

April 6, 2017

**CITY OF BAINBRIDGE ISLAND, WASHINGTON  
HEARING EXAMINER**

**REPORT AND DECISION**

**Project:** Bainbridge Landing Preliminary Long Subdivision and Site Plan Review

**File Number:** PLN50520SPR & SUB

**Applicant:** Bainbridge Community Development, LLC, *represented by*  
Charles Wenzlau, Architect  
490 Madison Avenue N, #105  
Bainbridge Island, WA 98110

**Location:** 259 Ferncliff Avenue, north of Harbor Square

**Request:** The applicant is requesting to subdivide a 4.86 acre historic single family residential site into 27 lots for development of 140 residential units, including 25 townhomes and a 115 unit apartment building. A one acre park on the east side of the project site abutting Ferncliff Avenue will be publicly dedicated to obtain a Floor Area Ratio (FAR) Bonus. The Housing Design Demonstration Projects (HDDP) program will be utilized to construct a Tier 1, LEED certified project. The project also requires a Site Plan Review approval.

**SEPA Review:** A Mitigated Determination of Non-Significance was issued on February 2, 2017.

**Zoning and Plan Designations:** Mixed Use Town Center (MUTC) – Ferry Terminal District (FTD) Overlay

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**FINDINGS OF FACT**

**Site Characteristics**

1. Tax Assessor Information:
  - A. Tax Lot Numbers: 262502-3-008-2001
  - B. Owners of Record: William Lowery, James J. Lowery and Marcia C. Wicktom
  - C. Lot Size: 4.87 acres or 211,952 square feet
  - D. Land Use: Residential.

2. Terrain: The site is generally level in the northeast portion, sloping to the southwest with site elevations varying from approximately 135' at the northeast corner to 100' at the southwest corner.
3. Soils: Mapping indicates that the predominant soil type on the site is Kapowsin gravelly ashy loam, 0 to 6%, except in the southeast area, which has 6 to 15% slopes (Soil Survey of Kitsap County Area, Washington; U.S. Department of Agriculture, Soil Conservation Service, 1977).
4. Existing Site Development: The historic Cave family single family residence (constructed between 1897 and 1900) exists in the northeast corner of the property.
5. Proposed Access: The proposed development will be accessed from both Ferncliff and Cave Avenue, with shared use of Gilmore Avenue.
6. Public Services and Utilities: City of Bainbridge Island Water and Sewer.
7. Zoning/Comprehensive Plan Designation: The subject property is zoned Mixed Use Town Center (MUTC)-Ferry Terminal District (FTD) Overlay
8. Surrounding Zoning/Comprehensive Plan Designation:
  - A. North: R-4.3, Single-family
  - B. South: MUTC, FTD
  - C. East: R-4.3, Single-family
  - D. West: MUTC, FTD
9. Surrounding Uses:
  - A. North: Gilmore Avenue and single-family development
  - B. South: Harbor Square development (mixed use development)
  - C. East: Ferncliff Avenue and single-family development
  - D. West: Cave Avenue and residential (single and multi-family).

### **Procedural History**

10. A pre-application conference was held on May 10, 2016. The Design Review Board reviewed the pre-application proposal on May 16, 2016. A public participation meeting was held on June 6, 2016. Applications for Preliminary Subdivision and Site Plan and Design Review Approvals were submitted on July 14, 2016, and deemed complete on August 12, 2016.
11. The project is subject to State Environmental Policy Act (SEPA) review as set forth in Washington Administrative Code Chapter 197-11. Utilizing the optional DNS process provided in WAC 197-11-355, the City issued a combined Notice of Application/SEPA comment period on August 26, 2016. The 14-day comment period ended on September 9, 2016. A modification to the fireflow options for the proposal application resulted in a revised notice of application/SEPA comment period being issued on December 30, 2016, with a second 14-day comment period concluding January 13, 2017. A Mitigated Determination of Nonsignificance (MDNS) was issued on February 2, 2017, with an appeal period ending February 16, 2017. No appeals were filed.

12. The Design Review Board (DRB) discussed the application at three different meetings, the last held on November 21, 2016, reviewing the proposal for consistency with the City's multi-family and commercial/mixed use design guidelines as well as making general site and building design recommendations. On October 17, 2016, the Design Review Board motioned to approve the plan subject to a condition that the architect return to the DRB with alternative concepts for exterior materials and their placement on the buildings. On November 21, 2016, the applicant met again with the DRB and described three different potential material designs. The DRB voted in favor of employing the natural palette color and the applicant has agreed to follow the DRB recommendation.

13. The Planning Commission (PC) held a public meeting on March 9, 2017, to review the project, with the PC members expressing concern that they had not yet received the full staff report with all proposed conditions and concluding that absent such items they would be unable to make a recommendation. The meeting then heard an overview of the project from the applicant, received public comment, and directed questions to the applicant and staff. The Planning Commission on March 14, 2017, received a full staff report and on March 17, 2017, continued its review of the project. The Commission made a unanimous recommendation of approval subject to a recommendation for revisions to specified conditions.

14. Agency technical comments were received from the City's fire marshal, development engineer and Historic Preservation Commission (HPC). On July 22, 2016, the fire marshal submitted detailed comments regarding fire flow, location of fire hydrants, fire sprinkler and alarm systems, and fire apparatus access roads. To meet the fire flow requirements for this project, the applicant proposed two options: 1) to extend an 8 inch waterline from the Vineyard Lane development to connect to the existing water line in Gowen Place, or 2) develop a large water tank on site with a pump and back-up generator. While both concepts were deemed viable, option 1 was preferred by the Fire Marshal's Office because it will improve fire flow in the adjacent community as well. Option 1 will be implemented by the applicant.

15. The Historic Preservation Commission (HPC) also took interest in the historic Cave House on the project site. The applicant contracted with Cultural Resource Consultants (CRC) to provide a report containing a historic property inventory update and an evaluation of significance for the Cave House located at 259 Ferncliff Avenue. The house could feasibly be relocated to an adjacent parcel to accommodate the proposed Bainbridge Landing mixed-use development. Cave House was not recommended as eligible for the National Register of Historic Places but is considered locally significant and eligible for the Bainbridge Island Register of Historic Places. SEPA conditions nos. 12-14 provide that should the home not be relocated or preserved on-site, it shall be offered for sale for relocation.

16. Pursuant to BIMC Chapter 2.16.170, an applicant needing two or more land use applications for a single project may request that the applications be processed under a single consolidated project review to be conducted according to the procedures mandated for the highest rated application. The proposed project needs both Site Plan and Design Review and a Preliminary Subdivision approval, with the plat proposal requiring a public hearing before the Hearing Examiner. The two applications were thus subject to review by the Hearing Examiner under the consolidated project review provisions, with a consolidated public hearing held on March 22, 2017.

### **Impacts of Concern**

17. From the beginning the review process for Bainbridge Landing has offered multiple

) opportunities for public input. In fact, most major issues probably had been fully explored and fleshed out before the public hearing in this proceeding was scheduled. As documented above, these included opportunities both to submit written comments and testify at various meetings. Over the course of review a range of concerns were voiced, including issues regarding traffic, design, environment (air emissions, noise, light and glare), abutting trees and the type of units proposed (request for less rental units). But the overwhelming focus was on traffic, particularly the impact of the project on Cave Avenue.

18. The project is proposing two access routes: on its north side a two way public road connecting Gilmore to Cave Avenue and, along the southern site boundary adjacent to Harbor Square, a one-way public road from Ferncliff to Cave. Residents along Cave Avenue objected to directing additional traffic to their dead-end local access street system, preferring that access roads all exit east to Ferncliff Avenue. They were particularly concerned about the project adding to traffic that currently stacks at the Cave Avenue/Winslow intersection during peak ferry times.

19. An independent third party traffic consultant, Transportation Solutions, Inc., in November, 2016, submitted a traffic impact analysis (TIA) for the project. Trip generation rates were calculated for the proposed public park, the detached single family homes and the apartment units. The project was calculated to generate 33 new vehicle trips during the AM peak hour and 39 during the PM peak hour. The applicant proposes that the southern access road be configured so that one-way westbound traffic will exit the site to Cave Avenue north of Winslow Way, and the TIA analyzed the consequences of this assumption.

) 20. The TIA evaluated the south access road under both eastbound and westbound one-way flow scenarios to identify any safety or operational differences between potential on-site flow alternatives. It concluded that direction of travel on the south access road will have little impact on intersection delays and levels of service (LOS). The Winslow Way/Cave Avenue intersection operates at LOS B now in the PM peak hour with a 10.3 second average delay. Based on the proposed circulation pattern, it is predicted to remain at LOS B, going to 11.0 seconds delay in 2019 with the project and reaching 11.8 seconds in 2035. The Winslow Way/Ferncliff Avenue intersection to the east lies opposite the ferry terminal driveway and thus experiences more traffic; its projections are for 16.9 seconds delay in 2019 (LOS C) and 26.8 seconds delay (LOS D) in 2035.

21. The wild card in the traffic analysis is the congestion that results when the ferry loads and unloads. The traffic study takes this surge into account via applying a peak hour factor to the hourly average, but the fact remains that there will be short periods when ferry traffic generates gridlock in the neighborhood immediately north of the terminal. There is no east/west stop control on Winslow Way at the Cave Avenue intersection, which means that if the traffic queue on Winslow east of SR 305 backs up past Cave Avenue, southbound traffic on Cave will be unable to turn until the queue dissipates. But, also, after Bainbridge Landing is built, Cave traffic will have an additional option to exit east via the northern access route to Ferncliff and thus avoid having to make the turn onto Winslow Way.

22. The ferry is a state facility that is mainly served by a state highway access. It is a circumstance over which the City has little direct control. From a policy standpoint the City could have chosen to make ferry traffic avoidance its top priority, in which case it would have zoned the areas immediately north of the terminal between SR 305 and Ferncliff Avenue for lower density development. But that was not the choice made.

23. Rather, the policy decision was to concentrate urban development in the Winslow area to take advantage of convenient access to the ferry terminal and the established Winslow shopping area, with emphasis placed on improving circulation, transit service and pedestrian access. In addition, a significant percentage of nearby apartment dwellers were projected to walk onto the ferry to commute to jobs in downtown Seattle. The introduction to the Land Use Element to the City's Comprehensive Plan states that the “*public purposes identified in the Plan are:*

- 1) *Shift density from critical areas and farmland to Winslow.*
- 2) *Provide affordable housing.*
- 3) *Contribute to public infrastructure and public amenities in excess of what is needed to mitigate the impacts of development.”*

24. The MUTC zoning for the Bainbridge Landing property, as supplemented by the Winslow Master Plan, seeks to create a format for fostering harmonious coexistence between the ferry terminal, nearby higher density residential development and convenient commercial services. The goal is to manage inevitable ferry traffic surges while encouraging nearby new residential development to offer pedestrian friendly amenities and improved street connectivity.

25. Bainbridge Landing is to be evaluated within that relevant policy framework. Ferry traffic is an unavoidable fact of life in this neighborhood. The TIA demonstrates that the applicant's circulation plan embodies reasonable choices that will impose only minor level of service impacts and will not appreciably increase current ferry traffic problems. The isolated and now underserved Cave Avenue neighborhood will obtain a needed east-west secondary access route north of Winslow Way and the park dedication will enhance pedestrian-friendly public amenities adjacent to the heavily used ferry terminal access.

### **Regulatory Analysis**

26. This project is mandated to utilize the Housing Design Development Program (HDDP), which requires the use of innovative site development practices. The development will provide a variety of unit sizes and unit types, including both fee ownership and rental, and will increase the variety of housing choices suitable to a range of household sizes and incomes in a manner compatible with the character of the existing neighborhood. The stated purpose of BIMC 2.16.020(Q) is to foster development of housing design demonstration projects that increase the variety of housing choices available to residents across underserved portions of the socio-economic spectrum, and to promote compact, low-impact development where appropriate. The purpose is also to encourage high quality and innovation in building design, site development and “green” building practices.

27. The proposal meets the purposes and goals of the HDDP program by providing a variety of housing choices (town homes, lofts, 1, 2 and 3 bedroom apartments), offering smaller single family homes ranging in size from 1,414 to 1,600 square feet and entailing construction pursuant to innovative design and green building practices based on incorporating Leadership in Energy and Environmental Design (LEED) standards into the development. Only properties located within the Winslow Study Area of the Winslow Master Plan and the Winslow Sanitary Sewer System Service Area qualify for approval under the HDDP ordinance.

28. Housing Design Demonstration Project applications are processed in accordance with BIMC

2.16.020(Q), which involves review by the Design Review Board and the Planning Commission before going to the Hearing Examiner for a final decision. Each project is evaluated for innovation and capacity for achievement of HDDP goals pursuant to factors falling within three categories: density; green building and innovative site development; and housing diversity. Proposals qualifying as housing design demonstration projects become eligible to use its flexible development standard incentives.

29. The applicant is seeking approval as a Tier I LEED project. These projects do not receive a density bonus, must achieve at least 16 points in the innovative site development evaluation, at least another 5 points in the housing diversity category, and may not construct homes greater than 1,600 square feet in floor area. The project is not proposing nor is it required to provide any affordable housing units. The site contains no regulated critical areas.

30. The HDDP review process details are described in the planning staff report at pages 18 through 21, which are adopted herein by reference. In summary, the project received qualifying housing diversity points in the unit size and type categories, and sufficient innovative site development points in the water quality, common open space and transportation categories. Water quality points were awarded for underground parking, open space points for the public park, and transportation points for pedestrian connections and electric vehicle charging stations. Staff's conclusion that the HDDP decisional criteria enumerated at BIMC 2.16.020(Q)(5) have been met by the proposal is supported by the record.

31. The staff report also provided a detailed analysis of the project's compliance with BIMC Title 18 Zoning requirements. Of these, the most consequential were the discussions of landscaping and screening, tree retention, parking, and of course the City's delightfully arcane floor area ratio (FAR) bonus system. Since 2010 the BIMC 18.09.030 use-specific standards have required that in the Mixed Use Town Center district new single-family residences shall only be allowed through an approved subdivision that qualifies as a housing design demonstration project.

32. The table at BIMC 18.12.020-3 provides the lot dimensional standards for the MUTC zoning district, including applicable floor area ratio maximums. For the Bainbridge Landing project the maximum residential FAR without any bonus is 0.4, and the maximum with bonus is 1.1. The size of the site is 4.87 acres or 212,137 square feet, resulting in a base FAR of 84,854.88 square feet and a maximum with bonus of 233,350 square feet.

33. The project is proposing 154,229 square feet of floor area. Under BIMC 18.12.030(E) as much as 60 percent of the maximum FAR bonus may be obtained by providing community open space equaling the greater of one acre or 20 percent of the parcel area. Qualifying community open space must exist in the vicinity of locations identified in Figure 4.1 of the Winslow Master Plan, must be located on the development parcel, and must be on land that is buildable. Adequate public access to the community open space must be provided.

34. The applicant is proposing more than an acre of open space, with 20% of 4.87 acres equaling 0.974 acres. The maximum FAR bonus available is 89,097 square feet. Of the 154,229 square feet proposed, 84,854 constitutes the base and 69,375 will be acquired through the density bonus. A flat one acre park is being proposed along the site's Ferncliff Avenue frontage. This area was earlier identified in the Winslow Master Plan as a prime target site for a park, and the adjoining Harbor Square development has a connecting park facility immediately to the south that was also created as part of a FAR density bonus award. The park will be dedicated to the Parks District, which will design and maintain it.

35. The project will meet the separation requirements of BIMC 18.12.030(C) by providing 20 foot setbacks along Cave, Ferncliff and Gilmore Avenues. For Cave Avenue, 10 feet of the partial landscaping screen will lie within the right-of-way to be dedicated to the City, which will also provide a sidewalk. The western portion of the 20 foot partial landscaping screen proposed along the site's northern boundary is currently occupied by a rustic private section of Gilmore Way, which meanders onto the Bainbridge Landing property.

36. The applicant is endeavoring to meet the partial landscaping screening requirements along the northern boundary despite the existing encroachment, but is also exploring options for purchasing the encroaching roadway and removing it. The nearest residential structures lying north of the proposed apartment site are separated from the project by at least a 50 foot width of trees, so actual screening adequacy is not an issue. The reverse circumstance obtains, however, along the site's southern flank, where the adjacent Harbor Square complex lacks onsite boundary screening of any kind. At that location Bainbridge Landing anticipates exceeding minimum screening requirements in an effort to achieve a greater element of visual separation between the two projects.

37. Regarding BIMC 18.15.020 parking requirements, the City's normal standard is to require a minimum of one space per primary small dwelling unit and two spaces for all units exceeding a single bedroom. For Bainbridge Landing a 50% reduction in parking space requirements is allowed for multiple bedroom units due to the site's proximity to the ferry. Staff concluded that the applicant's proposed 187 spaces will meet the parking demands of the development.

38. The 13 townhouse units along the northern boundary will provide two spaces per unit (26 spaces), the Cave Avenue townhouses one space per unit (5 spaces), and the lofts two spaces per unit (14 spaces). The underbuilding parking garage will supply 111 spaces for the apartment building, and 28 upland lot spaces will be provided for guest parking. The proposed apartment development requires 23 bicycle parking spaces, with bike storage space proposed within the garage.

### **Comprehensive Plan**

39. The framework of the Winslow Master Plan has largely been embodied in the BIMC Title 18 zoning regulations discussed above. In addition, the policies governing coordination of higher density residential development with background ferry traffic movements were referenced in the traffic analysis. The Comprehensive Plan and the Winslow Master Plan target the "Winslow Master Plan Study Area" to accommodate 50% of the City's future population growth based on the premise that urban infrastructure and facilities either already exist there or can be provided in an efficient manner.

40. The expectation is that the Winslow Master Plan Study Area will contribute to a vibrant and pedestrian-oriented downtown where people want to live, work and shop, providing a diversity of higher density housing choices and reducing reliance on the automobile. As proposed, the development will be a pedestrian-oriented, energy efficient, multi-generational neighborhood comprised of 140 residential units, including apartments, town homes, lofts and a one-acre park. To reduce reliance on polluting automobiles and encourage pedestrian activity, the project will include electric charging stations, bicycle parking facilities and provide pedestrian trails through the site connecting to the neighboring Harbor Square. These amenities will meet the goals and policies of the Comprehensive Plan Housing Element, including Goals 1 and 3 and Policies H 1.5 and 3.1.

41. The project further meets Goal 1 of the Plan's Non-motorized Transportation Element, which seeks to "*Develop a non-motorized transportation system that effectively serves the needs of pedestrian, bicycle, and equestrian users and encourages non-motorized travel and provides a*

continuous network of attractive sidewalks, footpaths, multi-purpose trails, and bikeways throughout the Island that are also connected to regional systems.” The project conditions have also been formulated support retention of the onsite historic house consistent with Historic Preservation Goal 2.

## **CONCLUSIONS**

1. BIMC 2.16.040(E) states the following criteria to be applicable to a site plan and design review approval:

*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.Q](#);*

*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 nonmotorized 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*

*f. The site plan and design 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 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.Q;*

*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;*

*12. For applications in the B/I zoning district, the site plan and development proposal include means to integrate and re-use on-site storm water as site amenities.*

2. As summarized in the findings above and documented in both the staff report and the materials prepared by the applicant, the proposal, as conditioned, is in conformance with the Bainbridge Island Comprehensive Plan and Municipal Code. The proposed development provides for the construction of residential housing in a manner specified by the Municipal Code for the MUTC zoning district and qualifies for approval as an HDDP proposal.

3. No adverse comments have been received from the Health District, which will be afforded a final additional review opportunity based on the final design. The City's Development Engineer reviewed the submitted civil plans and found them to be consistent with applicable requirements. The proposed development was reviewed by the Design Review Board during the Site Plan and Design Review process. The applicant has incorporated relevant Design Review Board recommendations into the final design of the buildings and layout for the site.

4. The proposed site plan provides building layout, parking and circulation systems that are an efficient use of the available land while providing required setbacks and screening from the adjacent properties as well as open space. No critical areas have been identified on the subject property. The proposed site plan was prepared consistent with the overall purpose and goals of the Site Plan and Design Review process. This process provided a means for guiding the development in a logical, safe, attractive and expedient manner. The requirements of BIMC 2.16.040(E) for a site plan and design review approval have been met by the proposal.

5. The applicable standards for Hearing Examiner approval of a preliminary subdivision application are stated at BIMC 2.16.125(H):

*H. Decision Criteria for Preliminary Long Subdivisions. The hearing examiner's decision shall*

include findings of fact that the application meets all the requirements of the following subsections:

1. *The preliminary long subdivision may be approved or approved with modification if:*
  - a. *The applicable subdivision development standards of BIMC Titles [17](#) and [18](#) are satisfied; and*
  - b. *The preliminary long 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](#); and*
  - c. *The preliminary long 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 BIMC [2.16.020.Q](#); and*
  - d. *Any portion of a long subdivision that contains a critical area, as defined in Chapter [16.20](#) BIMC, conforms to all requirements of that chapter; and*
  - e. *Any portion of a long subdivision within shoreline jurisdiction, as defined in Chapter [16.12](#) BIMC, conforms to all requirements of that chapter; and*
  - f. *The city engineer's recommendation contains determinations that the following decision criteria are met and such determinations are supported by substantial evidence within the record:*
    - i. *The long subdivision conforms to regulations concerning drainage in Chapters [15.20](#) and [15.21](#) BIMC; and*
    - ii. *The long 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; 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 long subdivision will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the long subdivision, and the applicable service(s) can be made available at the site; and*
    - vi. *The long subdivision 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](#); and*

*g. The subdivision conforms to the requirements of this chapter and the standards in the “City of Bainbridge Island Design and Construction Standards and Specifications,” 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](#); and*

*h. 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 BIMC [2.16.020.Q](#); Chapters [36.70A](#) and [58.17](#) RCW; and all other applicable provisions of state and federal laws and regulations; and*

*i. The proposal is in accord with the city’s comprehensive plan.*

*2. A proposed subdivision shall not be approved unless written findings are made that the public use and interest will be served by the platting of such subdivision.*

6. The Hearing Examiner has jurisdiction over this subdivision proceeding and is authorized under City ordinances to make a final decision on the Bainbridge Landing preliminary subdivision application. Subdivision public hearing notice requirements have been met.

7. As documented with the findings stated above, the plat application for Bainbridge Landing meets the decisional criteria stated at BIMC 2.16.125(H) for preliminary plat approval as a HDDP proposal. It complies with the applicable land use and subdivision development standards of BIMC Titles 17 and 18, and, as conditioned, makes appropriate provisions for the public health, safety and general welfare and for the public use and interest, including all items listed in RCW 58.17.110. The proposed development will be consistent with the City's comprehensive plan. No critical areas exist on the site.

8. The City Engineer’s recommendation for preliminary approval contains determinations that the City's decisional criteria for drainage, streets and pedestrian ways, road standards and utilities can be met, and such determinations are supported by substantial evidence within the record.

## **DECISION**

The consolidated Bainbridge Landing Preliminary Long Subdivision and Site Plan and Design Review applications (file no. PLN50520SPR & SUB) are APPROVED, subject to the following conditions:

### **SEPA Conditions**

1. The project contributes surface stormwater to a City-owned municipal storm drain conveyance system that outfalls into the Winslow Ravine just south of Winslow Way East. The

City currently has a planned and funded project to upsize the system in 2017 to address a capacity shortfall. Connection to the system by the project is conditioned upon the continued funding and planned or actual construction of the upgrades, unless an alternative option is pursued by the applicant.

2. Water system concurrency and adequate fire flow shall be provided by performing one of the two water system improvements proposed in the Developer Extension Agreement application (off-site water main extension or on-site storage).

3. If the off-site option water system concurrency is pursued, the use may require a special use review permit from the City of Bainbridge Island prior to commencing any work. Replanting of any disturbed areas with approved plants would be required.

4. Prior to construction activities, the applicant shall apply for a Construction Stormwater General Permit (NPDES) through the Washington State Department of Ecology.

5. A Temporary Erosion and Sediment Control Plan shall be approved prior to construction of both plat infrastructure and the individual lot development. The final plat shall contain a note for future property owners of the individual lot development requirement.

6. To ensure the protection of significant trees during construction, specifically the heritage tree on the adjoining Harbor Square property, the applicant shall protect the identified areas of prohibited disturbance of the significant trees to be retained, buffers, areas of existing vegetation to be maintained, and future planting areas larger than 400 square feet. The applicant shall have an arborist on-site or available to monitor the site during grading activities within the critical root zones. In addition, the contractors shall follow the protection methods as outlined in BIMC 18.15.010 during construction and as indicated in the report provided by Fischer Bouma Partnership titled *Site Plan Review Landscape Plan Supplemental Information*.

7. The limits of clearing and grading shall be clearly marked in the field and inspected by the City of Bainbridge Island prior to any clearing or grading on site.

8. To provide local pedestrian connectivity for the more intensive use of Cave Avenue NE presented by the project, a standard 5-foot wide sidewalk shall be constructed or bonded for as part of the plat utility work on the east side of Cave Avenue NE from Winslow Way East to approximately 105 feet to the north. No additional ROW acquisition is required to perform these improvements.

9. To provide local pedestrian connectivity, the applicant shall construct or bond for new sidewalks along Ferncliff and Cave Avenue frontages, as indicated on the site plans.

10. An ADA compliant access path available to the public shall be provided through the project site serving both public accessibility ADA egress through, connecting off the site and for accessible building egress and exit discharge. This is intended from the north access lane through the courtyard to the south access lane.

11. To ensure recreational opportunities are provided on-site and connected to adjoining

sites, the project shall provide an on-site pedestrian connection to the adjoining public park on the Harbor Square property.

12. The site contains a historic home that the Historic Preservation Commission has found to be eligible for the local register. The applicant has indicated they intend to relocate the house to the adjoining property. To ensure historic and cultural resource preservation, should the home not be relocated or preserved on-site, the home shall be offered for sale for relocation. To satisfy this condition, the applicant shall provide copies of any attempts to sale prior to receiving approval of a demolition permit for the home.

13. To ensure historic and cultural resource preservation, a completed Washington State Historic Property Inventory Field Form shall be recorded with the State Department of Archeology and Historic Preservation prior to the moving or demolition of the historic home on the property.

14. To ensure historic and cultural resource preservation, historic signage shall be included in the park design to commemorate the Cave family.

15. The contractor is required to stop work and immediately notify the Department of Planning and Community Development and the Washington State Department of Archaeology and Historic Preservation if any historical or archaeological artifacts are uncovered during excavation or construction.

16. All construction activities shall comply with the construction operating hours limitations contained in BIMC Chapter 16.16. Noise produced by this development must comply with the maximum environmental noise levels established by the Washington Administrative Code 173-60 or its successor.

17. All graded materials removed from the subject property shall be hauled to and deposited at City approved locations (Note: local regulations require that a grade/fill permit is obtained for any grading or filling of 50 cubic yards of material or more if the grading or filling occurs on sites that have not been previously approved for such activities. A SEPA Threshold Determination is required for any fill over 100 cubic yards on sites that have not been previously received a SEPA determination).

18. To mitigate the possible impact on adjacent properties from light and glare, all exterior lighting shall be hooded and shielded so that the bulb is not visible from adjacent properties. All landscape lighting shall be downcast and lighting within surface parking lots shall be no higher than 14 feet above grade. All exterior lighting shall comply with BIMC Chapter 15.34.

19. No use in this development 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 Air Pollution Control Authority (PSAPCA), and shall apply to all air contaminants listed in that regulation.

20. On site mobile fueling from temporary tanks are prohibited unless the applicant provides

and is granted approval for a Permit and Best Management Plan that addresses proposed location, duration, containment, training, vandalism and cleanup. (Reference 1. Uniform Fire Code 7904.5.4.2.7 and 2. Department of Ecology, Stormwater Management Manual, August 2001, see Volume IV "Source Control BMPs for Mobile Fueling of Vehicles and Heavy Equipment".) (Chapter 173-304 WAC)

21. To mitigate impacts on air quality during earth moving activities, contractors should conform to Puget Sound Air Pollution Control Agency Regulations which insure that reasonable precautions are taken to avoid dust emissions.

22. To mitigate potential impacts on air quality, cleared vegetation shall be removed from the site, processed by chipper or processed using other methods of disposal that does not require burning.

### **Project Conditions**

23. The project shall meet the requests of the fire marshal including: the applicable provisions of the fire code, fire flow, and provide for fire hydrants, fire sprinkler and alarm systems for proposed buildings and underground parking.

24. Prior to applying for a building permit, the applicant shall submit a written approval from the Kitsap County Health District based on its review of the final project design and binding commitments for the water and sewer demands for the project.

25. As requested by the Design Review Board (DRB), the applicant shall provide the natural palette for the exterior of the buildings; unless another material type is proposed and approved by the DRB and the Director.

26. Internal pathways shall provide signage to indicate they are public at each entry point around the perimeter of the site and shall be surfaced with nonskid hard surfaces, meet accessibility requirements and be designed to provide a minimum of five feet of unobstructed width. The path required to connect the public park on site to Harbor Square shall also include a crosswalk on the south access road to further the connectivity of the parks.

27. The project shall conform to the HDDP program criteria for housing diversity, innovative site development and innovative building design. Prior to the issuance of a building permit, the application will be reviewed for compliance with the following:

- a. The dwelling units shall be at or below 1,600 square feet of floor area;
- b. Innovative site design elements including common open space, covered parking, non-motorized connections, public walkways and electric vehicle charging stations;
- c. Landscaping and recreational opportunities that substantially conform to the site plans,
- d. LEED. Building permit applications, construction and final occupancy shall

comply with the certification provisions of BIMC 2.16.020.3.f;

e. Proof of ongoing certification with the LEED building rating system shall be required during construction and project certification shall be completed prior to final occupancy.

28. Staff shall be able to access the site for tours no more than once every three months with permission and cooperation of the property owner.

29. Prior to the City issuing the final occupancy building permit for any building that would need the bonus FAR, the applicant shall have submitted a recorded document legally conveying the park to the City, have graded and seeded the park and established walking paths, or bonded for these improvements. Additionally, the applicant shall secure a bond for play structures and benches.

30. The final plat submittal shall include a sheet that provides the modified setback, landscaping and height requirements of BIMC 18.12.030.C.

31. The applicant shall provide landscaping as indicated on the landscaping plans. As indicated and conditioned, the plans shall meet the 20' partial landscaping screen along Gilmore within the area available for planting, and replant the entire 20' buffer along Gilmore in the event that Gilmore is realigned on the easement. The 20' partial landscaping screen buffer on Ferncliff shall be provided within the park. The applicant shall provide the 20' partial landscape screen in the dedicated portion of the Cave Avenue right-of-way, in addition to the 10' on the subject property.

32. All landscaping shall be installed, or a performance assurance device shall be submitted and approved, prior to final inspection of the final building within the phase being constructed. The installation of landscaping shall be verified by the Landscape Professional or owner and a landscaping declaration shall be signed. This note shall be on the face of the final plat.

33. Landscape buffers shall be maintained with a maintenance assurance device for a period of three years. No vegetation within the buffers shall be disturbed without approval of the Department of Planning and Community Development through an approved clearing, grading or civil plan. This note shall be on the face of the final plat.

34. The designated guest parking spaces shall have adequate 'guest parking' signage.

35. On-street parking spaces shall be provided as required by the building official.

36. Parking space and aisle dimensions shall meet the design standards in BIMC 18.15.020.J. Spaces for compact cars shall not exceed 30% of the amount of spaces.

37. Bicycle storage shall be provided to accommodate at least 23 bicycles.

38. Given the complexity of the proposal, prior to submitting any building permit applications, the applicant shall schedule a pre-submittal meeting outlining the order of development improvements and buildings on the site. The applicant shall include information on the location of parking for construction vehicles, and all construction vehicle parking shall

remain on-site.

39. Depending on the option chosen by the applicant to achieve fire flow, the applicant shall secure all necessary land use and building permits prior to commencing work.

40. Lot coverage shall be recorded on the face of the final plat.

41. Mailbox and pedestrian signage locations shall be indicated on the face of the final plat.

42. The applicant shall provide a sheet that identifies the trees identified for retention. The following regulations shall be included on that sheet and provided as part of the final plat submittal:

A property owner may request removal of trees required to be retained pursuant to this chapter by applying for a clearing permit with a replanting plan. Trees will be approved for removal only if they meet the hazard tree requirements.

Failure to retain, replace or transplant trees will be enforced as follows; provided, that any fine shall be no less than three times the value of the trees, as determined by the current standards of the International Society of Arboriculture. The city may issue the following; stop work orders, injunction or abatement or any other appropriate action in courts and/or a civil infraction, subject to enforcement and fines.

43. Survey monumentation shall be provided consistent with the Standards, Section 8-03.

44. Civil improvement plans ready for construction shall be submitted with an application for a plat utility permit to COBI for review and approval to construct all necessary infrastructure serving the divided lots and the offsite improvements proposed in the Developer Extension Agreement (DEA) application.

45. No building permits for the newly created lots will be issued until the completion of the civil improvements or performance bonding is established to cover unfinished work to apply for final plat.

46. Performance bonding for plat civil improvements shall be released and re-bonded only as determined by a pre-approved work completion phasing plan to be developed with the plat utility permit application.

47. As-built civil construction plans stamped by a civil engineer shall be provided by the applicant prior to final plat.

48. The Developer Extension Agreement shall be executed at the plat utilities permitting application phase for the construction of roads and utilities to be inspected and accepted by the City.

49. Ferncliff Avenue NE fronting the property to the east is classified as a secondary arterial urban roadway per the COBI Comprehensive Plan. Secondary arterial urban roadways require a

) total of 60 feet of right-of-way (ROW) per the Standards. The current ROW width fronting the property is 40 feet. A ROW dedication to the City of Bainbridge Island of 30 feet from the described centerline along the Ferncliff frontage, shall be indicated on the face of the plat. A note related to the dedication can state that the 30 feet may include areas previously dedicated.

50. Cave Avenue NE fronting the property to the west is classified as a local access roadway per the COBI Comprehensive Plan and is urban in nature due to the zoning density exceeding 4.3 units per acre. Local access urban roadways require a total of 40 feet ROW per the Standards. The current ROW width fronting the property is 30 feet. A ROW dedication to the City of 20 feet from the described centerline shall be indicated on the plat. A note related to the dedication can state that the 20 feet may include areas previously dedicated.

51. The north plat access road shall meet the standards of an urban local access street per standard drawing DWG. 7-050 of the Standards, except as noted. The north plat access road shall provide two (2) 12-foot travel lanes for two-way traffic circulation, on-street parking on the south side adjacent to the apartment building, sidewalks on both sides and a minimum of 40 feet of right-of-way dedication or more as needed to extend from back of sidewalk to back of sidewalk.

52. The south plat access road shall meet the standards of an urban local access street per standard drawing DWG. 7-050 of the Standards, except as noted. The south plat access road shall provide one-way only vehicular traffic circulation with a 16' wide driveable surface comprised of an 11-foot travel lane and a 5-foot bike lane. Sidewalk shall be provided on the north side of the road only. On-street parking shall be provided on the south side of the road. A minimum 40-foot right-of-way dedication to the City for public streets is required.

53. Flush curbs and sidewalk are approved for use on the upslope side of each plat road along the frontages of the townhomes, loft homes, and apartments. Pedestrian safety features shall be incorporated into the edge treatment, including provisions such as bollards.

54. Speed tables shall be incorporated as a traffic calming feature along the north and south plat access roadways.

55. All retaining walls required to construct the plat access roads and on-street parking stalls shall be designed with a minimum of 250 pounds per square foot live loading vehicle surcharge as required by the 2015 International Building Code (IBC). A separate building permit shall be submitted for the walls.

56. The existing Gilmore Way NE access shall have a formal access easement dedicated on the face of the plat that encompasses the entire access way from the northern property line to the southern existing edge of use of Gilmore, or 15 feet, whichever is greater.

57. Consistent with the City of Bainbridge Island's Non-Motorized Transportation Plan (NMTP), as incorporated by reference into the Comprehensive Plan, and the Standards for a secondary arterial urban roadway, shoulder improvements fronting the project along Ferncliff Avenue NE shall be constructed as part of the project, which requires 5- to 7-foot sidewalk with

or without landscaping (see WS-2 NMTP standard).

58. Consistent with the Standards for a residential urban roadway, shoulder improvements fronting the project along Cave Avenue NE shall be constructed as part of the project, which requires 5-foot sidewalk.

59. Non-motorized pedestrian connectivity shall be improved along the eastside of Cave Avenue NE from Winslow Way East to approximately 105 feet north by installing a standard 5-foot wide sidewalk.

60. A public pedestrian access easement shall be dedicated between the Cave Avenue NE townhomes and the apartment building over the private alley to grant pedestrians through access. The easement width shall be a minimum of 12 feet, or cover the driveable road surface excluding individual driveway entrances, whichever is greater, and extend the entire length from the north plat access road to the south plat access road.

61. Remote sidewalks that depart from the public road ROW shall have a 10' minimum public pedestrian easement dedication noted on the plat.

62. Water system improvements shall be performed under the DEA to add additional capacity to the system for the purposes of project fire flow requirements. All necessary permits and easements to provide a second water line feed to the system shall be the responsibility of the developer.

63. 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 BIMC 15.20.

64. A final stormwater report shall be submitted detailing compliance with all applicable minimum requirements as required by BIMC 15.20, prepared by a civil engineer licensed in the State of Washington.

65. The site has a contributing drainage area that exceeds three (3) acres. A temporary sediment pond (per BMP C241, Volume II, Ch. 4 of the Manual) shall be required for temporary runoff and sediment control. Due to the downstream capacity restriction the sediment pond shall be sized based on a 10-year peak flow from the site.

66. On-site Best Management Practices for soil management and Low Impact Development shall be employed consistent with the Stormwater Management Manual for Western Washington (SWMMWW) BMP T5.13 for surfaces not converted to hard surfaces after construction.

67. The project contributes surface stormwater to a City-owned municipal storm drain conveyance system that outfalls into the Winslow Ravine just south of Winslow Way East. The City currently has a planned and funded project to upsize the system in 2017 to address a capacity shortfall. Connection to the system by the project is conditioned upon the continued funding and planned or actual construction of the upgrades to maintain concurrency between the development and the infrastructure serving it. In the event of non-concurrency, the development

shall be responsible for performing the system upgrades, or, mitigating for stormwater peak flows on-site.

68. Low Impact Development (LID) water quality facilities and best practices shall be employed to the maximum extent feasible to treat stormwater from all pollutant-generating hard surfaces (PGHS) within the future public ROW.

69. Prior to final plat submittal, the applicant shall submit an operation and maintenance plan for the on-going maintenance of the storm drainage system.

70. All on-site stormwater facilities on private property 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 final plat submittal. The approved language for the Declaration of Covenant is found in BIMC Chapter 15.21, Exhibit A. Stormwater facilities in the right-of-way (ROW) shall be the responsibility of the City.

71. A right-of-way (ROW) construction permit will be required prior to any construction activities within the right-of-way. The ROW permit will be subject to separate conditions and bonding requirements.

72. Application for a final plat shall require binding water and sewer availability letters from the City.

73. Installation of improvements and creation of as-built engineered plans must be completed prior to approval of final plat. In lieu of completion of those improvements and as-builts consistent with the conditions of a preliminary plat approval, the City engineer may accept an assurance device, in an amount and in a form determined by the City, but not to exceed 125 percent of the established cost of completing the infrastructure that secures and provides for the actual construction and installation of the improvements or the performance of the conditions within one year, or such additional time as the city engineer determines is appropriate after final plat approval.

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. During construction the applicant shall post the approved site plan along Ferncliff and Cave Avenues. The plan shall inform the public that the design of the park will occur at a later date to be determined by the Park District.

ORDERED April 6, 2017.



Stafford L. Smith, Hearing Examiner  
City of Bainbridge Island

The Hearing Examiner is authorized to make the City of Bainbridge Island's final decision on consolidated preliminary subdivision and site plan and design review applications. A party with standing may seek judicial review of this decision by filing a timely suit in Kitsap County Superior Court under the Land Use Petition Act.

The exhibit list prepared by the Clerk of the Hearing Examiner's Office is attached.

**EXHIBIT LIST**

**Bainbridge Landing PLN50520 SPR & SUB**

Staff Contact:  
Gather Beckmann Wright, Senior Planner

Public Hearing: March 22, 2017  
City Hall – Council Chambers

Hearing Examiner: Stafford L. Smith

<b>NO.</b>	<b>DOCUMENT DESCRIPTION</b>	<b>DATE</b>
1	Application – Preliminary Subdivision	07/14/2016 Received
2	Application – Site Plan Review	07/14/2016 Received
3	Preliminary Geotechnical Investigation	11/02/2015 Dated
4	Arborist Reports	4/8/2016, 7/11/2016, and 08/01/2016 Dated
5	Critical Root Zones	08/05/2016 Dated
6	Design Review Board Guideline Checklist	07/14/2016 Received
7	Zoning Summary	07/14/2016 Dated
8	LEED Design Package	07/14/2016 Dated
9	HDDP Approval Criteria and Scoring Worksheet	07/14/2016 Dated
10	Requests for ROW Deviations	07/14/2016 Dated
11	Site Plan Review Landscape Plan Supplemental Information	07/14/2016 Dated
12	SEPA Checklist with Staff Comments	7/14/2016 Dated
13	Landscape Plans	07/14/2016 Dated
14	Site Plans Pre-Sub	07/14/2106 Dated
15	Architectural Design Final Set	07/15/2016 Dated
16	Exterior Design Materials	11/15/2016 Dated
17	Bainbridge Island Fire Department Memos	07/22/2016 and 12/27/2016 Dated
18	Historic Property Inventory Update and Evaluation	08/11/2016 Dated
19	Fire Flow Correspondence	08/02/2016 Dated
20	Site Plan Review Modifications	08/12/2016 Dated
21	Notice of Application, Mailing List, Affidavit of Publication and Certificate of Posting	08/26/2016 Dated

**EXHIBIT LIST**

**Bainbridge Landing PLN50520 SPR & SUB**

Staff Contact:  
Heather Beckmann Wright, Senior Planner

Public Hearing: March 22, 2017  
City Hall – Council Chambers

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<b>NO.</b>	<b>DOCUMENT DESCRIPTION</b>	<b>DATE</b>
22	Development Engineer Memo	10/31/2016 Dated
23	Response to Development Engineer Memo	11/03/2016 Dated
24	Design Review Board Minutes	11/07/2016 and 11/21/2016 Dated
25	Traffic Impact Analysis	11/2016 Dated
26	SEPA Checklist with Staff Comments - Updated	12/21/2016 Dated
27	Water Main Extension	12/21/2016 Dated
28	Notice of Application, Mailing List, Affidavit of Publication and Certificate of Posting - Revised	12/30/2016 Dated
29	Notice of Mitigated Determination of Nonsignificance (MDNS)	02/02/2017 Dated
30	Planning Commission Directive Memo	02/09/2017 Dated
31	Development Engineer Memo Preliminary Approval	02/17/2017 Dated
32	Certification of Distribution and Posting/Affidavit of Publication	03/01/2017
33	Public Comments	08/27/2016 to 03/13/2017
34	Draft - Planning Commission Minutes from March 9, 2017 Meeting	03/09/2017 Dated
35	Certificate of Posting Signs	03/16/2017 Dated
36	Staff Report	03/17/2017 Dated
37	Special Meeting of the Planning Commission Minutes	03/16/2017 Dated
38	Additional Public Comment – Sandy Gough, President, Harbor Square Board	03/17/2017 Received
39	Power Point Presentation – Planner, Heather Wright	03/22/2017 Admitted
40	Letter from Linda Mallin, Architect	3/22/2017 Received
41	New Condition inadvertently not included in Staff Report dated 03/17/2017	03/22/2017 Received
42	Power Point Presentation – Architect Charlie Wenzlau	03/22/2017 Admitted