5, (Environmental Element) Goal EN-4, Policy EN 4.1, Policy EN 10.2, Policy EN 10.3, Policy EN 10.6, Policy EN 10.7, Policy EN 10.9, Policy EN 11.2, Policy EN 12.2, Goal EN-13, Policy EN 13.1, (Water Resources Element) Goal WR-1, Policy WR 1.2, Goal WR-2, Policy WR 2.1, Policy WR 2.12, Policy WR 2.13, Goal WR-5, Policy WR 5.1, Policy WR 5.3, Policy WR 5.4, Policy WR 5.8, (Housing Element) Policy HO 1.7, Goal HO-4, Policy HO 4.1, Goal HO-6, Goal HO-7, Policy HO 7.2, Goal HO-8, (Transportation Element) Goal TR-1, Policy TR 1.3, Goal TR-2, Policy TR 2.4, Policy TR 5.3, Policy TR 6.4, Policy TR 6.5, Goal TR8, Policy TR 8.1, Policy TR 8.2, Goal TR-9, Policy TR 9.4, Goal TR-10, Policy TR 10.1, Policy TR 10.2, Policy TR 10.5, Policy TR 10.6, Policy TR 11.3, Policy TR 15.2, Policy TR 15.3, (Capital Facilities Element) Policy CR 2.3; (Utilities Element) Policy U 12.2, Policy U 12.3, Policy U 12.6, Policy U 13.2, Policy U 13.3, Policy U 13.4, Policy U 13.5, Policy U 13.6, Policy U 14.2, Policy U 14.8, Policy U 16, (Cultural Element) Policy CUL 1.5, Goal CUL-2, Policy CUL 2.1, Policy CUL 2.2, Policy CUL 2.3, Policy CUL 3.2, Policy CUL 3.5, Policy CUL 5.6, (Human Services Element) Policy HS 4.2, and Policy HS 4.3. City Staff identified the following Winslow Master Plan Goals and Policies relevant to the proposal: (Land Use) Goal WMP 2-1, Goal WMP 2-2, Policy WMP 2-2.5, Goal WMP 2-3, Policy WMP 2-3.1, Policy WMP 23.2, Policy WMP 2-3.3, Policy WMP 2-3.6, Policy WMP 2-3.7, Goal WMP 2-4, Policy WMP 2-4.1, Goal WMP 2-5, Policy WMP 2-5.1, Policy WMP 2-5.2, Policy WMP 2-6.1, Policy WMP 2-6.2, Policy WMP 2-6.4, (Housing) Goal WMP 3-1, (Open Space and Trails) Goal WMP 4-1, Policy WMP 4-1.1, Goal 4-3, Goal 4-4, Policy WMP 4-4.1, Policy WMP 4-4.2, Policy WMP 4-4.3, Policy WMP 4-4, (Transportation) Goal WMP 6-1, Goal WMP 6-2, Goal WMP 6-3, Goal WMP 6-4, Goal WMP 6-5, Goal WMP 6-7, Goal WMP 6-8, Goal WMP 6-10, Policy WMP 6-11.4, Policy WMP 6-11.5, Policy WMP 6-11.9, Policy WMP 611.11, Policy WMP 6-12.1, Policy WMP 6-12, (Utilities) Goal 8-1, Policy WMP 8-1.2, Policy WMP 8-1.3, Policy WMP 8-1.4, and Policy WMP 8-1.5. *Exhibit 1, Staff Report, pages 10 through 17.*

*Findings, Conclusions, and Decision
City of Bainbridge Island Hearing Examiner
Winslow Hotel SPR/CUP
No. PLN 50880 SPR/CUP*



CITY OF
BAINBRIDGE ISLAND

Planning Commission Special Meeting Agenda Bill

MEETING DATE: October 14, 2021

ESTIMATED TIME: 15 Minutes

AGENDA ITEM: (8:05 PM) - Presentation on Wintergreen Floor Area and Parking

AGENDA CATEGORY: Presentation

PROPOSED BY: Kelly Tayara

PREVIOUS PLANNING COMMISSION

REVIEW DATE(S): September 2, 2021

September 9, 2021

September 23, 2021

PREVIOUS COUCIL REVIEW DATE(S): None

RECOMMENDED MOTION:

Presentation

SUMMARY:

The purpose of this item is to provide the Planning Commission with detailed floor area ratio and parking information subsequent to completing review and recommendation to the Hearing Examiner.

BACKGROUND: The Planning Commission held three public meeting to discuss the Wintergreen Townhomes development proposal during September, 2021. The Commission made recommendation to the Director of Planning and Community Development for approval of the project, subject to a number of conditions, on September 23, 2021. The meeting concluded with the Planning Commission requesting that the Director follow up with the Planning Commission with a discussion of Floor Area Ratio and parking provisions.

ATTACHMENTS:

Outstanding Questions Discussion

Wintergreen

Director Wright

10/14/2021

Wintergreen Townhomes

Floor Area Ratio (FAR) Detail

		Project	Visconsi			Wintergreen Medical			Wintergreen Townhomes							
			Original Approval (2013) **			Adjustment (2016)			Proposed Project							
									Existing Commercial Development			Proposed Residential Development				
Lot	Building #		Lot Area (sf)	Commercial Floor Area (sf)	Floor Area Ratio (Maximum 30%)	Lot Area (sf)	Commercial Floor Area (sf)	Floor Area Ratio (Maximum 30%)	Lot Area (sf)	Commercial Floor Area (sf)	Floor Area Ratio (Maximum 30%)	Lot Area (sf)	Residential Floor Area (sf)	Ratio (Maximum 60% with bonus)		
A	Bldg 3			5,600		57,452	5,600		-	-		57,452				
	Bldg 4			6,500			6,500		-	-						
B	Bldg 5	VM		20,000			119,901		30,000	119,901					30,000	-
C	Bldg 2	Walgreens		14,475			68,229		14,475	68,229					14,475	-
D*	Bldg 6			7,200			70,814		4,800	-					-	70,814
	Bldg 7			4,800			4,800		-	-						
E	Bldg 1	Keybank		3,300			38,928		3,300	38,928					3,300	-
Totals			355,324	61,875	17.4%	355,324	69,475	19.6%	227,058	47,775	21.0%	128,266	61,808	48.2%		

*The flag lot area at the southwest portion of Lot D is 571 sf and cannot be used for density calculations

** As allocated through the 2014 Boundary Line Adjustment

Minimum Parking Requirements

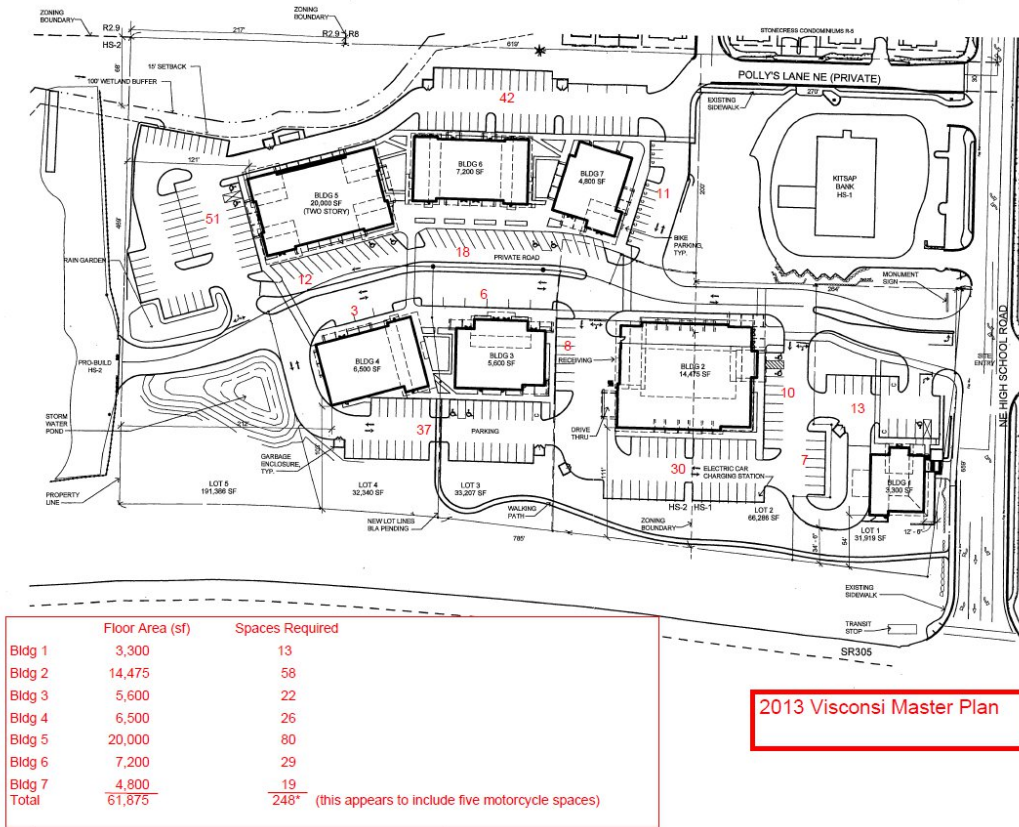
- 2013 Visconsi Master Plan: 248 (includes 5 motorcycle spaces)
- 2016 Adjustment to the Site Plan: 278 spaces
- Proposed Wintergreen project and Existing Commercial: 264

Parking Code Standards

- Proximity to Ferry
- Commercial complementary use reduction, up to 50%
- Guest Parking, up to .5 stall per dwelling unit

Wintergreen Townhomes

Parking Details



2016 Adjustment

		Floor Area (sf)	Spaces Required
Lot E	Keybank	3,300	13
Lot C	Walgreens	14,475	58
Lot A	Bldg 3/4	12,100	48
Lot B	VM	30,000	120
Lot D	Bldg 6/7	9,600	38
Total		69,475	278*

Wintergreen Townhomes

	Floor Area (sf)	Units	Minimum Required Spaces
Keybank	3,300		13
Walgreens	14,475		58
Virginia Mason	30,000		120
Wintergreen		73 studio/ 1 bdrm	73
Total	47,775		264