RESOLUTION NO. 2011-14

A RESOLUTION of the City of Bainbridge Island, Washington, amending City Council's modification to the Hearing Examiner's Recommendations approving Ferncliff Village, a Housing Design Demonstration Project, and three underlying land use permits: Preliminary Subdivision, Site Plan and Design Review, and Conditional Use Permit (File Numbers SUB15540/SPR15540/CUP15540).

WHEREAS, on December 10, 2010, the Housing Resources Board and Ferncliff LLC received preliminary approval for Ferncliff Village as a Tier 3 Housing Design Demonstration Project; and

WHEREAS, on December 30, 2010, a preliminary plat application, site plan and design review application, and conditional use application were submitted by the Housing Resources Board and Ferncliff LLC to the Department of Planning and Community Development; and

WHEREAS, the preliminary subdivision application facilitates creation of 25 residential lots on a 5.97 acre parcel located in the 500 – 700 block of Ferncliff Avenue; and

WHEREAS, the site plan and design review and conditional use applications facilitate construction of 24 multi-family units on Lot 25 of the subdivision; and

WHEREAS, the decision to approve or deny a Housing Design Demonstration Project shall be made as part of the underlying land use permit approval; and

WHEREAS, the Department of Planning and Community Development reviewed and forwarded its recommendation for conditional approval to the Hearing Examiner; and

WHEREAS, on March 18, 2011, the Hearing Examiner conducted an open record public hearing on the preliminary subdivision, site plan and design review, and conditional use applications upon proper notice; and

WHEREAS, on March 31, 2011, the Hearing Examiner recommended conditional approval of the preliminary subdivision, site plan and design review, and conditional use permit, for a Tier 3 Housing Design Demonstration Project and entered Findings of Fact, Conclusions of Law and Recommendation; and

WHEREAS, on April 27, 2011 and pursuant to BIMC Section 2.16.120, BIMC Chapter 18.38, BIMC Section 17.04.095, and BIMC Chapter 18.108, the City Council considered approval of the proposed preliminary subdivision, site plan and design review, and conditional use permit for a Tier 3 Housing Design Demonstration Project at a closed record public meeting;

WHEREAS, on April 27, 2011 the City Council adopted Resolution No. 2011-10 with the following modification to Condition 23 of the Recommendation of the Hearing Examiner: "All significant trees and tree stands located in the perimeter landscape area must be retained."

WHEREAS, on May 17, 2011 the City Council considered amending the modification to Condition 23 as follows: "All significant trees and tree stands located in the perimeter landscape buffer areas must be maintained in accordance with the provisions of BIMC 18.85.060"; now, therefore,

THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES RESOLVE AS FOLLOWS:

The Findings of Fact, Conclusions of Law and Recommendation of the Hearing Examiner (File No. SUB/SPR/CUP15540), as set forth in Exhibit "A" to Resolution No. 2010-11 are adopted as the final decision of the Bainbridge Island City Council with the following revision to Condition 23:

"All significant trees and tree stands located in the perimeter landscape buffer areas must be ~~retained~~ maintained in accordance with the provisions of BIMC 18.85.060."

PASSED by the Council of the City of Bainbridge Island, Washington, this 17th day of May, 2011.

APPROVED by the Mayor on the 17th day of May, 2011.

Kirsten Hytopoulos, Mayor

ATTEST/AUTHENTICATE:

Rosalind D. Lassoff, City Clerk

FILED WITH THE CITY CLERK: May 16, 2011
PASSED BY THE CITY COUNCIL: May 17, 2011
RESOLUTION NUMBER 2011-14

RECOMMENDATION OF THE HEARING EXAMINER
TO THE CITY COUNCIL
CITY OF BAINBRIDGE ISLAND

In the Matter of the Application of

Housing Resources Board **SUB/SPR/CUP 15540**

For Approval of a Housing
Design Demonstration Project

Introduction

The Housing Resources Board requests approval of a Tier 3 Housing Design Demonstration Project for property in the 500-600 block of Ferncliff Avenue, along the west side of the street.

An open record public hearing was held on March 18, 2011. Ken Balizer, Executive Director, and Charles Wenzlau, Chairman of the Board, represented the Applicant, and Kelly Tayara represented the Director, Planning and Community Development Department. In addition to the testimony by the representatives, John Whitaker and Robert Dashiell also testified. The record consists of the testimony at the hearing and Exhibits 1-61.

All references to chapters and sections in this recommendation are to the Bainbridge Island Municipal Code, unless otherwise indicated.

After due consideration of all the evidence in the record, the following shall constitute the findings, conclusions, and recommendation of the Hearing Examiner to the City Council on this application.

Findings

1. The Housing Resources Board, hereafter "Applicant", proposes the Ferncliff Village Housing Design Demonstration Project, the first project to be accepted into the program established by the adoption of Chapter 18.38. Approval as a Tier 3 Housing Design Demonstration Project (HDDP) requires approval through the underlying permits, which in this case are a preliminary subdivision, a conditional use permit, and site plan and design review.

2. The project would be located in the 500-600 block of Ferncliff Avenue NE along the west side of the street between Tiffany Meadows Drive and NE Wing Point Way. The property consists of three parcels on 5.97 acres. It is undeveloped and used for animal pasture. The site slopes gently to moderately up to the west where it is bounded by the crest of the Winslow ravine.

ATTACHMENT A

3. The subject site is zoned R-3.5, 12,500 square feet per unit, is designated on the Comprehensive Plan land use map as Semi-Urban Residential (SUR), and is within the Winslow Master Plan Study Area. Properties to the north, south and east are also designated SUR. Those to the north and south are zoned R-3.5 and to the east, R-2.9. To the west, properties are designated MUTC-Gateway and zoned Mixed Use Town Center—Gateway Overlay District (MUTC-Gateway.).

4. Surrounding development consists of a residential subdivision to the north, to the east is construction underway on a residential plat, single-family residential to the south, and the Winslow ravine and stream to the west with the new Vineyard Lane residential development beyond the ravine.

THE PROPOSAL

5. The project under review is for the subdivision of the site into 25 lots and then construction of an affordable residential development, Ferncliff Village. The project would be developed in two phases: Phase I, construction of 24 single family residences on 24 of the lots along with infrastructure and amenities; and later, after site plan and design review approval, Phase II, the construction of 24 multi-family units on the 25th lot. The single-family structures would include three housing types, a one story, two-bedroom rambler, a two-story, two-bedroom structure and a two-story, three-bedroom structure, with floor areas from 900-1,100 square feet. The preliminary concept for the multifamily development is for flats in four-plexes designed to look similar in character and quality to the single-family structures on the site. Parking would be provided on each lot or nearby for the single-family units and in parking lots behind the buildings for multifamily. The project includes a public one-way loop road through the site, public trails or pedestrian easements east-west through the site connecting Ferncliff Avenue to Cave Avenue, a trail north-south within the site, another easement for a future trail along the western property line connecting to Cave Avenue, and 3-ft. wide gravel walking paths on both sides of the loop roadway, dedication of 10 ft. of street right-of-way along the east property line, common open spaces, some with amenities, and a bus shelter to accommodate 20 children.

6. The proposal for handling stormwater runoff includes flow and quality control through on-site rain gardens, detention ponds in the open space tract at the southeast corner of the site and in the western portion, dispersion in vegetated areas, off-site discharge to the storm drain system in Ferncliff Avenue, and discharge to the Winslow ravine steam, discussed below. Hydraulic Project Approval from the Washington State Department of Fish and Wildlife may be required.

HDDP EVALUATION

7. A Tier 3 HDDP requires that at least 50 percent of the units be affordable to the income levels defined by Section 18.06.565 and remain affordable for 50 years, the units not be greater in size than 1600 square feet, and that the project include innovative site and building design. Various incentives and modifications to design and development standards are available to HDDPs. The HDDP approval process includes staff review, public participation meetings, and Design Review Board (DRB) meetings for review and evaluation. The Planning Commission is to hold a public meeting and review the permits

and approvals required in this consolidated permit process. When Applicant proposed modifications to the project to respond to changes in the economic climate including proposing detached single-family units instead of duplexes, a second public participation meeting was held, and then the Planning Commission reviewed that proposed project.

8. The HDDP approval criteria are listed in Section 18.38.070:

A. The applicant clearly demonstrates evaluation factors listed in BIMC 18.38.060 as evaluated by the design review board and the department of planning and community development.

B. The applicant has demonstrated how relief from specific development standards, including setback reductions, lot coverage and/or design guidelines, is needed to achieve the desired innovative design and the goals of this chapter.

C. The project is harmonious in design and appearance with the intended character and quality of development in the immediate vicinity of the subject property, and with the physical characteristics of the subject property.

D. The project does not adversely impact existing public service levels for surrounding properties.

E. The project complies with all other portions of the BIMC, except as modified through this housing design demonstration project process.

F. If a project will be phased, each phase of a proposed project must contain adequate infrastructure, open space, recreational facilities, landscaping and all other conditions of the project to stand alone if no other subsequent phases are developed.

9. The staff report, Exhibit 43, describes the evaluation factors and method for scoring the project in the three areas listed in Section 18.38.060: housing diversity with regard to unit type and size and affordability; innovative site development as to low impact development approach, impervious surfaces, landscaping, transportation, compost area, and biodiversity; and innovative building design practices regarding alternative energy, energy and water efficiency, green building materials and accessibility. To achieve Tier 3 goals, the proposed project must achieve at least 20 points in the housing diversity category, 21 points for innovative site development, and LEED Silver, BuiltGreen 4, or Evergreen Sustainable Development certification as part of the innovative design category. Section 18.38.070A requires demonstration of these factors by the DRB and the Department of Planning and Community Development. Section 18.38.040C assigns responsibility to the Director to evaluate the project on housing diversity for which 25 points were awarded based upon the proposal to provide 2/3 of the housing to households with incomes at or below 80 percent of the area median and 1/3 to those between 81 and 120 percent of the area median, a range in unit sizes, and three

distinct unit types. The Director is to evaluate innovative building design and found the proposal qualifies as an Evergreen Sustainable Development. Both the Director and the DRB are to evaluate innovative site development practices. Both determined that the project scored more than the minimum points for the low impact development relating to stormwater management, low maintenance plantings that are native or drought-tolerant, and common open space design that dedicates significant area to common open space, proposes significant tree retention, provides neighborhood garden areas, and provides protection to the stream ravine. The Director prepared written findings of fact and issued preliminary notification that the project qualifies as a Tier 3 HDDP project. Exhibit 55.

10. The proposal would meet the affordability requirement of at least 50 percent of the units "affordable housing" as defined by Section 18.06.565 for use by households based on the median household income in the Bremerton-Silverdale Metropolitan Statistical Area. All of the units in the first phase and most of those in the second phase would be for households below 120 percent of the median household income. Testimony of Balizer.

11. The specific development standards that would be modified for the proposal are addressed in findings related to subdivisions and site plan and design review, below, as is the project's relationship and affect on the surrounding area and its compliance with other portions of the Code.

12. Conditions are recommended to assure that the project continues to meet the HDDP program criteria, including housing diversity standards.

13. Conditions are recommended to require that the loop roadway, the trail facilities, the bus shelter, storm water facilities associated with the first phase, bike facilities associated with the first phase, recreational facilities and landscape buffers be constructed or installed during Phase I.

COMPREHENSIVE PLAN

14. At least three goals in the Housing Element of the Comprehensive Plan are addressed by the proposal. Goal 1 which is generally to promote a variety of housing choices in a way that is compatible with the island's character and encourage economic diversity, and its Housing Policy H 1.5, to encourage innovative residential development types to increase the variety of choices, would be met by the proposal. The proposal meets Goal 4, which is generally to promote and facilitate provision of affordable housing stock, and Housing Policy H 4.1, to pursue strategies to reduce land cost to encourage housing that will remain affordable by use of density bonuses among other strategies. Goal 5, to promote and facilitate provision of affordable rental and for-purchase housing, would also be forwarded by the proposal.

15. Goal 3 of the Transportation Element, to consider special needs of neighborhoods in development of transportation improvements, and Transportation Policy TR 3.2 to do this by establishing road standards, and Goal 9 regarding the implementation of the City's Non-Motorized Plan through Transportation Policy TP 9.2 regarding development of design standards to carry out the policies of the non-motorized plan, are applicable only in that the proposal proposes to meet the established roadway standards and will be

providing new trails, bicycle stalls and a bus shelter. The Director, Planning and Community Development Department (hereafter "Director") recommends conditions to assure that these be provided and in appropriate ways.

16. Goal 6 of the Economic Element seeks provision of affordable housing choices, which is the intent of the proposal.

CRITICAL AREAS BUFFER

17. Two critical areas affect the site. Because the west property line of the site is at the crest of the Winslow ravine, and the slope down to the stream is greater than 10 ft. in height, a buffer to protect the fish and wildlife habitat conservation area is required extending 25 ft. beyond the top of the ravine, and, in addition, a building setback line of 15 ft. from the edge of the buffer is required. Section 16.20.130B.2(g). Except for portions of the public trail and easements, the buffer and setback area is proposed to be undisturbed. The site is also adjacent to a geologically hazardous area because the ravine meets the criteria for a landslide hazard area with a slope angle that exceeds 40 percent so Section 16.20.150E requires a buffer the height of the slope or 50 ft., whichever is greater, from the edge of the landslide hazard area plus a 15 ft. building setback from the edge of the buffer. The height, and therefore the buffer, ranges from 57-66 feet. The slope may be used for approved surface water conveyance if no other reasonable alternative route is available. The geotechnical report for the project, Exhibit 2A, recommends that the stormwater not be infiltrated or dispersed within 100 ft. of the ravine crest and that the existing hydrologic condition of runoff from this portion of the site contributing to stream flows be maintained, as required by the Code. The proposal is to convey runoff from this portion of the site to a detention pond from which there would be controlled discharge into a pipe that would carry water down the slope to the stream. A condition of the MDNS requires that the recommendations of a geotechnical engineer and replanting requirements for stormwater facilities be followed, and the Director recommends a further condition requiring that an open space management plan to protect vegetation be submitted and that stormwater systems be in conformance with the preliminary civil drawings.

PRELIMINARY SUBDIVISION

18. To be approved, a preliminary subdivision must meet the following criteria:

1. The applicable subdivision development standards of BIMC 17.04.080, 17.04.082 and/or 17.04.085 are satisfied;

2. The preliminary subdivision makes appropriate provisions for the public health, safety and general and public use and interest, including those items listed in RCW 58.17.110;

3. The preliminary residential subdivision has been prepared consistent with the requirements of the flexible lot design process unless a flexible lot standard has been modified as part of a housing design demonstration project pursuant to Chapter 18.38 BIMC;

4. Any portion of a subdivision that contains a critical area, as defined in Chapter 16.20 BIMC, conforms to all requirements of that chapter;

5. The city engineer determines that the preliminary subdivision meets the following:

a. The subdivision conforms to regulations concerning drainage (Chapter 15.20 BIMC).

b. The subdivision 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.

c. The streets and pedestrian ways as proposed align with and are otherwise coordinated with streets serving adjacent properties.

d. The streets and pedestrian ways as proposed are adequate to accommodate anticipated traffic.

e. The subdivision conforms to the requirements of this chapter and the standards in the "City of Bainbridge Island Design and Construction Standards and Specifications," except as otherwise authorized in BIMC 17.04.080.C.3;

6. The proposal complies with all applicable provisions of this code, unless the provisions have been modified as part of a housing design demonstration project pursuant to Chapter 18.38 BIMC; Chapters 58.17 and 36.70A RCW; and all other applicable provisions of state and federal laws and regulations; and

7. The proposal is in accord with the city's comprehensive plan.

Section 17.04.094.

19. Section 17.04.080 provides that the number of lots shall not exceed the density provisions of Title 18. Section 18.38.090 provides a density bonus as an incentive for a HDDP allowing up to 2.5 times the base density. The base density for the site is 20.8 units so 52 units would be allowed. The proposal for 48 units is 2.3 times the base density, so within the density allowed.

20. Section 18.38.080A allows reduction of the minimum lot size of 5,000 square feet, Section 17.04.080A.2 with service by a public sewer system, for an approved HDDP, and reduction of the minimum lot dimensions if approved by the Kitsap County Health District. The smallest lot proposed is approximately 2,533 square feet. The minimum lot width proposed is approximately 32 feet. The Health District approved the preliminary plat with the proposed lot sizes and dimensions. The reduced lot sizes would allow the greater number of units necessary to offset the cost of the low impact design and sustainable construction and to support the affordability of the proposed units.

21. The maximum lot coverage for the R-3.5 zone is 25 percent. Section 18.24.050. As an incentive for the HDDP, maximum lot coverage is to be evaluated as part of the evaluation criteria in Section 18.38.060B. Section 18.38.080. As unit size may not

exceed 1,600 square feet, the Director recommends a condition limiting lot coverage of 1,600 square feet for each of Lots 1-24 and the balance of up to 26,600 square feet for Phase II, based on the 25 percent maximum. The proposed coverage is approximately 11.5 percent of the area.

22. Open space requirements of Section 17.04.082 do not apply to HDDPs, according to Section 18.38.080C, but open space in the project is part of the evaluation criteria for those projects. Over 40 percent, or 2.5 acres, of the site is designated as open space in four tracts on the preliminary plat. In Tract F, a recreation area, a "pea patch" neighborhood garden and play structures are proposed. The Director recommends conditions requiring a bus shelter within open space Tract A and submission of an open space management plan for approval.

23. Section 18.38.080E provides for reduction of required Title 17, Subdivisions, and Title 18, Zoning, setbacks. Setbacks are proposed to be reduced to the minimums allowed in that section to accommodate the number of residential units needed for viability of the affordable housing project. The Director recommends a condition of approval allowing those minimums provided that the Building Official and Fire Marshall may modify those if needed to provide for the public safety.

24. Section 18.38.080.F allows reduction in required roadside buffers considering any existing vegetation and buffering provided by surrounding properties. While the provisions of Section 17.04.080 applicable to R-3.5 zoned land does not require roadside landscape buffers unless necessary to reflect neighboring development patterns, a full screen 15 ft. wide roadside landscape buffer reflecting neighboring development patterns is proposed on that portion of the plat bordering the street that is not one of the open space areas.

25. The proposed preliminary plat complies with the provisions of the flexible lot standards with modifications that are permitted for an approved HDDP development as described above. Those modifications are necessary to fully implement the goals.

26. The public use and interest would be served by the provision of housing in a project that meets the goals of the HDDP program. As shown in various other findings, the proposed plat makes adequate provision for public health, safety and welfare with the existing infrastructure with improvements proposed or recommended for open space, drainage ways, streets, pedestrian and bicycle ways, transit, potable water, sewer, and safe walking conditions for students to reach bus stops.

27. The Director recommends a condition requiring payment of any applicable school impact fee at the time of building permit issuance for any residential unit, so adequate provision is made for schools.

28. The preliminary plat, with recommended conditions, complies with all applicable provisions of the flexible lot design provisions with the modifications allowed an approved HDDP as provided in Ch. 18.38.

29. The proposed plat with the recommended conditions conforms to the critical areas requirements of the flexible lot provisions as modified for approved HDDPs for those portions of the property containing critical areas buffers.

30. A traffic impact analysis (TIA) was submitted June 30, 2010, Exhibit 52, to assess the traffic impacts associated with the project as it existed at that time. The TIA projected that the project would generate a total of 340 trip movements per day with 33 during the PM peak hour, and that the level of service (LOS) at affected intersections would remain in the acceptable LOS A to LOS B range. The TIA preliminarily determined that the proposed entrance and exit to and from the site would provide adequate sight distances. The Public Works Department issued a Certificate of Concurrency for 340 average daily trips based on the TIA showing that transportation facilities are adequate for that number of trips. Exhibit 59. Though the project was modified to substitute detached single-family residences for duplexes after the preparation of the TIA, the number of bedrooms was reduced making it likely that any increase in trips generated would be minor and unlikely to reduce the LOS at intersections to an unacceptable level.

31. The Department of Public Works reviewed the preliminary plat and determined that the subdivision, as proposed or with the recommended conditions, conforms to regulations concerning drainage, 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; that the streets and pedestrian ways align with and are coordinated with streets serving adjacent properties and are adequate to accommodate anticipated traffic; and that the subdivision conforms to the requirements of Ch. 17.04 and the standards in the City of Bainbridge Island Design and Construction Standards and Specifications, except for variations approved by the City Engineer. Exhibit 58. That department conditioned its preliminary approval on a series of conditions, recommended by the Director as conditions of preliminary subdivision approval.

32. At hearing and in the earlier HDDP public process, comments were made that a pull out for school buses and transit should be required to avoid a hazardous condition. One concern expressed at the hearing was that buses stopped in traffic lanes would cause drivers to divert from Ferncliff to other streets. The alternative route, however, was described as less attractive, if not impractical, as it would involve a left turn onto Tiffany, a narrower street, then a turn onto Meadow, a turn onto Wing Point Way and then a left turn onto Ferncliff Avenue with limited visibility. Traffic officials advised staff that a bus stopping in a traffic lane is regarded as a positive traffic calming measure and not a hazard.

33. The Fire Marshall, Bainbridge Island Fire Department, reviewed the proposed preliminary plat and found the utility plan to be acceptable. Exhibit 28. Conditions are recommended to assure compliance with the Fire Code.

34. The project received non-binding commitments for water and sewer system capacity from the Department of Public Works, Exhibit 15, and it was found eligible for connection to the systems. The project received preliminary approval from the Kitsap County Health Department for water supply and sewer. Exhibit 25.

35. Kitsap Transit provides bus service on Ferncliff Avenue.

36. The Bainbridge Island Municipal Parks and Recreation District indicated that it is satisfied with the proposed provision of non-motorized trails and easements. Exhibit 23.

37. The proposed plat with recommended conditions complies or will comply with all provisions of local, state and federal laws and regulations.

38. As found previously, the proposed plat is consistent with the goals and policies of the comprehensive plan providing affordable housing in close proximity to the downtown area and providing facilities to encourage residents to use non-motorized transportation.

39. The public use and interest would be served by the proposed subdivision that would provide new lots for new housing, both single and multi-family, close in and affordable, protection for critical areas, open spaces, trails for the public use, and amenities for residents' use.

SITE PLAN AND DESIGN REVIEW

40. The decision criteria for site plan and design review relevant to the project are:

> A. 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 Chapter 18.38 BIMC;
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> ***
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> C. 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 nonmotorized transportation plan;
>
> D. The proposal will be served by adequate public facilities including roads, transit, water, fire protection, sewage disposal facilities and storm drainage facilities;
>
> E. The site plan and design is consistent with the design guidelines of Chapter 18.41 BIMC, or other applicable design guidelines of the zoning district, unless strict adherence to a guideline has been modified as a housing design demonstration project pursuant to Chapter 18.38 BIMC;
>
> F. No harmful or unhealthful conditions are likely to result from the proposed site plan;
>
> G. The site plan and design is in conformance with the comprehensive plan and other applicable adopted community plans; and
>
> H. Property subject to site plan and design review which contains a critical area, as defined in Chapter 16.20 BIMC, conforms to all requirements of that chapter.

Section 18.105.060.

41. Section 18.38.080G allows an additional 5 ft. of height over the 25 ft. allowed by Section 18.24.070 as a bonus through the HDDP approval process. Staff recommends a condition limiting height to 30 ft. for the multi-family development as a means of limiting the building footprint to minimize impervious surface coverage. No height bonus is proposed for the single-family development.

42. Section 18.38.080D allows modification of the residential parking requirements in Ch. 18.81 to one space for homes under 800 square feet, 1.5 for homes 800-1,500 square feet, and two spaces for homes larger than 1,500 square feet, but not less than one space per unit even with other allowable reductions. The proposal is for two spaces per single family dwelling unit or 48 spaces, and 36 for the multi-family units, or 1.5 spaces per unit, for a site average of 1.75 spaces exceeding both the requirement under the HDDP provisions and the Ch. 18.81 provisions that would allow reduction by 50 percent because the site is within one-half mile of the ferry terminal.

43. Parking for the multifamily units is proposed to be located in lots behind the building they serve. Though location of parking is encouraged to be behind, under or to the side of buildings, most of the parking spaces for the single-family residences are to be located in front of the buildings, immediately adjacent to the loop roadway. Locating the parking to the side or back would require more space devoted to driveways and likely more impervious surface. For the four lots that do not front on the internal loop roadway, proposed Lots 10, 11, 12, and 13, parking is proposed in reserved spaces in parking easements nearby and adjacent to the roadway. Design standards for parking of Section 18.81.070 would be met. The Director proposes that a condition be imposed requiring compliance with the design standards and to assure parking spaces do not extend into the shoulder areas off the loop road.

44. Section 18.81.080 requires that parking lots and driveways provide well-defined, safe and efficient circulation, that raised curbs be used to define entrances from public rights-of-way and pedestrian walkways to buildings and to define ends of parking aisles and indicate the circulation pattern, and that walkways be provided for safe access to buildings from parking and the public right-of-way, have nonskid hard surfaces and meet accessibility requirements. The City Engineer determined that the proposed parking lot for the multifamily units is well defined, safe and efficient. Conditions are proposed to require a contrasting, nonskid surface where walkways cross the roadway and a path to connect the multi-family development with the recreation area.

45. Section 18.81.120 requires a fence or vegetation barrier where a parking lot abuts side or rear setbacks, as the parking for the multifamily development would. A full screen 15 ft. wide buffer is proposed along the north boundary.

46. Section 18.81.140 requires one bicycle space for every five parking spaces for multifamily development. The requirement would be for approximately seven bicycle spaces, however because the intent of the HDDP is to reduce reliance on automobiles and promote bicycle use, the Director recommends a condition of approval requiring 24 bicycle stalls, with at least 16 covered stalls located to serve the multifamily units and 8 stalls close to the public trail.

47. Section 18.85.060 requires that all significant trees and tree stands in the perimeter landscape areas be retained, and in the interior either 15 percent of the total number of significant trees or 30 percent of the significant tree canopy be retained. The tree retention plan submitted showed retention of 30 percent of the tree canopy. Exhibit 60, Sheet 10. The Director recommends a condition to avoid impacts to significant trees during construction.

48. The proposal includes a 15 ft. wide perimeter landscape buffer along the north boundary of proposed Lot 25 and between the entrance to and exit from the loop road along Ferncliff Avenue. The buffer is required to be a full screen by Section 18.85.070 and a condition is recommended by the Director to assure compliance.

49. Though site plan and design review is required under Ch. 18.105 only for the multifamily portion of the proposal, the entire site was reviewed as part of the HDDP process for innovative site development. Staff and the DRB observed that the design and recommended conditions work to integrate the single family and multifamily elements of the site. The design locates buildings so as to provide open space and buffers around the perimeter and wide separation from the critical areas and buffers. The design shows an integration of the parts so that all units have access to and are served by the trails, roadway and open spaces. The locations, open spaces, landscaping, and pedestrian, bicycle and vehicular circulation systems were shown to be, with the conditions proposed, adequate, safe and efficient.

50. As findings above show, public facilities are either adequate or improvements are proposed, or conditions are recommended for improvements, to make them adequate for transportation, water, fire protection, sewage disposal and storm drainage.

51. Design guidelines in Ch. 18.41 do not apply to development in the R-3.5 zoning district.

52. The development, as proposed and conditioned through SEPA, would not result in any harmful or unhealthful conditions.

53. As findings above show, the proposed development supports the goals of and is in conformance with the comprehensive plan.

54. The proposed development conforms to the requirements of Ch. 16.20 for critical areas providing the required protective buffers and conditions are recommended to assure the continued protection.

CONDITIONAL USE PERMIT

55. Multifamily dwellings are conditional uses in the R-3.5 zone, according to Section 18.24.030H.

56. The criteria for conditional use approval are as follows:

> 1. The conditional use is harmonious and appropriate in design, character and appearance with the existing or intended character and quality of development in the immediate vicinity of the subject property and with the physical characteristics of the subject property; provided, however, that in

the case of a project being processed under Chapter 18.38 BIMC, any differences in design, character or appearance that are in furtherance of the purpose and decision criteria of that chapter shall not result in denial of a conditional use for the project;

2. The conditional use will be served by adequate public facilities including roads, water, fire protection, sewer disposal facilities and storm drainage facilities;

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

4. The conditional use is in accord with the comprehensive plan and other applicable adopted community plans, including the nonmotorized transportation plan;

5. The conditional use complies with all other provisions of this code, unless a provision has been modified as a housing design demonstration project pursuant to Chapter 18.38 BIMC;

6. The conditional use will not adversely affect the area or alter the area's predominantly residential nature;

7. All necessary measures have been taken to eliminate the impacts that the proposed use may have on the surrounding area; and

8. If a conditional use is processed as a housing design demonstration project pursuant to Chapter 18.38 BIMC, the above criteria will be considered in conjunction with the purpose and decision criteria of Chapter 18.38 BIMC, and in light of the goals and policies of that chapter.

Section 18.108.040A.

57. The intention is that the design of the site and the variety of roof forms and window types, materials consistent with those used in the area, and massing would be harmonious with the character and quality of the single family development on site and of the development in the surrounding area. Though design guidelines of Section 18.41.060 do not apply to multifamily development in the R-3.5 zoning district, Applicant has agreed to apply those guidelines to the Phase II development and seek DRB review. The Planning Commission recommended that this be included in a condition of approval to assure compliance with those guidelines.

58. The existing and proposed infrastructure is adequate, or with the recommended conditions, will be adequate for the transportation, fire protection, water, sewage disposal needs, and storm drainage for the proposed development.

59. The multifamily development proposed for the conditional use permit would not be materially detrimental to uses or property in the immediate vicinity.

60. The conditional use would be in accord with comprehensive plan goals and policies and with the Winslow Master Plan Study Area, as it provides affordable housing

in close proximity to downtown area, housing diversity and choice, and facilities to encourage use of non-motorized transportation options.

61. The conditional use, with the conditions recommended by staff, would comply with all provisions of the Municipal Code, as modified pursuant to the HDDP provisions of Chapter 18.38. Those modifications were shown to be appropriate to achieve the goals of the program.

62. The conditional use for multifamily development would not adversely affect or alter the residential nature of the area with its extensive open space, retention of trees, vegetated screens, and interior roadway.

63. Between the incorporation of low impact development measures into the design, generous on-site parking, and the conditions imposed as a part of the MDNS and those proposed by the Director, all necessary measures have been taken to eliminate impacts the use might otherwise have.

64. As addressed in earlier findings, the project with its multifamily housing component would meet the goals and policies of the HDDP program in that it would provide sustainable development that increases the housing choices available to all economic segments of the community.

65. Because site plan and design review would be valid for five years, the multifamily portion of the proposed HDDP is to be developed in Phase II, and conditional use permits expire in three years if application for a building permit is not filed within that period, Applicant seeks approval, as authorized by Section 18.108.060 for an extended life, for a five year time period for the conditional use permit.

RECOMMENDATIONS AND PROCEDURAL COMPLIANCE

66. The City's responsible official issued a Mitigated Determination of Nonsignificance (MDNS) on February 18, 2011. Exhibit 30. Conditions required a bus shelter with landscaping, more visible crosswalk with signage across Ferndale, enclosure and screening of solid waste containers for the multifamily development, complying with the recommendations of a geotechnical engineer for site development and replanting for stormwater facilities installed within the ravine slope or buffer, copies of any approvals required from public agencies, and addressing potential archaeological resources. The MDNS was not appealed.

67. The public commented on the original proposal, and again after the proposal was modified, in the public participation meetings, to the Planning Commission, DRB, and to the hearing examiner. The comments addressed concern about increased density and traffic, lack of a bus pull-out, crosswalk visibility on Ferncliff, screening, impacts to utility infrastructure, the financial feasibility of the proposal and the financing arrangements for construction and eventual purchasers, its long-term maintenance, whether the HDP points given for proposal were warranted, lost opportunity to relocate historic buildings on the site, possible hazard from detention ponds, among others. Many of the comments and concerns resulted in changes to the proposal, SEPA conditions, or recommended conditions. The record contains public comments in support of the proposal, as well.

68. After thorough consideration of the proposal, the Planning Commission recommended approval of the Ferncliff Village project in terms of conformity with the HDDP, the preliminary subdivision requirements, the site plan and design review requirements, and the criteria for conditional use permit.

69. The Director recommended approval of the preliminary subdivision, site plan and design review, and conditional use permit, with conditions, and the HDDP.

70. Notice of the public hearing was posted on the property February 28, 2011, published in the official newspaper February 25, 2011, and mailed to the applicant and to the addresses within 300 ft. of the subject property on February 23, 2011 Exhibit 38.

71. The Hearing Examiner is authorized by Section 2.16.110C to hold a public hearing and make a recommendation to the City Council for its decision on a preliminary subdivision.

Conclusions

1. The Hearing Examiner has jurisdiction to hear and make a recommendation on this application.

2. Notice was given as required by Section 2.16.085D.

3. The findings show that the criteria for preliminary subdivision in Section 17.04.094 are met or, with the recommended conditions, would be met in that the flexible lot standards as modified by provisions of Ch. 18.38 for HDDPs are met; the public health, safety, and general public use and interest, including the items in RCW 58.17.110, are provided for; the subdivision is consistent with the requirements of the flexible lot design process, as modified by Ch. 18.38; critical areas are protected; the plans are consistent with drainage regulations; the subdivision will not unduly burden the drainage basin or water quality nor interfere with use and enjoyment of properties downstream; the streets are coordinated and adequate for the traffic; the plans conform to the requirements of the Subdivision Chapter and the standards in the City of Bainbridge Island Design and construction Standards and Specifications; it complies with all requirements of City, state and federals laws and regulations; and the subdivision is in accord with the comprehensive plan. Therefore, the preliminary subdivision should be granted subject to the recommended conditions.

4. The findings also show that the criteria listed in Section 18.105.060 for site plan and design review approval are met in that the plan and design are in conformance with all applicable code provisions; the design sites buildings appropriately and provides adequate open spaces, landscaping, roads, transit, water, fire protection, sewer facilities, and storm drainage facilities and safe and efficient non-motorized and vehicular circulation consistent with the non-motorized transportation plan; would not result in harmful or unhealthful conditions; is in conformance with the comprehensive plan; and conforms to the requirements of Ch. 16.20 for critical areas so approval of the site plan and design review should be granted.

5. The criteria for conditional use permit approval in Section 18.108.040A are met by the proposal for multifamily housing in that the findings show that it would be harmonious in design character and appearance with its surroundings; it would be served by adequate infrastructure; it would not be materially detrimental to other uses or property in its vicinity; it would be in accord with the comprehensive plan and other adopted plans; it would not alter the predominantly residential nature of the area; and impacts of the use on the area have been appropriately eliminated. With all criteria satisfied, the conditional use permit should be granted.

6. The evaluation conducted by the DRB and the Director described in the findings concluded that the applicant did demonstrate that the project meets the evaluation factors in Section 18.38.060, and the findings show that relief from specific development standards is needed to achieve the design and the goals of the HDDP chapter. The findings show that the design and appearance of the proposed project will be harmonious with the character and quality of development in the vicinity and the characteristics of the subject site; the project would not adversely impact existing public service levels; the project complies with Code provisions; and each of the phases will include adequate infrastructure, open space, recreational facilities, landscaping and other conditions to stand alone. The proposal meets the required housing diversity standards and a condition is proposed to require that at least 50 percent of the units remain affordable for the required period. The HDDP should be approved.

Decision

The proposed preliminary subdivision, site plan and design, and conditional use permit for project as a Tier 3 HDDP should be approved subject to the conditions recommended by staff as modified herein, contained in Appendix A.

Entered this 31st day of March, 2011.

/s/ Margaret Klockars

Margaret Klockars
City of Bainbridge Island
Hearing Examiner *pro tem*

Concerning Further Review

The City Council will hold a public meeting to consider the application. A decision by the City Council is final unless, within 21 days after its issuance, a person with standing appeals the decision in accordance with Ch. 36.70C RCW.

APPENDIX A

SEPA MDNS Conditions

1. To avoid environmental impacts and potential risk of ravine slope instability, the applicant shall follow the recommendations of a geotechnical engineer for site development, including site preparation, excavation, construction, vegetation management and stormwater facilities. The applicant shall meet the replanting requirements of BIMC 16.20 for stormwater facilities installed within the ravine slope or its buffer.
2. To avoid or mitigate environmental impacts, Washington State Department of Fish & Wildlife Hydraulic Project Approval may be required prior to construction of storm drainage facilities on this project. Copies of any required approvals must be submitted to the City prior to construction. A copy of all public agency approvals and approved drawings shall be given to all contractors performing work at the site prior to beginning any construction work.
3. To avoid impacts to archaeological resources, contractor is required to stop work and immediately notify the Department of Planning and Community Development and the Washington State Office of Archaeology and Historic Preservation if any historical or archaeological artifacts are uncovered during excavation or construction.
4. To mitigate public service impacts, the applicant shall provide a bus shelter designed to accommodate approximately 20 school children. The shelter shall be located in the northeast corner of the property within "Open Space Tract A" and/or the adjacent right-of-way.
5. To mitigate public service impacts, the applicant shall install a painted or thermoplastic crosswalk and appropriate related signage across Ferncliff Avenue at its intersection with Tiffany Meadows Drive. Installation shall be to the satisfaction of the City Engineer.
6. To mitigate aesthetic impacts, where feasible considering sight distance and safety, landscaping to screen the bus shelter from the adjacent property to the north shall be provided. Solid waste containers associated with the multi-family development shall be enclosed on all sides and screened with vegetation; chain link fencing shall not be used.
7. To mitigate public service and aesthetic impacts, the bus shelter, related landscaping and the crosswalk shall be installed or assured prior to final plat approval; an assurance device shall provide for construction within one year of final plat approval. The location and design of the shelter and related landscaping shall be to the satisfaction of the Department of Planning and Community Development and the City Engineer.

Project Conditions

8. The project must substantially conform to the Housing Design Demonstration Project (HDDP) program criteria for housing diversity, innovative site development and innovative building design as demonstrated in the HDDP evaluation scoring and applications for the underlying land use permits, except as otherwise conditioned through this approval:
   a. The completed project must provide that least 50 percent of the units remain affordable. A proportional amount of affordable housing units must be completed at or prior to completion of any market rate units.
   b. The maximum home size is 1600 square feet.
   c. The project must achieve the HDDP development standards related to Low Impact Development; prior to final plat approval, the applicant shall allocate impervious surface coverage for each of the lots and, where applicable, within the open space tracts. The final civil plans shall substantially conform to the capacity and facilities presented in the preliminary civil design drawings.
   d. The project must provide landscaping, open space, and transportation elements that substantially conform to those presented in the preliminary drawings.
   e. The project must achieve LEED Silver, BuiltGreen 4 or Evergreen Sustainable Development certification for each of the lots/units. Building permit applications, construction and final occupancy shall comply with the certification provisions of BIMC 18.38.040.H.
9. As a phased project, each phase must contain adequate infrastructure, open space, recreational facilities, landscaping and all other conditions of the project to stand alone if no other subsequent phases are developed. The roadway and related improvements, public trail improvements, bus shelter and related improvements, recreational facilities including play structure(s), bicycle facilities not associated with Phase II, landscape buffers, and stormwater facilities supporting Phase I, shall be constructed or assured prior to final plat approval and prior to issuance of any construction permit for Phase II, unless the building permits for both phases are issued simultaneously.
10. The applicant shall submit complete building permit application for Phase II, the multi-family buildings, within five years of the final decision on the application for Site Plan and Design Review and Conditional Use Permit; a one-year extension may be granted by the Director in accordance with the provisions of BIMC 18.105.100 and 18.108.070.
    a. The applicant shall apply BIMC 18.41.060, Design Guidelines for Multi-family Development in the R-8 and R-14 Zones, to the multi-family buildings in Phase II provided; that the guideline entitled "Screening Surface Parking" is satisfied by the 15 foot width full-screen vegetated buffer, shown on the site plans and conditioned through this report. The applicants shall seek a recommendation of approval from the Design Review Board regarding the multi-family portion of the site prior to construction of Phase II, the multi-family buildings.

11. Prior to any construction activities, appropriate permits, including but not limited to right-of-way permits and license agreements, road approach permits, clearing, grading, and building permits, shall be obtained from the City.
12. Except for modifications reflecting compliance with these conditions of approval, the completed development shall substantially conform to the preliminary subdivision drawings pages 1-8 received December 30, 2010, and pages 9-10 received March 17, 2011, plan sheet AS2.1, and the landscape drawings received June 30, 2010. The final subdivision drawings shall depict individually the buffer, building setback, and open space setback from the ravine. Upon final plat submittal, the applicant shall submit landscape and civil drawings that reflect these conditions of approval; the drawings shall show the location and, as applicable, provide detail of the bicycle facilities, the bus shelter, solid waste facilities, mailboxes, neighborhood garden area, and recreation area facilities including the play structure. The final drawings may reflect changes, such as those related to utility easements, parking facilities, and pedestrian facilities, as conditioned through this approval.
13. If a school impact fee is in effect at the time of building permit issuance, it shall be the responsibility of an applicant constructing the residential unit to pay the school impact fee (BIMC 15.28).
14. At time of building permit application, the applicant shall submit outdoor lighting plans that demonstrate compliance with BIMC 15.34, Outdoor Lighting on Public and Private Property. Freestanding lighting shall have a maximum height of 14 feet including the base and casing.
15. Construction shall conform to the Department of Ecology Western Washington Stormwater Manual and the City of Bainbridge Island Design and Construction Standards. Public and private improvements, facilities, and infrastructure, on and off the site that are required for the subdivision, shall be completed and have final inspection and approval prior to final plat approval. The applicant shall comply with the following conditions to the satisfaction of the City Engineer:
    a. A Transportation Facility Certificate of Concurrency has been issued for this project in accordance with provisions contained in BIMC 15.40. Acceptance by the applicant of this preliminary plat approval shall constitute agreement in writing to construct and install all street improvements and make necessary dedications as conditioned. All dedications shall be shown on the final plat.
    b. The applicant shall provide a 30-foot width right-of-way dedication from the existing center line along the entire length of the property's Ferncliff Avenue frontage, including any areas previously dedicated.
    c. The development shall provide, at a minimum, ten-foot width non-motorized public trail right-of-way/trail easements as depicted in the preliminary subdivision drawings. The public trail system connecting Ferncliff and Cave Avenues shall be constructed or assured prior to final

plat approval; an assurance device shall provide for construction within two years of final plat approval.

i. The trail shall be constructed to provide no less than a five foot width surface, and shall consider accessibility.

ii. A contrasting, nonskid surface shall be installed where the trail crosses the roadway.

iii. The final plat drawing and civil plan shall be revised to align the trail where it intersects the roadway to provide a minimal crossing area.

iv. A path no less than three feet in width shall provide a connection between Lot 25 and Tract F to provide access to the public trail and recreation facilities. This path shall consider accessibility.

d. The development shall provide, at a minimum, a ten-foot width non-motorized public trail right-of-way or trail easement along the west property line from the north property boundary to connect to the Cave Avenue right-of-way.

e. Vehicular access to the development shall be limited to a one-way public street with ingress/egress via Ferncliff Avenue. The roadway shall meet the Residential Optional Suburban Street Standard.

i. The roadway shall be located within a minimum 20 foot width dedicated right-of-way, and shall include a 12 foot width paved driving surface and three foot width gravel shoulders on each side.

ii. Where feasible with regard to stormwater facilities, raised curbs shall define the entrance to the multi-family parking lot from the internal public roadway, define the ends of the multi-family parking lot aisle, and, if applicable, define pedestrian walkways from the internal roadway to the multi-family buildings.

iii. Pedestrian walkways shall be provided to assure safe access from the parking area serving the multi-family buildings and to single-family residences where the associated parking is not located on the lot it serves. Walkways shall be surfaced with nonskid hard surfaces.

iv. Where pedestrian walkways and/or trails cross vehicular driving lanes, the walkways shall be constructed of contrasting materials.

v. The roadway shall provide a minimum of three turnouts. While "standing" is permitted, "parking" is not permitted in the turnouts. The turnouts shall be appropriately signed.

vi. Mailboxes for the entire development shall be located at the turnout nearest the ingress from Ferncliff Avenue.

vii. Parking spaces shall meet the design standards of BIMC 18.81. Parking space dimensions shall not extend onto the shoulder areas.

viii. The roadway shall be designed to accommodate the weight of a 65,000-pound fire apparatus. Pervious materials are permitted as long as

applicable design specifications are met and the edges of the shoulders are clearly visible.

ix. The roadway and shoulders shall provide a minimum 13'6" overhead clearance.

x. The entire length of the roadway shall be marked as a fire lane: No parking shall be permitted on the roadway or shoulders.

xi. Construction and signage shall be to the satisfaction of the Fire Marshal.

f. The applicant shall provide a new fire hydrant on the southeast portion of the internal road at its intersection with Ferncliff Avenue to the satisfaction of the Fire Marshal. New hydrants shall be equipped with a 4" Storz fitting on the pumper port.

g. Water and sanitary sewer main extensions not located in public rights-of-way shall be located in easements no less than 15 feet in width. On-site main extensions shall be publicly owned and maintained; all mains shall allow access for maintenance.

h. Prior to final subdivision submittal, the applicant shall submit complete civil plans and drainage report for the proposed development to the City Engineer and the Department of Planning and Community Development for review and approval. The design shall be prepared by a Professional Engineer licensed in the State of Washington, and shall be in accordance with BIMC 15.20. Low Impact Development (LID) practices for stormwater mitigation must demonstrate compliance with BIMC 15.20.050.

i. The plans shall depict all required improvements, and shall include roadway details and profiles, sanitary sewer, water, utility and storm drainage facilities, including easement location and dimensions.

ii. The plans shall address grading, erosion and sedimentation control and include a Stormwater Pollution Prevention Plan (SWPPP).

iii. The plan shall depict significant trees required to remain for the completed development; easements shall be located to avoid impacts to significant trees that will be retained.

i. Prior to any construction activities, the applicant shall apply for a National Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit.

j. Prior to final subdivision approval, the applicant shall provide an Operations and Maintenance Plan and Declaration of Covenants approved by the City Engineer for all constructed stormwater facilities in accordance with BIMC 15.21.

k. Prior to final subdivision approval and prior to construction, the applicant shall provide a drainage easement for stormwater facilities on the adjacent property (Winslow ravine stream).

l. Binding water availability and sewer availability letters shall be submitted with final plat application.

m. All lot corners shall be staked with three-quarter inch galvanized iron pipe and locator stakes along with all other applicable survey provisions of state and City ordinance.

n. A plat certificate shall be provided with the final subdivision application.

o. BIMC 17.04.119 provides: In lieu of completion of improvements with conditions of a preliminary plat approval, the City Council may accept an assurance device, other than a bond, in an amount and in a form determined by the City Council, which secures and provides for the construction and installation of improvements or the performance of conditions within one year, or such additional time as the City Council determines is appropriate after final plat approval. In addition, the City Council shall require an assurance device, including a bond, securing the successful operation of improvements for one year after the City's acceptance of the improvements; provided, that the City Council may, upon recommendation of the City Engineer or the Director, extend the term of the assurance device for up to two years for improvements that will not demonstrate compliance with construction or installation requirements within one year. In the event an assurance device is provided in lieu of completion of improvements, a prominent note on the face of the final subdivision shall state: *"The lots created by this subdivision are subject to conditions of an assurance device held by the City for the completion of certain necessary facilities. Building permits may not be issued and/or occupancy may not be allowed until such necessary facilities are completed and approved by the City of Bainbridge Island. All purchasers shall satisfy themselves as to the status of completion of the necessary facilities."*

16. The building setbacks are as follows and shall be noted on the final subdivision:

Building to building:	Minimum 0 feet*
Building to subdivision boundary:	Minimum 5 feet
Building to right-of-way	Minimum 10 feet
Building to trail / open space:	Minimum 10 feet

*Subject to Building Official and Fire Marshal building permit approval.

17. The total available lot coverage of 65,000 square feet for the development shall be allocated on the face of the final plat. The final plat shall reflect maximum lot coverage of 1,600 square feet per lot for Lots 1 – 24 and 26,600 square feet for Lot 25; the allocation shall include lot coverage for the bus shelter and covered bicycle facilities.

18. The maximum building height of multi-family buildings in Phase II is 30 feet; the maximum height of all other buildings and structures is 25 feet.

19. A minimum of 24 bicycle stalls shall be provided to serve the development. A minimum of 16 covered bicycle stalls shall be located to provide primary service

to the multifamily units. The remaining 8 stalls shall be located to within close proximity to the public trail. Stalls may be located in open space tracts. All bike facilities shall provide for secure locking of both the frame and the wheels.

20. Prior to issuance of any building permit, applicant shall plant the 15 foot width buffer areas along the north and east boundaries to, at a minimum, full screen standards (BIMC 18.85.070.B.1). Plantings shall be installed or assured prior to final plat approval; an assurance device shall provide for installation within one year of final plat approval, and a maintenance device provided in accordance with BIMC 18.85.

21. Landscape buffers shall be maintained in conformance with the required vegetated screen standards. No vegetation within the buffers shall be disturbed without approval of the Department of Planning and Community Development through an approved landscape, clearing, grading, or civil plan.

22. Prior to any construction activity, construction fencing shall be installed in such a manner as to protect the drip line of significant trees and native vegetation within open space areas and buffers.

23. Significant trees designated for preservation shall be shown on the final subdivision. A minimum of 30 percent of the existing significant tree canopy on the site, or 15 percent of the existing significant trees on site at time of preliminary plat application, shall be retained. No building, clearing or grading within the critical root zone of a significant tree designated for preservation shall occur without a report from a consulting arborist indicating how the tree will be preserved. If any significant trees are determined to be hazardous by a professional arborist, they may be removed after a replanting plan has been approved by the Department of Planning and Community Development.

24. A final Open Space Management Plan shall be submitted with the final plat application. The approved uses in the final Open Space Management Plan (OSMP) shall comply with the requirements contained in BIMC 17.04 and BIMC Title 18. Due to the geologically hazardous nature of the open space areas, the final OSMP must reflect allowed uses in Tract F, including provisions for stormwater conveyance and vegetation requirements of BIMC 16.20. Stormwater systems in substantial conformance with the preliminary civil drawings shall be permitted in the open space areas. The OSMP shall provide for use / maintenance of the bus shelter, recreational area, play structure(s), "pea patch" and any bicycle storage facilities located therein.

25. Conditions 1 – 3; 7 if assured; applicable portions 8; 11; 13; 14; applicable portions of 15; 16 – 18; 20 if assured; and reference to landscape / vegetation requirements contained in 21 – 24 shall be listed on the final plat mylar.