

CITY OF BAINBRIDGE ISLAND

CITY COUNCIL AGENDA BILL



PROCESS INFORMATION

Subject: Ordinance No. 2014-39, Approving Rezone of Bainbridge Marina Parcels (REZ 13220B)	Date: October 14, 2014
Agenda Item: Ordinances: Second Reading/Public Hearing	Bill No.: 14-142
Proposed By: Planning Director Kathy Cook	

BUDGET INFORMATION

Depart/Fund:		
Expenditure Req:	Budgeted? <input type="checkbox"/> Yes <input type="checkbox"/> No	Budget Amend. Req? <input type="checkbox"/> Yes <input type="checkbox"/> No

REFERRALS/REVIEW

Study Session: Sept. 23, 2014	Recommendation: Schedule Second Reading/Public Hearing, Oct. 14, 2014	
City Manager <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No N/A	Legal <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No N/A	Finance <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

DESCRIPTION/SUMMARY

Action Item:

Conduct Second Reading/ Public Hearing of Ordinance No. 2014-39, Approving Rezone of Bainbridge Marina Parcels (REZ 13220B). Consider approval.

Background:

Ordinance No. 2014-39 would approve the rezone of two "Bainbridge Marina" parcels owned by Darrell and Vannee McNabb from Residential, R-2, to Water Dependent-Industrial (WD-I). The two parcels are located on the south shore of Eagle Harbor, at 4200 Eagle Harbor Drive.

The rezone request was first submitted to the City by Mr. McNabb in February 2013. The rezone request was submitted concurrently with a Comprehensive Plan amendment request that the designation of the two parcels on the Comprehensive Land Use Map be changed from Open Space Residential (OSR-2) to Water Dependent-Industrial (WD-I). The concurrent submittal was required because under state law, the zoning of a property must be consistent with its Comprehensive Plan land use designation. Concurrent submittal is also a requirement of BIMC 2.16.140.E.

On November 25, 2013, the City Council passed Ordinance No. 2013-16, approving the associated Comprehensive Plan amendment request. As part of the recently completed Shoreline Master Plan (SMP) Update and as recommended by the Department of Ecology, the Council also approved changing the shoreline designation of one of the parcels to "Urban." Now that these two steps have been completed, the rezone request must be approved to complete the process and make the land use designation, shoreline designation and the zoning designation consistent.

Please refer to the attached staff memo for additional information.

RECOMMENDED ACTION

Motion: I move to approve Ordinance No. 2014-39, approving the rezone of the Bainbridge Marina Parcels (REZ 13220B)

ORDINANCE NO. 2014-39

AN ORDINANCE of the City of Bainbridge Island, Washington, to amend the Official Zoning Map to change the zoning designation for two properties located on the south shore of Eagle Harbor from Open Space Residential-2 (OSR-2) to Water-Dependent Industrial (WD-I).

WHEREAS, Darrell McNabb owns two properties located at 4200 Eagle Harbor Drive NE, Tax Parcel 352502-2-003-2007 (“Property A,” aggregated with Lots 001 and 002 under Tax Parcel No 352502-2-086-2007) and Tax Parcel No. 352502-2-004-2006 (“Property B”) which are currently designated Residential 2 (R-2) on the Official Zoning Map; and

WHEREAS, in 2013, Darrell McNabb applied for both a site-specific rezone and a Comprehensive Plan amendment during the 2013 Comprehensive Plan amendment cycle requesting to change the designation of the subject properties from OSR-2 (R-2) to Water Dependent-Industrial (WD-I) on the Land Use Map of the Comprehensive Plan and the Official Zoning Map; and

WHEREAS, the 2013 McNabb Comprehensive Plan amendment and site-specific rezone applications were processed as outlined in BIMC Sections 2.16.140 and 2.16.190, with public meetings and public hearings before the Planning Commission, Hearing Examiner, and City Council; and

WHEREAS, the City Council approved the Comprehensive Plan amendment request for Property A, and conditionally approved the Comprehensive Plan amendment request for Property B, pending completion of a boundary line adjustment ; and

WHEREAS, Mr. McNabb completed the boundary line adjustment process, thereby completing the Comprehensive Plan amendment process; and

WHEREAS, the City must now rezone the two McNabb properties from R-2 to WD-1 so that the Official Zoning Map is consistent with the Comprehensive Plan Land Use Map; and

WHEREAS, the City Council conducted a public hearing on this rezone application on October 14, 2014 and considered the decision criteria; and

WHEREAS, notice was given on September 18, 2014 to the Office of Community Development at the Washington State Department of Commerce in conformance with RCW 36.70A.106;

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

Section 1. The City Council finds that this site-specific rezone request meets the decision criteria outlined in BIMC Section 2.16.140 and is in conformance with the Comprehensive Plan and all applicable state laws in effect at the time of approval.

Section 2. The zoning designation for the subject properties shall be changed from Residential 2 to Water-Dependent Industrial on the City of Bainbridge Island Official Zoning Map of the Comprehensive Plan as described above and shown on Exhibit A.

Section 3. This ordinance shall take effect and be in force five (5) days from its passage, approval, and publication as required by law.

PASSED BY THE CITY COUNCIL this ____ day of _____, 2014.

APPROVED BY THE MAYOR this ____ day of _____, 2014.

Anne S. Blair, Mayor

ATTEST/AUTHENTICATE:

Rosalind D. Lassoff, CMC, City Clerk

FILED WITH THE CITY CLERK: September 16, 2014
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NUMBER: 2014-39

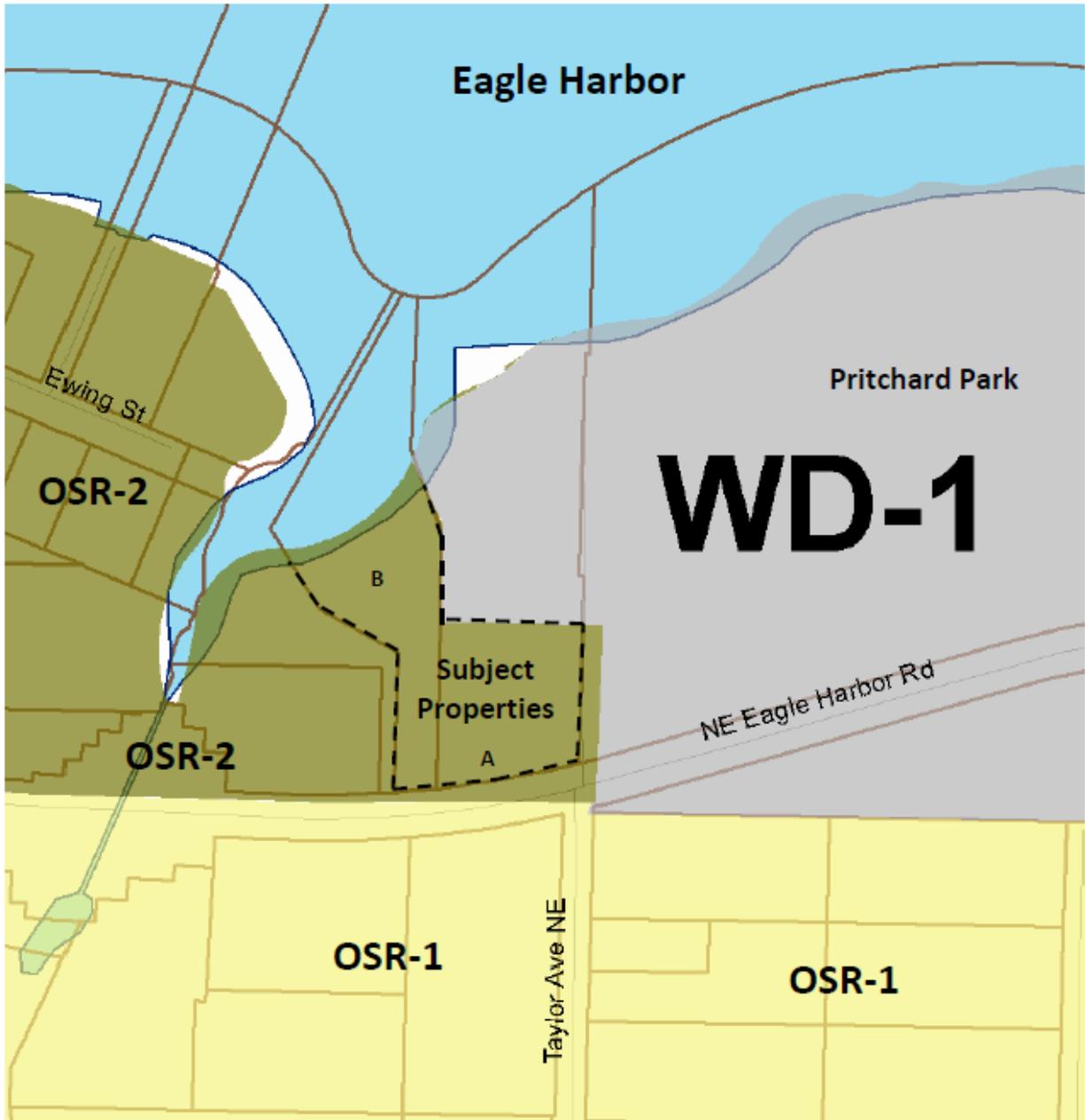


Exhibit A



STAFF REPORT

*City of Bainbridge Island
Department of Planning
and Community Development*

Project: Bainbridge Marina--McNabb
Rezone Application

Location: 4200 Eagle Harbor Dr. NE
Parcel A: Tax Parcel No.: 352502-2-003-2007 (aggregated with Lots 001
and 002 under Tax Parcel No 352502-2-086-2007)
Parcel B: Tax Parcel No.: 352502-2-004-2006

File number: REZ 13220B

Date: September 23, 2014

To: City Council

From: Kathy Cook
Planning Director

I. INTRODUCTION

Applicant: Darrell McNabb
P.O. Box 10325
Bainbridge Island, WA 98110

Owner: Darrell & Vannee McNabb
P.O. Box 10325
Bainbridge Island, WA 98110

Request: This is a site-specific rezone request to amend the City's Official Zoning Map, changing the zoning of two parcels from Residential, Two Units per Acre (R-2) to Water Dependent-Industrial (WD-I). The property is located on the south side of Eagle Harbor, at 4200 Eagle Harbor Drive, Bainbridge Island. (Please refer to map included as Exhibit A to Ordinance 2014-39.)

For the purpose of discussion in this staff report, the easterly property is referred to as Parcel A and the westerly property is referred to as Parcel B.

The process for reviewing rezone applications is contained in BIMC Section 2.16.140. Rezone applications are first reviewed by the staff, who then make a recommendation to the Hearing Examiner. The Hearing Examiner considers the staff recommendation and the decision criteria in the BIMC and conducts a public hearing, and then forwards a recommendation to the City Council. The Council serves as the final decision-maker for rezone applications.

As discussed in the “Procedural History” section of this staff report, approval of this site-specific rezone request required that both an amendment to the Comprehensive Plan Land Use Map and an amendment to the shoreline designation for Parcel B be approved by the City Council. These two steps were completed in November 2013, but the change in the shoreline designation could not be finalized until the final Shoreline Master Plan (SMP) Update was approved by both the City and the Department of Ecology. This happened in July 2014; now the rezone request must be approved to complete the process and make the land use designation, shoreline designation and the zoning designation consistent.

Please note that while the Comprehensive Plan amendment request and the rezone request were submitted concurrently and are interrelated, this staff report focuses on the rezone request, because the Comprehensive Plan amendment request has already been approved.

Location: 4200 Eagle Harbor Dr. NE
Parcel A: Tax Parcel No.: 352502-2-003-2007 (aggregated with Lots 001 and 002 under Tax Parcel No 352502-2-086-2007)
Parcel B: Tax Parcel No.: 352502-2-004-2006

Zoning Designation: Residential-2 (R-2) Two Units Per Acre

Comprehensive Plan Designation: Water Dependent Industrial (WD-I), as of November 25, 2013, with Council passage of Ordinance 2013-16, approving the associated Comprehensive Plan amendment request to amend the land use designation of the two parcels on the Land Use Map of the Comprehensive Plan.

Environmental Review: After review of a State Environmental Policy Act (SEPA) Checklist, a Determination of Nonsignificance (DNS) was issued on March 29, 2013.

Staff

Recommendation Staff recommends approval of the site-specific rezone application for both Parcel A and Parcel B.

Procedural History:

1. The rezone request was first submitted to the City in February 2013. Under state law, the zoning of a property must be consistent with its Comprehensive Plan land use designation. Therefore, rezoning the two Bainbridge Marina properties also required an amendment to the Land Use Map of the Comprehensive Plan.

In such cases, the Municipal Code requires that the Comprehensive Plan amendment and rezone request be submitted concurrently. Accordingly, the applicant submitted the rezone request concurrently with a Comprehensive Plan amendment requesting that the designation of the two parcels be changed from Open Space Residential (OSR-2) to Water Dependent-Industrial (WD-I).

2. The amendment to the Comprehensive Plan Land Use Map and the associated amendment to the City's zoning map were first considered by the Planning Commission. Staff advised the Planning Commission that final approval of the proposed change in the land use designation and zoning for Parcel B would be dependent on the applicant securing approval for a change in the shoreline designation to "Urban" and that this change would need to occur as part of the SMP Update process. This change has since been approved by the City and the Department of Ecology.

3. The Planning Commission considered the Comprehensive Plan amendment submitted by Mr. McNabb at a study session on May 23, 2013 and conducted a public hearing on June 27, 2013. The Planning Commission recommended approval of the change in the land use designation for Parcel A, and conditional approval of the change in the land use designation for Parcel B.

Please note that the Planning Commission did not make a recommendation specific to the rezone request. While the Comprehensive Plan amendment request and the site-specific rezone request were submitted concurrently and are interrelated, the Planning Commission's role as specified in the Municipal Code is to make a recommendation to the City Council on the Comprehensive Plan amendment request and not on the site-specific rezone request. The Hearing Examiner is responsible for reviewing staff's recommendation on the site-specific rezone request and making a recommendation to the City Council.

4. The Hearing Examiner considered the site-specific rezone request and conducted a public hearing on August 9, 2013. The Hearing Examiner issued "Findings, Conclusions and Recommendation to City Council," on September 23, 2013, recommending that for Parcel A, the Water Dependent-Industrial (WD-I) zoning should become effective

immediately upon City Council approval of Comprehensive Plan amendment CPA 13220B.

For Parcel B, the Hearing Examiner recommended that the Water Dependent-Industrial (WD-I) zoning should become effective upon City Council approval of Comprehensive Plan amendment CPA 13220B and “satisfaction of, or subject to, any contingencies and conditions stated therein limiting or modifying such approval.” This language refers to the need to obtain approval from the City and the Department of Ecology for a change in Parcel B’s shoreline designation to “Urban,” so that the shoreline designation would be consistent with the proposed WD-I zoning.

5. Upland land use and zoning designations must be consistent with shoreline designations. At the time Mr. McNabb submitted the Comprehensive Plan amendment and site-specific rezone requests, the current shoreline designation for Parcel B was “Natural.” The City’s ongoing SMP Update was underway at that time, and as part of the update process, staff proposed that the “Natural” shoreline designation be changed to the less restrictive “Shoreline Residential Conservancy” designation. However, neither a “Natural” nor a “Shoreline Residential Conservancy” is consistent with a Water-Dependent Industrial zoning designation or marina uses. An “Urban” designation would be required to support the rezone request. Therefore, Mr. McNabb pursued a change in the shoreline designation for Parcel B through the SMP Update process, and participated in the DOE’s public comment process, requesting that the DOE review the shoreline designation for Parcel B.

After conducting several site visits, the DOE notified the City on November 8, 2013 that they were recommending that Parcel B be re-designated as “Urban,” pursuant to a boundary line adjustment for Parcel B to an agreed upon point west of the existing marina caretaker building. The purpose of the boundary line adjustment was to protect the property’s sensitive areas. This recommendation was included in the matrix of recommended changes that the DOE transmitted to the City on November 15, 2013, and was considered by the City Council at a public hearing on November 20, 2013. Upon conclusion of the public hearing, DOE’s recommended change to Parcel B’s shoreline designation was included in the list of recommended changes that the Council voted to accept.

6. The City Council conducted a study session on the proposed amendments on October 16, 2013. First reading of Ordinance 2013-16, approving the Comprehensive Plan amendment request to amend the land use designation of the two parcels was conducted November 13, 2013. On November 25, 2013, the City Council conducted a public hearing on Ordinance 2013-16, and then voted to approve the ordinance.

7. On July 14, 2014, the City Council approved Ordinance 2014-04, accepting DOE’s required and recommended changes and adopting the Shoreline Master Program Update. The recommended changes included the change in the shoreline designation for Parcel B that had been previously reviewed and accepted by the Council in November 2013. The City received notification of final approval from the Department of Ecology on July 16, 2014. The revised SMP took effect on July 30, 2014.

8. As required by the Department of Ecology to support the change in shoreline designation for Parcel B, Mr. McNabb submitted a boundary line adjustment application to the City on May 5, 2014. It was approved on June 3, 2014.

II. BACKGROUND

Darrell McNabb has owned four properties on the south side of Eagle Harbor since 1977, before the City of Bainbridge Island incorporated and zoning and permitting on Bainbridge Island were under Kitsap County. The four parcels comprise approximately 2.71 acres and include associated tidelands. The two parcels that are the subject of the Comprehensive Plan amendment request and Site-Specific Rezone request approximate 1.59 acres.

In 1980, Mr. McNabb applied to Kitsap County for a Shoreline Substantial Development Permit (SSDP346) for a marina, dry boat storage, and boat repair facility. In July 1981, Mr. McNabb applied to Kitsap County for an Unclassified Public Use Permit (UPUP) to construct and operate a marina and boatyard. A Final Environmental Impact Statement for the applications was issued in August, 1981. The Kitsap County Hearing Examiner approved the UPUP/Site Plan in November 1981, and the Kitsap County Board of Commissioners approved SSDP 346 in November 1981. The marina use was subsequently established on Tax Parcels 352502-2-001-2007 and 352502-2-002-2006, and 352502-2-004-2006. The Parcels 001 and 002 are currently zoned Water Dependent-Industrial and Parcel 004 is currently zoned R-2.

In 1990, the citizens of Bainbridge Island voted to incorporate, and the City of Bainbridge Island assumed authority for zoning and permitting for the entire Island. Mr. McNabb continued to pursue with the City completion of the development projects authorized under the County permits. Although the County permits were issued in 1981, the City stipulated in October 2007 that the County-approved site plan was in full force and effect, and re-stipulated to this in January 2013.

Two of the properties owned by Mr. McNabb were designated on the City's Comprehensive Land Use map as Water Dependent-Industrial, and two of the properties were designated as Residential/2 units per acre (R-2). Similarly, these first two parcels were designated on the City's official Zoning Map as being zoned Water-Dependent Industrial, and the second two parcels were zoned Residential, R-2. Over the years, there has been disagreement between the City and Mr. McNabb over whether these latter two parcels were incorrectly zoned as Residential by the City. While the most recent land use and zoning maps designated them as R-2, a review of the City's previous Comprehensive Plan Land Use Maps, Zoning Maps and associated ordinances indicates that the properties were not consistently designated. In some instances, the properties were shown as residentially zoned, in others they were shown as Water-Dependent Industrial. Because the most recent zoning maps showed the properties as residentially zoned, Mr. McNabb was precluded from submitting permits for further development of a water-dependent industrial nature.

In 2005, the City advised Mr. McNabb that further development of the residentially zoned properties would require a Comprehensive Plan amendment and rezone, and in June 2005, Mr. McNabb submitted a Comprehensive Plan amendment request to this effect.

At that time, the City had a two-phased review process for Comprehensive Plan amendment requests. The purpose of Phase I was to determine which amendments warranted further review under Phase II. Amendment requests that were not forwarded to Phase II were considered to be denied. In the case of Mr. McNabb's 2005 amendment request, staff recommended that the request should not be forwarded to Phase II, as it would be more appropriate to integrate review of the request into the upcoming Shoreline Master Program update, which was scheduled to begin in 2007 (later deferred to 2009). The Planning Commission concurred, and forwarded the recommendation to the City Council. The City Council did not agree with the recommendation, and in November 2005 voted to forward the McNabb request to Phase II, and directed staff to consider the amendment request in conjunction with Pritchard Park and the Japanese American Memorial site to explore the full range of opportunities offered by the Eagle Harbor south shore properties. Planning Director Larry Frazier informed Mr. McNabb that Phase II review would begin in the fourth quarter of 2006.

The McNabb amendment request was subsequently deferred by the Planning Department for a variety of reasons and ultimately never processed. In addition, while the Eagle Harbor south shore properties were considered along with all island shorelines during the City's 2009-2013 Shoreline Master Program Update, the McNabb properties were not reviewed in light of the original 2005 amendment request. In January 2013, the City entered into a legal agreement with Mr. McNabb that stated he would submit a new amendment request as part of the 2013 Comprehensive Plan amendment cycle, and that the City would process the request in good faith. As discussed above, Mr. McNabb submitted a site-specific rezone request concurrently with the Comprehensive Plan amendment request.

III. ANALYSIS

As discussed above, two of the Eagle Harbor south shore properties owned by Mr. McNabb are designated WD-I and two are designated R-2. Mr. McNabb is seeking to have all properties designated WD-I so that he can expand the current marina/boatyard operation and bring the zoning into conformance with the land use permits and site plan approved by Kitsap County.

Goal 6 of the Land Use Element of the Comprehensive Plan states the purpose of the Water-Dependent Industrial District:

Allow for the continuation of water-dependent industrial uses on Bainbridge Island in order to preserve elements of a working waterfront within the urban shoreline area. Water-dependent uses require direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of the operation.

Expansion of the Bainbridge Marina is consistent with the overall Goal for the Water-dependent Industrial District. It should also be noted that the current marina/boatyard development is in character with the zoning and development in this section of the south shore of Eagle Harbor. The property to the east is zoned Water-Dependent Industrial. While the properties to the west

are zoned residential, much of the shoreline is developed with non-residential uses of a water-dependent industrial nature, including three other marinas.

Parcel A is directly south of the two existing Water-Dependent Industrial properties that are currently developed with the marina and associated facilities. Changing the land use designation and zoning for this parcel from Residential to Water-Dependent Industrial allows for a logical extension of the existing marina/boatyard facilities. In addition, Parcel A does not seem to be an appropriate or attractive location for single-family residential development, given its adjacency to an existing water-dependent industrial use. Therefore, staff recommended that the land use designation for Parcel A be changed to Water-Dependent Industrial. In arriving at this recommendation, staff considered the existing use, location and size of the property, surrounding uses, public comment, and Comprehensive Plan policies that support both changing and not changing the land use designation to WD-I.

Parcel B is located to the west of the Water-Dependent Industrial property that is currently developed with the marina/boatyard and associated facilities. It is currently developed with a caretaker unit/office that are accessory to the marina facilities. Changing the land use and zoning designation for this parcel from Residential to Water-Dependent Industrial would also allow for an extension of the existing marina facilities.

Now that the change in the Comprehensive Plan land use designation has been approved by the City Council, the zoning needs to be changed to be consistent.

IV. FINDINGS

A. Site Characteristics

1. ASSESSOR'S RECORD INFORMATION:

Parcel A: Tax Parcel No.: 352502-2-003-2007 (aggregated with Lots 001 and 002 under Tax Parcel No 352502-2-086-2007)

Parcel B: Tax Parcel No.: 352502-2-004-2006

2. TERRAIN:

Property A (eastern) slopes gently down from Eagle Harbor Drive, from south to north. Property B (western) slopes moderately from the southwest to north and gets steeper in the northwestern portion of the property and towards the water. A review of City records and maps indicate there may be a landslide hazard area (as defined in BIMC Chapter 16.20 *Critical Areas*), and therefore a landslide hazard buffer area may apply. There is some vegetation along the road on both properties.

3. SITE DEVELOPMENT

The "Marina" lots (tax parcels # 352502-2-001-2009, 352502-2-002-2008) were developed with a marina/boatyard and associated facilities under Kitsap County permits. Parcel A (tax parcel # 352502-2-003-007) contains a retaining wall, developed under a City of Bainbridge Island permit. Parcel B (tax parcel (tax parcel 352502-2-004-2006) is developed with a caretaker unit/office and two small historic cabins.

4. ACCESS:
The subject properties are on the south side of Eagle Harbor. The existing access is from Eagle Harbor Drive.
5. PUBLIC SERVICES:
 - a. Police- Bainbridge Island Police Department
 - b. Fire- Bainbridge Island Fire Department
 - c. Schools- Bainbridge Island
 - d. Water- Private Well, Class I
 - e. Sewer- On-site septic
6. SURROUNDING USES, COMPREHENSIVE PLAN DESIGNATION & ZONING:
 - a. North: Eagle Harbor
 - b. East: Japanese-American Memorial Park, WD-I, Water Dependent Industrial
 - c. South: Single-family residential/ OSR-2/ R-2
 - d. West: Single-family residential/ OSR-2/ R-2
7. SHORELINE DESIGNATION: Urban. (For Parcel B, this shoreline designation took effect July 30, 2014, when the City's Shoreline Master Program Update became state law.)

B. History of CPA/REZ 13220B)

1. Mr. McNabb met with City staff on February 12, 2013 for a pre-application conference.
2. Mr. McNabb submitted the Comprehensive Plan Amendment and a Site-Specific Rezone application to the Department of Planning and Community Development on February 13, 2013.
3. Following the Comprehensive Plan Amendment process outlined in BIMC Section 2.16.190.G, staff began reviewing the amendment, including State Environmental Policy Act (SEPA) review. After a review of the SEPA checklist, SEPA Official/ Director Kathy Cook issued a Determination of Nonsignificance (DNS) on March 29, 2013. Because this is a site-specific amendment, the DNS and was mailed to property owners within 500 feet of the three subject properties, as required by BIMC Section 16.04.130.A.2. The comment and appeal period ended on April 19, 2013. Three written comments were submitted. Public Comment is discussed below. No appeal was filed on the on the SEPA decision.
4. The Kitsap Public Health District submitted a "no comment" (April 29, 2013) on the proposal to change the Zoning and Comprehensive Plan Land Use Maps.
5. Subsequent review by the Planning Commission, Hearing Examiner, City Council and Department of Ecology is explained in the "Procedural History" section (pages 2-5) of this staff report.

C. Public Comment

Three written comments were submitted on this application:

1. One commenter expressed concern that the existing development is “non-conforming” and that amending the land use designation will lead to similar development that will have potentially negative impacts on the neighborhood. This commenter also stated that the property is currently unsightly.

Staff Response: The existing marina development on Tax Parcel 352502-2-001-2009, zoned Water Dependent-Industrial is conforming. The City has stipulated that land use permits and site plan approved by the County that would allow further development of water dependent industrial nature are in full force and effect. Mr. McNabb has submitted this request to bring the zoning of Parcels A and B into conformance with the approved permits and site plan.

2. Another commenter expressed concern that the applicant is seeking a change from a “Natural” Shoreline Designation to an “Urban” Shoreline Designation through the City’s ongoing SMP Update process, noting there could be environmental impacts.

Staff Response: The Department of Ecology recommended approval of an “Urban” shoreline designation after conducting several site visits. The DOE requested that Mr. McNabb execute a boundary line adjustment (BLA) to protect the sensitive features of the property; the BLA has been completed.

3. A third commenter questioned whether the “Non-Project” SEPA analysis was appropriate for an amendment request that could lead to a rezone, and expressed concern about Mr. McNabb’s request to change the shoreline designation of Parcel B from “Natural” to “Urban.”

Staff Response: Processing a Non-Project SEPA Checklist is the standard approach for changes to the Comprehensive Plan Land Use Map. The concern regarding shoreline designation is addressed to the staff response to comment b), above.

V. BAINBRIDGE ISLAND MUNICIPAL CODE REVIEW

A. Use Regulations: BIMC Section 18.09

The permitted, conditional, and non-permitted uses by zoning district are provided in BIMC Table 18.09.020. The table should be used for comparing the uses of the R-2 and WD-I districts.

B. Development Standards BIMC Table 18.12.020 & Landscaping BIMC Section 18.15.010

The table below compares the development standards and required landscaping for development within the R-2 and Water-Dependent/ Industrial zoning districts.

Development Standard	R-2	WD/ I
Density	3 dwellings: SF w/ SPT MF w/ CUP	Residential Not Permitted
Front Setback	25 ft (50 ft w/ SPT)	40 ft.
Side Setback**	5 min/15 combined (15 ft w/ SPT)	40 ft to West (Residential Zone) 10 ft to East (Pritchard Park)
Rear Setback**	Native Vegetation Zone (SMP) for western property, 15 ft. for eastern property	Native Vegetation Zone (SMP) for western property, 10 ft. for eastern property
Lot Coverage	20%	50%

Development Standard	R-2	WD/ I
Building Height**	30 ft. 35 feet for nonresidential uses with CUP	35 ft. base; 45 ft with Major CUP
Parking Requirements	2 per primary dwelling unit OR for nonresidential CUP depends on use- see BIMC Table 18.15.020-1	Depends on use- see BIMC Table 18.15.020-1
Design Guidelines (DG)	No DG for residential use; new CUP would use Commercial/Mixed Use DG	Commercial/ Mixed Use Design Guidelines
Roadside Buffer	50 ft. (mature veg.) or 25 ft. full screen SPT only;	35 ft. min./50 ft. max. partial screen
Other Perimeter Buffer	25 ft. filtered screen to Pritchard Park and if using “cluster” SPT	5 ft. min./10 ft. max. full screen to east (Pritchard Park) 20 ft. min./40 ft. max. full screen to West (residential zone)
Total Site Tree Unit Requirement?	No for Residential Yes for Nonresidential CUP	No
Parking Lot Landscaping	No for Residential Yes for Non-Residential	Yes
Abbreviations: Conditional Use Permit (CUP), Short Plat (SPT), Multifamily (MF), Single-family (SF), Shoreline Master Program (SMP) **May be modified by Shoreline Master Program regulations		

C. Decision Criteria for Site-Specific Rezones: BIMC 2.16.140.H

The following criteria shall be considered in any review for a site-specific rezone in order to establish a recommendation to approve, disapprove or approve with conditions: **(staff response in bold)**:

1. The site-specific rezone will not be materially detrimental to the public welfare or injurious to the property or improvements in the immediate vicinity and zone in which the property is located; and

Allowing an expansion of the current marina/boatyard development would be consistent with the zoning and development in this section of the south shore of Eagle Harbor. The property to the east is zoned Water-Dependent Industrial. While the property to the west is zoned residential, much of the shoreline is developed with non-residential uses of a water-dependent industrial nature, including three other marinas.

The WDI zoning regulations include a number of zone-specific performance standards relating to pollution, noise, lighting, waste storage and disposal, air quality emissions, ground and soil contamination, outdoor storage and trash disposal that are intended to protect the public welfare and offset potential impacts to properties in the immediate vicinity.

The Kitsap County Health District had no comment on this rezone application.

2. The site-specific rezone is warranted because of changed circumstances and the proposed designation is appropriate for reasonable development of the subject property, or because of a need for additional property in the proposed zone, and the proposed designation is appropriate for reasonable development of the subject property; and

As described in this report, the site-specific rezone would allow for a logical expansion of the current marina/boatyard operation and bring the zoning into conformance with the land use permits and site plan approved by Kitsap County.

It is also consistent with Goal 6 of the Land Use Element of the Comprehensive Plan, which states the purpose of the Water-Dependent Industrial District is to allow for the continuation of water-dependent industrial uses in order to preserve elements of a working waterfront, and with Policy W 6.5, which states in part that expansion of existing facilities should be encouraged over the addition of new facilities.

3. The subject property is suitable for development in general conformance with zoning standards under the proposed zoning designation; and

The subject property could be further developed under the WDI zoning and meet the required standards.

4. The property will be served by adequate public facilities including roads, water, fire protection, sewage disposal facilities and storm drainage facilities for the intensity to which it is being rezoned; and

Public facilities will be evaluated when a specific development proposal is applied for, and the property must be able to accommodate required facilities. The property is served by a Class 1 private well and on-site septic; the Health District had no comments on the rezone application. The property is accessed by Eagle Harbor Drive.

5. The site-specific rezone is in accord with the Comprehensive Plan; and

This rezone application is consistent with the vision in the City's Comprehensive Plan in that it promotes the continuation of a working waterfront and the expansion of an existing facility rather than creation of new facilities. As an all-island city, Bainbridge Island has an active boating community which will have a continued (and growing need) for marina and boatyard facilities.

6. The site-specific rezone complies with all other applicable criteria and standards of the city; and

Future development would need to comply with all other applicable standards of the Bainbridge Island Municipal Code.

7. The site-specific rezone would not devalue surrounding or nearby property; and

The McNabb property is currently developed with marina/boatyard facilities, a caretaker's unit and related facilities. The City has stipulated that permits and a site plan approved by Kitsap County are in full force and effect; the proposed rezone would bring the property into conformance with those permits.

8. The site-specific rezone will not result in an adverse environmental consequence. **A Final Environmental Impact Statement for the Kitsap County applications was issued in August, 1981. Additional environmental review would likely be required for any future new WDI development.**

VI. CONCLUSIONS

The proposed rezone of the two Bainbridge Marina parcels is consistent with the review criteria for a site-specific rezone contained in BIMC Section 2.16.140, *Site-Specific Rezones*. The necessary associated amendment to the Land Use Map of the Comprehensive Plan has been approved by the City via the review and approval of Comprehensive Plan amendment request CPA 13220B. The required change to the shoreline designation for Parcel B has been reviewed and approved by the City Council and the Department of Ecology.

The rezone request is properly before the City Council, which serves as the City's final decision-maker for site-specific rezones.



APPLICATION

Page 1

Original

Project Name: BAINBRIDGE MARINA/MCNABB REZ

Date Received: 2/13/2013

Project Number: PRJ-0013220

Case Number: REZ13220

Primary Parcel Number: 35250220042006

Site address: 4200 Eagle Harbor Drive

Case Description: 2/13/2013, Kathy Cook, 4200 Eagle Harbor Drive. Change zoning of parcels to Water-dependent Industrial.

CITY OF
BAINBRIDGE ISLAND

FEB 13 2013

DEPT OF PLANNING &
COMMUNITY DEVELOPMENT

People associated with case:

01. File Name
BAINBRIDGE MARINA/MCNABB
4200 EAGLE HARBOR DRIVE
BAINBRIDGE ISLAND WA 98110

03. Owner
VANNEE & DARRELL MCNABB
POST OFFICE BOX 10325
BAINBRIDGE ISLAND WA 98110
PHONE: 206-953-6767

05. Contact
DARRELL MCNABB
POST OFFICE BOX 10325
BAINBRIDGE ISLAND WA 98110
PHONE: 206-953-6767

07. City Planner
KATHY COOK

Parcel Numbers:

Tax Parcel Owner(s):

35250220042006
VANEE & DARRELL MCNABB
POST OFFICE BOX 10325
BAINBRIDGE ISLAND, WA 98110

Fee History for Case:			
Description	Amount	Receipt No.	Due

CITY OF BAINBRIDGE ISLAND

REZONE APPLICATION

FORM MUST BE COMPLETED IN INK, PREFERABLY BLUE.
PENCIL WILL NOT BE ACCEPTED.



<p>DATE STAMP FOR CITY USE ONLY</p> <p>CITY OF BAINBRIDGE ISLAND</p> <p>FEB 13 2013</p> <p>DEPT OF PLANNING & COMMUNITY DEVELOPMENT</p>	<p>TO BE FILLED OUT BY APPLICANT</p>
	<p>PROJECT NAME: <u>BAINBRIDGE MARINA-McNAABB</u></p> <p>TAX ASSESSOR'S NUMBER: <u>352502-2-086-2007</u> <u>(352502-2-001, 002,</u> <u>003, 004)</u> <u>352502-2-004</u></p> <p>PROJECT STREET ADDRESS OR ACCESS STREET: <u>4200 EAGLE HARBOR DR.</u> <u>BAINBRIDGE IS, WA 98110</u></p>
	<p>FOR CITY USE ONLY</p>
	<p>FILE NUMBER: <u>REZ 13220</u></p> <p>PROJECT NUMBER: <u>PRJ-0013220</u></p> <p>DATE RECEIVED: <u>2-13-2013</u></p> <p>APPLICATION FEE: <u>N/A</u></p> <p>TREASURER'S RECEIPT NUMBER: <u>N/A</u></p>

SUBMITTAL REQUIREMENTS	
APPLICATION	<i>One original (which must contain an original signature) and six copies must be provided. Whenever possible, originals must be signed in blue. Please identify the original document.</i>
SUPPORTING DOCUMENTS	<i>One original (which must contain an original signature), where applicable, and six copies (if an original is not applicable, nine copies must be provided).</i>
FULL-SIZE DRAWINGS	<i>Seven copies of the required drawings must be provided. Drawings must not exceed 18" x 24" in size. No construction drawings will be accepted unless specifically requested.</i>
REDUCED DRAWINGS	<i>Two copies of the drawings reduced to 11" x 17" must be provided.</i>
SUBMITTING APPLICATIONS	<i>Applications must be submitted in person by either the owner or the owner's designated agent. Should an agent submit the application, a notarized Owner/Applicant Agreement must accompany the application (owner/app agreement attached). Please call (206) 780-3762 to set up an appointment to submit the application.</i>
FEES	<i>Please call the Department of Planning & Community Development for submittal fee information. Review by the Kitsap County Health Department may require additional fees and processing time.</i>
ATTACHED SUBMITTAL CHECKLIST	<i>Please refer to attached Submittal Checklist for further information. NOTE: when submitting this application, please do not copy or include the Submittal Checklist sheets attached to the back of this application.</i>
<p>APPLICATIONS WILL NOT BE ACCEPTED unless these basic requirements are met and the submittal packet is deemed counter complete.</p>	

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
280 MADISON AVENUE NORTH • BAINBRIDGE ISLAND, WA • 98110-1812
PHONE: (206) 842-2552 • FAX: (206) 780-0955 • EMAIL: pcd@bainbridgewa.gov
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CITY OF BAINBRIDGE ISLAND

REZONE APPLICATION

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A. GENERAL INFORMATION

1. Name of property owner: DARRELL + VANNEE MCNABB
Address: P.O. BOX 10325, BAINBRIDGE IS, WA 98110
Phone: 206-953-6767 Fax: 206-352-3933
E-mail: DMCNABB@AUTOSCANINC.COM

Name of property owner: _____
Address: _____
Phone: _____ Fax: _____
E-mail: _____

Name of property owner: _____
Address: _____
Phone: _____ Fax: _____
E-mail: _____

*If the owner(s) of record as shown by the county assessor's office is (are) not the agent,
the owner's (owners') signed and notarized authorization(s) must accompany this application.*

2. Applicant/agent: _____
Address: _____
Phone: _____ Fax: _____
E-mail: _____

3. Project contact: _____
Address: _____
Phone: _____ Fax: _____
E-mail: _____

4. Planning department personnel familiar with site: _____

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5. Description of proposal: PROPOSAL TO REZONE TWO PARCELS OF A FOUR PARCEL SITE PLAN FROM R-2 TO WD-I.

6. Driving directions to site: 4200 EAGLE HARBOR DR. N.E.

7. Legal description(s) (or attach): SEE ATTACHMENT 1

8. Proposed zone classification: WD-I

9. Proposed density:

10. Parcel information:

Assessor's parcel number	Parcel owner	Is property developed
<u>352502-2-086</u> <u>(001, 002, 003)</u>	<u>DARRELL + VANNEE McNABB</u>	<u>(Y) N</u>
		<u>Y / N</u>
		<u>Y / N</u>
<u>352502-2-004</u>		<u>(Y) N</u>

11. Current comprehensive plan, zoning and shoreline designations and use of subject parcel(s):

Lot Number	Comp Plan Designation	Zoning Designation	Shoreline Designation	Current Use
Lot <u>001</u>	<u>WD-I</u>	<u>WD-I</u>	<u>URBAN</u>	<u>MARINA + BOATYARD</u>
Lot <u>002</u>	<u>WD-I</u>	<u>WD-I</u>	<u>URBAN</u>	<u>" "</u>
Lot <u>003</u>	<u>R-2</u>	<u>R-2</u>	<u>N/A</u>	<u>" "</u>
Lot <u>004</u>	<u>R-2</u>	<u>R-2</u>	<u>NATURAL MARINA</u>	<u>+ CARETAKERS OFFICE</u>

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CITY OF BAINBRIDGE ISLAND

REZONE APPLICATION

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12. Current comprehensive plan, zoning and shoreline designations and use of adjacent properties:

Property	Comp Plan Designation	Zoning Designation	Shoreline Designation	Current Use
North	-	-	-	EAGLE HARBOR
South	R-2	R-2	NA	PRICHARDS PARK
East	WD-I	WD-I	URBANA	
West	R-2	R-2	URBAN	MARINA, TULE, EAGLEDALE

TAKE YACHT CLUB MARINA (SEE ATTACHMENT 2) MARINA

13. Does the site contain an environmentally sensitive area as defined in Critical Areas Ordinance (Bainbridge Island Municipal Code Chapter 16.20)?

yes no unknown

If yes, check as appropriate:

<input type="checkbox"/> wetland*	<input type="checkbox"/> geologically hazardous area**
<input type="checkbox"/> wetland buffer*	<input type="checkbox"/> zone of influence**
<input checked="" type="checkbox"/> stream* SEASONAL	<input type="checkbox"/> slope buffer**
<input type="checkbox"/> stream buffer*	<input type="checkbox"/> fish and wildlife habitat area

* If your site includes a wetland or wetland buffer, a wetland report is required with your application.

**If your site includes a geologically hazardous area or is within the zone of influence as defined in Bainbridge Island Municipal Code 16.20, a geotechnical report may be required with your application.

14. Are there underlying/overlying agreements on the property? yes no unknown

If yes, check as appropriate and provide a copy of the decision document:

<input checked="" type="checkbox"/> CUP Conditional Use Permit	<input type="checkbox"/> SPR Site Plan Review
<input type="checkbox"/> MPD Master Planned Development	<input type="checkbox"/> SPT Short Plat
<input type="checkbox"/> PUD Planned Unit Development	<input checked="" type="checkbox"/> SSDP Shoreline Permit 340 + EXTENSIONS
<input type="checkbox"/> REZ Contract Rezone	<input type="checkbox"/> SUB Prior Subdivision
<input type="checkbox"/> RUE Reasonable Use Exception	<input checked="" type="checkbox"/> VAR Zoning Variance
	<input type="checkbox"/> Other:

Under which jurisdiction was the approval given?

City of Bainbridge Island Kitsap County

2013 + 1993-94 (SEE ATTACHED) 1981

Approval date:

PERMIT DOCUMENTS
(SEE ATTACHMENTS 3+4)
(ATTACHMENT 5)

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CITY OF BAINBRIDGE ISLAND

REZONE APPLICATION

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B. Technical Information

1. Name of water purveyor: BAINBRIDGE IS. MARINA + BOATYARD
If a private well, what class? CLASS 1

2. Type of sewage disposal: on-site septic off-site septic sewer
Sewer district: City of Bainbridge Island Sewer District 7

3. Flood plain designation: A AE X

4. Any terms, conditions, covenants and agreements or other documents regarding the intended development, if applicable (or attach):

SSDP 346, RES 366-1981-UPUP + CUP FOR SITE PLAN FOR BOATYARD + MARINA + SUPPORTING STRUCTURES (ATTACHED)

5. List other applications submitted in conjunction with this rezone request:

COMPREHENSIVE PLAN AMENDMENT

6. Is there any other information which is pertinent to this project? yes no

If yes, please explain: A CHANGE OF ZONING TO WD-1 ALLOWS THE DEVELOPMENT OF THE SITE PLAN TO BE ORDERLY AND COHESIVE IN COMPLETING THE RELATED FACILITIES AND IS CURRENTLY APPROPRIATE FOR WD-1 ZONE.

C. REZONE CRITERIA

In accordance with Bainbridge Island Municipal Code Chapter 2.16.140.H, the applicant must answer the following questions (attach additional sheets if there is not enough room provided for your answers):

1. Will the uses permitted in the proposed zone be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is located? If not, why?

NO. WD-1 USES ARE CONSISTENT WITH CURRENTLY PERMITTED USES AND THE EXISTING SITE PLAN. NO CHANGES IN INTENSITY OF EXISTING USES IS PLANNED, EXCEPT THE ADDITION OF PARKING.

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2. What changes have occurred in the character, conditions or surrounding neighborhood that would justify or otherwise substantiate the rezone?

N/A

3. How is the property more suitable for the development in general conformance with zoning standards under the proposed zoning designation? Explain how the relationship to arterials, surrounding use of land, topography, etc., justifies this rezone.

THE SITE PLAN IS COMPOSED OF TWO PARCELS DESIGNATED WD-I AND TWO PARCELS DESIGNATED W-2. THE DEVELOPMENT OF THE SITE PLAN FOR MARINA + BOATLARD SERVICES REQUIRES THE SAME ZONING FOR USES REQUIRED.

4. Will the rezone be materially detrimental to uses or property in the immediate vicinity of the subject property? If not, why?

NO, THE REZONE PROPOSED IS ISOLATED TO THE EXISTING SITE PLAN AND POSES NO MATERIAL DETRIMENT TO ADJOINING WD-I, CITY STREETS, NOR R-2 PROPERTIES TO THE SOUTH OR YACHT CLUB TO THE WEST.

5. How will the property be served by adequate public facilities, including roads, water, fire protection, sewage disposal and storm drainage for the intensity to which it is being rezoned?

THE PROPERTY IS PRESENTLY SERVED BY ALL OF THE ABOVE SERVICES. TO ACCOMMODATE EXISTING WD-I USES, THERE IS NO MATERIAL INCREASE IN THE INTENSITY DEMAND FOR SERVICES CAUSED BY REZONE TO WD-I NOT PREVIOUSLY PLANNED OR PROVIDED PREVIOUSLY.

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REZONE APPLICATION

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6. Explain how the rezone is in accord with the Comprehensive Plan.

MARINA AND BOATYARD USES ARE
CONSISTENT WITH WD-I COMPREHENSIVE
PLAN AND WD-I ZONING USES,

7. How does the rezone comply with all other applicable criteria and standards of the city?

MARINA AND BOATYARD USES IN WD-I ZONE
MEETS ALL CRITERIA & STANDARDS OF THE CITY,
THE SAME USES MEET WD-I REQUIREMENTS
IN THE R-2 (two) ZONED PARCELS OF THE SITE PLAN,
EXISTING

8. Explain how the rezone would not devalue surrounding or nearby property.

N/A SURROUNDING PROPERTIES VALUES HAVE
CONTINUED TO INCREASE IN VALUE ALONG WITH THE
VALUE OF THE SITE PLAN PARCELS, ALL USES OF
THE PROPERTY HAVE EXISTED FOR MANY YEARS,

9. Explain how the rezone will not result in an adverse environmental consequence.

N/A THIS NON PROJECT ACTION SHALL NOT
CREATE ADVERSE ENVIRONMENTAL CONSEQUENCE,
ANY FUTURE IMPACTS OF PROJECT PROPOSALS WILL
BE CONSIDERED,

10. How will a down-zone diminish the value of the subject or surrounding properties? By how much?

N/A

CITY OF BAINBRIDGE ISLAND

REZONE APPLICATION

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11. The extent to which the diminished value promotes the public health, safety, morals or welfare:

UNKNOWN N/A

12. How will the proposed restrictions on the property to be down-zoned preclude its use for any purpose to which it is reasonably suited?

N/A

I hereby certify that I have read this application and know the same to be true and correct.

Darrell A. McNabb

*Signature of owner or authorized agent

2/18/2013

Date

DARRELL A. McNABB

Please Print

**If signatory is not the owner of record, the attached "Owner/Agent Agreement" must be signed and notarized*

ATT 2A
EXISTING

WD-1

R-2

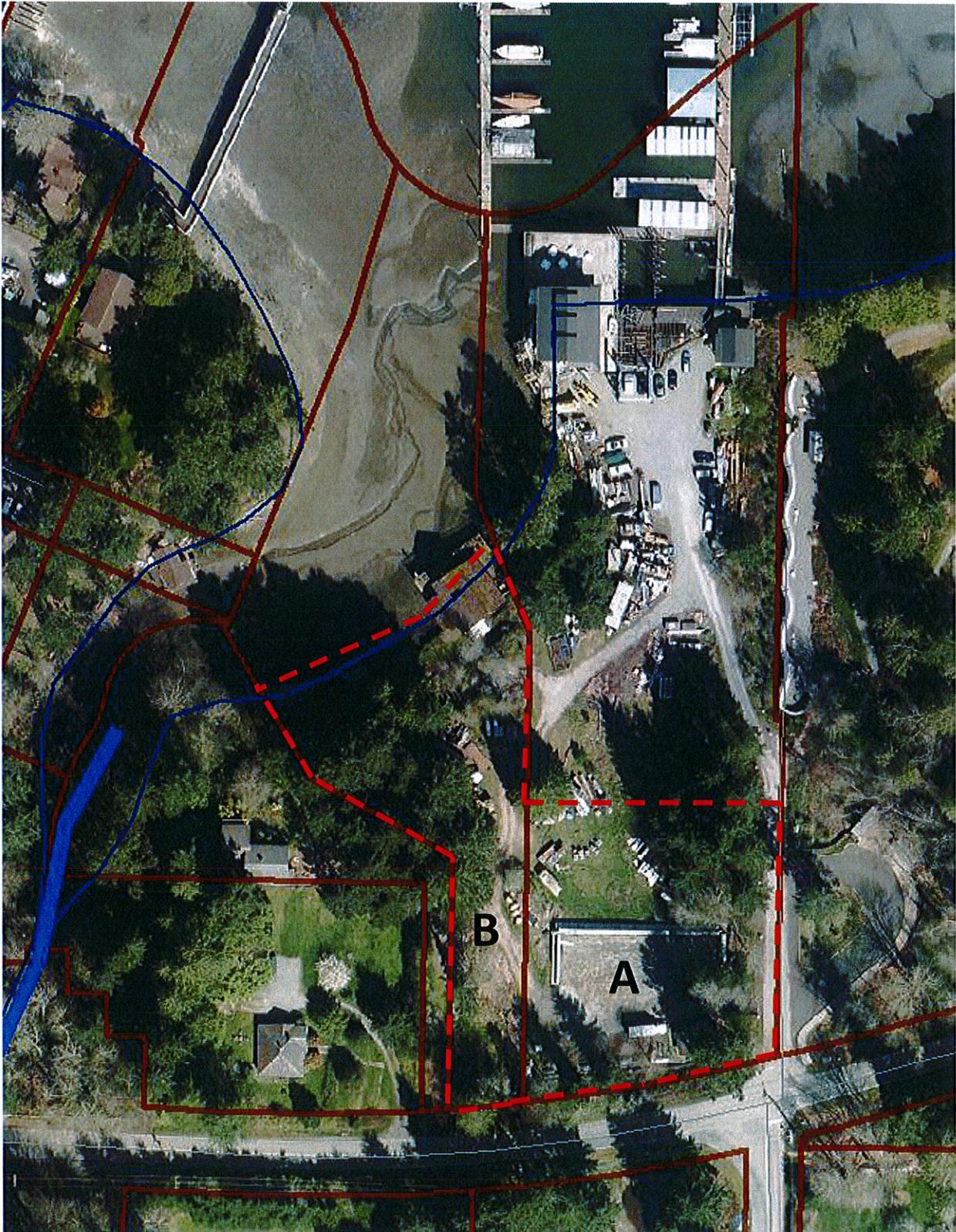
R-1

Taylor Ave NE

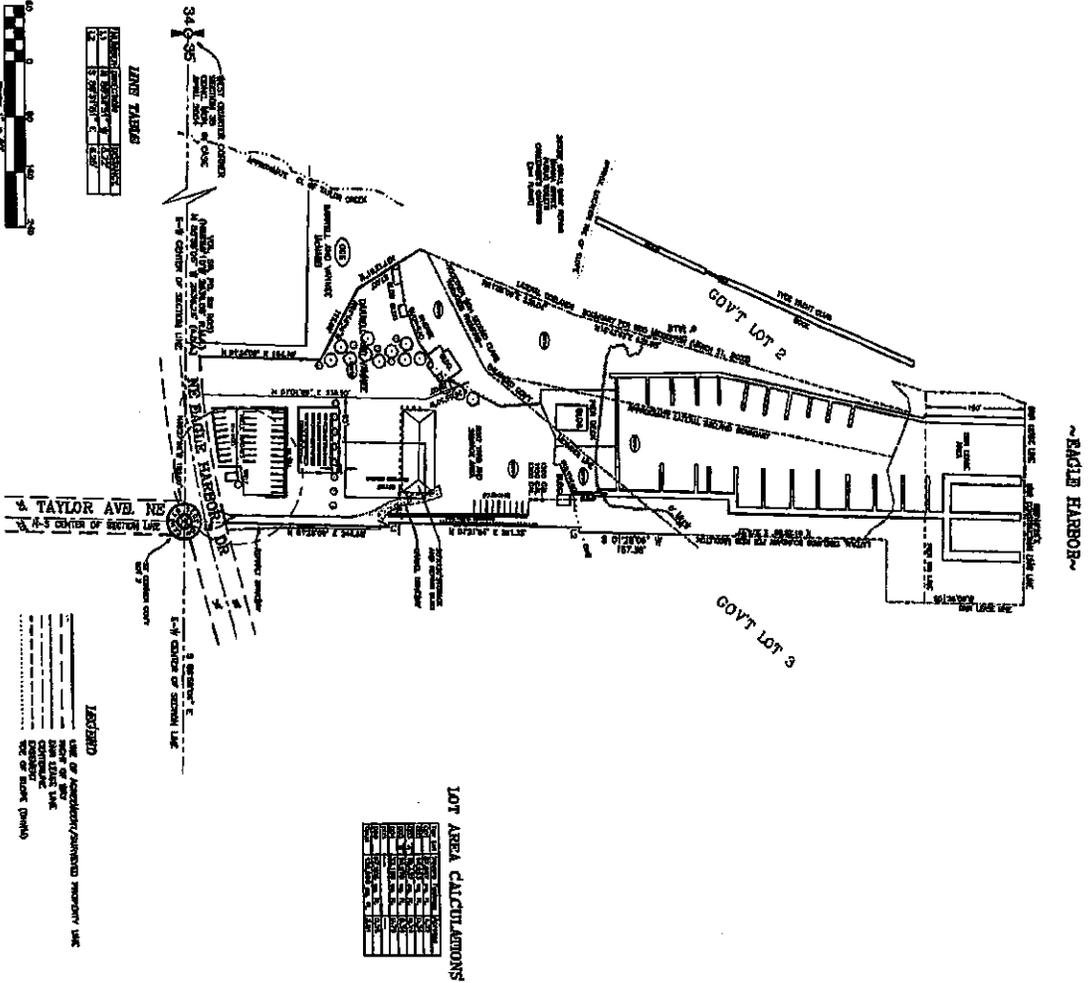
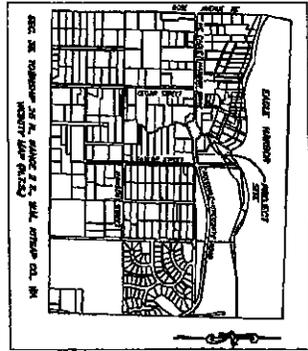
NE Eagle Harbor Rd

90 45 0 90 F

CITY OF
BAINBRIDGE ISLAND
FEB 13 2013
DEPT OF PLANNING &
COMMUNITY DEVELOPMENT



Attachment B



ZONING TABLE

1. ZONING DISTRICT	2. ZONING CODE
3. ZONING MAP	4. ZONING REGULATIONS

LEGEND

---	LINE OF ADJACENT/ADJACENT PROPERTY LINE
---	BOUNDARY OF LOT
---	BOUNDARY OF SECTION
---	BOUNDARY OF TOWNSHIP
---	BOUNDARY OF COUNTY
---	BOUNDARY OF STATE

LOT AREA CALCULATIONS

LOT NO.	AREA (SQ. FT.)	AREA (ACRES)
1	10,000	0.23
2	15,000	0.34
3	20,000	0.46
4	25,000	0.57
5	30,000	0.69
6	35,000	0.80
7	40,000	0.92
8	45,000	1.03
9	50,000	1.15
10	55,000	1.26
11	60,000	1.38
12	65,000	1.49
13	70,000	1.61
14	75,000	1.72
15	80,000	1.84
16	85,000	1.95
17	90,000	2.07
18	95,000	2.18
19	100,000	2.30
20	105,000	2.41
21	110,000	2.53
22	115,000	2.64
23	120,000	2.76
24	125,000	2.87
25	130,000	3.00
26	135,000	3.11
27	140,000	3.23
28	145,000	3.34
29	150,000	3.46
30	155,000	3.57
31	160,000	3.69
32	165,000	3.80
33	170,000	3.92
34	175,000	4.03
35	180,000	4.15
36	185,000	4.26
37	190,000	4.38
38	195,000	4.49
39	200,000	4.61
40	205,000	4.72
41	210,000	4.84
42	215,000	4.95
43	220,000	5.07
44	225,000	5.18
45	230,000	5.30
46	235,000	5.41
47	240,000	5.53
48	245,000	5.64
49	250,000	5.76
50	255,000	5.87
51	260,000	6.00
52	265,000	6.11
53	270,000	6.23
54	275,000	6.34
55	280,000	6.46
56	285,000	6.57
57	290,000	6.69
58	295,000	6.80
59	300,000	6.92
60	305,000	7.03
61	310,000	7.15
62	315,000	7.26
63	320,000	7.38
64	325,000	7.49
65	330,000	7.61
66	335,000	7.72
67	340,000	7.84
68	345,000	7.95
69	350,000	8.07
70	355,000	8.18
71	360,000	8.30
72	365,000	8.41
73	370,000	8.53
74	375,000	8.64
75	380,000	8.76
76	385,000	8.87
77	390,000	9.00
78	395,000	9.11
79	400,000	9.23
80	405,000	9.34
81	410,000	9.46
82	415,000	9.57
83	420,000	9.69
84	425,000	9.80
85	430,000	9.92
86	435,000	10.03
87	440,000	10.15
88	445,000	10.26
89	450,000	10.38
90	455,000	10.49
91	460,000	10.61
92	465,000	10.72
93	470,000	10.84
94	475,000	10.95
95	480,000	11.07
96	485,000	11.18
97	490,000	11.30
98	495,000	11.41
99	500,000	11.53
100	505,000	11.64

BASED ON PRELIMINARY SURVEY DATA FROM 2011. ALL DIMENSIONS ARE IN FEET AND INCHES. THIS PLAN IS NOT TO BE USED FOR CONSTRUCTION WITHOUT THE NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT.

DANIEL BOHANNAN
SITE PLAN
BAINBRIDGE ISLAND MARINA
EAGLE HARBOR

ADL ENGINEERING LLC
 1000 1st St. S. #100
 BAINBRIDGE ISLAND, WA 98148
 TEL: 206.835.1234
 FAX: 206.835.1235
 WWW.ADL-ENGINEERING.COM

DATE: FEB 13 2013
 SCALE: 1" = 100'

CITY OF BAINBRIDGE ISLAND
DEPT OF PLANNING & COMMUNITY DEVELOPMENT
FEB 13 2013

2.16.140 SITE-SPECIFIC REZONES

A. PURPOSE

This chapter establishes the process and criteria for changing the zoning classification of specific property from one zoning designation to another, or to change conditions imposed in a development agreement. A property rezone may reflect changed circumstances or new land use needs and shall be consistent with the city's current comprehensive plan. (Ord. 96-20 § 13, 1996; Ord. 92-08 § 2, 1992)

B. APPLICABILITY

This procedure shall apply whenever one or more private property owners or the city apply for an amendment of the official zoning map to redesignate one or more parcels of property from one zone district designation to another.

C. PROCEDURE

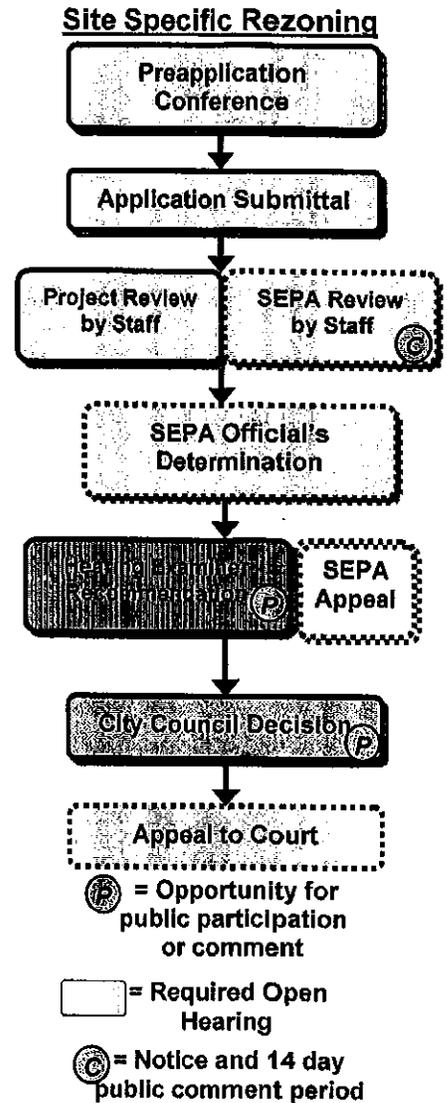
1. Site-specific rezones shall be approved through the general quasi-judicial city council review procedures described in BIMC 2.16.130 except as described below.
2. The provisions of this section 2.16.140 supplement those of BIMC 2.16.020 and 2.16.130 when the application is for a site-specific rezone. In the event of a conflict between the provisions of BIMC 2.16.020 or 2.16.130 and 2.16.140, the provisions of this section shall govern.

D. WHO MAY APPLY

1. Any owner or authorized agent, or group of owners of contiguous property acting jointly and representing at least 75 percent of the assessed valuation of the subject property or properties, or their authorized agent(s), may apply for a site-specific rezone. (Ord. 96-20 § 14, 1996; Ord. 92-08 § 2, 1992) In the case of a site-specific rezone initiated by a property-owner(s), the applicant shall pay the fee for a rezone application set forth in the Administrative Manual.
2. The city may apply for a rezone of one or more properties as necessary to improve consistency between the official zoning map and the comprehensive plan. In order to maintain consistency between the zoning map and a successful city-initiated comprehensive plan amendment, the owner(s) of the property or properties involved in the rezone shall not be required to pay the rezoning fee.

E. APPLICATION

An application for a rezone may be filed only if the proposal is consistent with the Bainbridge Island Comprehensive Plan. If it is not consistent with the comprehensive plan, a comprehensive plan amendment shall be filed concurrently with the rezone. The applicant shall pay the fees for any rezone



application and any comprehensive plan amendment required to maintain consistency with the rezone. The city may defer review of a rezone proposal if that area is scheduled for comprehensive plan review or review of the comprehensive plan is reasonably likely to occur within the following year. (Ord. 2003-44 § 4, 2004; Ord. 96-20 § 15, 1996; Ord. 92-08 § 2, 1992)

F. PUBLIC HEARING BEFORE HEARING EXAMINER

Within 30 days after receipt of a complete application for a site-specific rezone, the department shall forward its findings and recommendations to the hearing examiner, who shall conduct a public hearing in accordance with the hearings procedures set forth in BIMC 2.16.130. (Ord. 96-20 § 16, 1996; Ord. 92-08 § 2, 1992)

G. COUNCIL ACTION

1. Within 30 days after receipt of the recommendation of the hearing examiner on a site-specific rezone, the council, in accordance with the procedures set forth in BIMC 2.16.130, shall, in a public meeting, make a decision on the rezone or remand the application to the hearing examiner. (Ord. 96-20 § 17, 1996; Ord. 92-08 § 2, 1992)
2. If the council approves a site-specific rezone, the council shall adopt an ordinance that makes the appropriate changes on the official zoning map as required in BIMC 18.03.
3. The council may reverse an earlier approval of a site-specific rezone by approving a subsequent rezone of the property back to its former zone district as provided in this section 2.16.140 and related provisions in 2.16.020. (Ord. 92-08 § 2, 1992) However, if the applicant has defaulted or failed to perform his or her duties under a development agreement as described in subsection I, only subsections D through F shall apply.

H. DECISION CRITERIA

The following criteria shall be considered in any review for a site-specific rezone in order to establish a recommendation to approve, disapprove or approve with conditions:

1. The site-specific rezone will not be materially detrimental to the public welfare or injurious to the property or improvements in the immediate vicinity and zone in which the property is located; and
2. The site-specific rezone is warranted because of changed circumstances and the proposed designation is appropriate for reasonable development of the subject property; or, because of a need for additional property in the proposed zone and the proposed designation is appropriate for reasonable development of the subject property; and
3. The subject property is suitable for development in general conformance with zoning standards under the proposed zoning designation; and
4. The property will be served by adequate public facilities including roads, water, fire protection, sewage disposal facilities and storm drainage facilities for the intensity to which it is being rezoned; and
5. The site-specific rezone is in accord with the comprehensive plan; and
6. The site-specific rezone complies with all other applicable criteria and standards of the city; and
7. The site-specific rezone would not devalue surrounding or nearby property; and
8. The site-specific rezone will not result in an adverse environmental consequence. (Ord. 92-08 § 2, 1992)

I. DEVELOPMENT AGREEMENTS

1. Any applicant for a rezone of any property shall be subject to the signing of a development agreement as a condition to the council's granting the rezone when the council finds that such an agreement is necessary to protect the public health, safety or general community welfare. Whenever such an agreement is signed, it shall be recorded with the Kitsap County auditor and officially entered as a covenant upon the land. Any purchaser of such property is subject to the development agreement. The applicant may be required to pay the cost of the preparation of the development agreement. (Ord. 92-08 § 2, 1992)
2. When the justification for a site-specific rezone includes an intended use or development of the property, a development agreement shall be used to require the applicant to proceed with specific development consistent with the rezone within a time period agreed upon by the city and the developer. In that case, upon the expiration of the agreed-upon time limit after the rezone approval, if construction is not underway, the director shall institute proceedings to rezone the property to its prior classification; provided, however, that if the landowner, within that agreed-upon time period, demonstrates to the satisfaction of the director that he or she has in good faith attempted to begin construction as contemplated by the rezone, the director may defer instituting the proceedings for up to one year. If the latest rezone classification is found to be the most appropriate for the property, the director may elect not to institute the rezone proceedings. The time period prescribed in this section shall not commence until the completion of any court challenges to the rezone.

September 23, 2013

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

**FINDINGS, CONCLUSIONS AND
RECOMMENDATION TO CITY COUNCIL**

Project: McNabb (Bainbridge Marina)
Site-Specific Rezone Application

File number: REZ 13220

Applicant: Darrell McNabb
P.O. Box 10325
Bainbridge Island, WA 98110

Owner: Darrell & Vannee McNabb
P.O. Box 10325
Bainbridge Island, WA 98110

Request: The applicant requests a Site-specific Rezone to the City's Official Zoning Map, to change the zoning of 2 parcels totaling 1.59 acres from Residential, Two Units per Acre (R-2), to Water Dependent-Industrial (WD-I). The properties are located at 4200 Eagle Harbor Drive, Bainbridge Island.

The applicant submitted a Comprehensive Plan amendment applications (CPA 13220B) concurrently with the site-specific rezone request, as specified in BIMC Section 2.16.140.E. The Comprehensive Plan amendment application was submitted as part of the City's 2013 amendment cycle and is being reviewed pursuant to BIMC Section 2.16.190. The Comprehensive Plan amendment application requests a change in the land use designation for the two subject parcels from Open Space Residential (OSR-2) to Water Dependent-Industrial (WD-I) on the Land Use Map of the Comprehensive Plan.

Location: 4200 Eagle Harbor Dr. NE
Parcel A: Tax Parcel No.: 352502-2-003-2007 (aggregated with Lots 001 and 002 under Tax Parcel No 352502-2-086-2007)
Parcel B: Tax Parcel No.: 352502-2-004-2006

Current Zoning Designation: Residential-2 (R-2) Two Units Per Acre

Current Comprehensive

Plan Designation: Open Space Residential-2 (OSR-2)

Environmental

Review: Based on review of a State Environmental Policy Act (SEPA) checklist, a Determination of Nonsignificance (DNS) was issued on March 29, 2013.

Planning Commission

Recommendation: The Planning Commission considered the Comprehensive Plan amendment request (CPA 13220B) submitted by Mr. McNabb at a study session on May 23, 2013 and conducted a public hearing on June 27, 2013. The Planning Commission recommended approval of the change in the land use designation for Parcel A, and conditional approval of the change in the land use designation for Parcel B.

FINDINGS OF FACT

Site Characteristics

1. **ASSESSOR'S RECORD INFORMATION:**
Parcel A: Tax Parcel No.: 352502-2-003-2007 (aggregated with Lots 001 and 002 under Tax Parcel No 352502-2-086-2007)
Parcel B: Tax Parcel No.: 352502-2-004-2006
2. **TERRAIN:**
Parcel A (eastern) slopes gently down from Eagle Harbor Drive, from south to north. Parcel B (western) slopes moderately from the southwest to north, becoming steeper in the northwestern portion of the property and toward the water. City records and maps indicate a landslide hazard area (as defined in BIMC Chapter 16.20 *Critical Areas*) may exist and a landslide hazard buffer area therefore may apply. Some vegetation exists near the road on both properties.
3. **SITE DEVELOPMENT:**
The "Marina" lots (tax parcels # 352502-2-001-2009, 352502-2-002-2008) were developed with a marina and boatyard and associated facilities under Kitsap County permits. Parcel A (tax parcel # 352502-2-003-007) contains a retaining wall, developed under a City of Bainbridge Island permit. Parcel B (tax parcel (tax parcel 352502-2-004-2006) is developed with a caretaker unit and office and associated uses and also contains two small historic cabins.
4. **ACCESS:**
The subject properties are located on the south side of Eagle Harbor and obtain road access from Eagle Harbor Drive.
5. **PUBLIC SERVICES:**
 - a. Police- Bainbridge Island Police Department
 - b. Fire- Bainbridge Island Fire Department
 - c. Schools- Bainbridge Island
 - d. Water- Private Well, Class I
 - e. Sewer- On-site septic

6. SURROUNDING USES, COMPREHENSIVE PLAN DESIGNATION & ZONING:
 - a. North: Eagle Harbor
 - b. East: Japanese-American Memorial Park, WD-I, Water Dependent Industrial
 - c. South: Single-family residential/ OSR-2/ R-2
 - d. West: Single-family residential/ OSR-2/ R-2
-

Procedural History

7. Darrell McNabb has owned four properties on the south side of Eagle Harbor since 1977, before the City of Bainbridge Island incorporated. Zoning and permit issuance on Bainbridge Island were then regulated by Kitsap County. The four parcels comprise approximately 2.71 acres and include associated tidelands. The two parcels subject to this rezone application total approximately 1.59 acres.

8. In 1980, Mr. McNabb applied to Kitsap County for a Shoreline Substantial Development Permit (SSDP346) for a marina, dry boat storage and a boat repair facility. In July, 1981, Mr. McNabb also applied to Kitsap County for an Unclassified Public Use Permit (UPUP) to construct and operate a marina and boatyard. A Final Environmental Impact Statement for the application package was issued in August, 1981. The Kitsap County Hearing Examiner approved the UPUP/Site Plan in November, 1981, and the Kitsap County Board of Commissioners approved SSDP 346 in November, 1981. Marina and boatyard uses were subsequently established on Tax Parcels 352502-2-001-2007, 352502-2-002-2006 and 352502-2-004-2006. Parcels 001 and 002 are currently zoned Water Dependent-Industrial and Parcel 004 is zoned R-2.

9. In 1990 the citizens of Bainbridge Island voted to incorporate, and the City of Bainbridge Island assumed authority for zoning and permitting for the entire Island. Mr. McNabb continued to pursue with the City completion of the development projects authorized under the County permits. A rich trove of historical materials documents thirty years of effort both to define what Kitsap County approved in 1981 and to ascertain Mr. McNabb's success in complying with the original regulatory framework. In 2006 the City and Mr. McNabb engaged in a contested code enforcement episode. The City stipulated in October, 2007, and reaffirmed in January, 2013, that a County-approved site plan as elaborated in various updates remains in full force and effect.

10. Two of the properties owned by Mr. McNabb are currently designated on the City's zoning map as Water Dependent-Industrial, and two others as Residential/2 units per acre (R-2). Over the years the City and Mr. McNabb have disagreed whether these latter two parcels had been incorrectly deemed zoned Residential by the City. While the current zoning map designates them as R-2, a review of the City's previous Comprehensive Plan Land Use Maps, Zoning Maps and associated ordinances indicates that the properties were not consistently so described. In some instances, the properties were shown as residentially zoned, in others as Water-Dependent Industrial. Mr. McNabb is seeking to have all properties designated WD-I so that he can expand the current marina and boatyard operations and bring the zoning into conformance with the land use permits and site plans approved by Kitsap County.

11. Because the most recent zoning maps show the application properties as residentially zoned, Mr. McNabb is presently legally constrained in his efforts to submit permit applications for further water-dependent industrial development. In 2005 the City advised Mr. McNabb that further development of the residentially zoned properties would require a Comprehensive Plan amendment and rezone, and in response Mr. McNabb submitted at that time a Comprehensive Plan amendment request to effect such change.

12. In 2005 the City was employing a two-phased process for reviewing Comprehensive Plan amendment requests, with phase I to determine which amendments warranted further review under phase II. Amendment requests that were not forwarded to phase II were deemed denied. In the case of Mr. McNabb's 2005 amendment request, staff recommended that the request should not be forwarded to phase II, preferring instead to integrate review of the request into the City's upcoming Shoreline Master Program update then scheduled to begin in 2007. The Planning Commission concurred, forwarding its recommendation to the City Council. But the City Council did not adopt this recommendation, voting in November 2005 to forward the McNabb request to phase II and directing staff to review it in the context of its relationship to the Pritchard Park and the Japanese American Memorial sites to the east. Planning Director Larry Frazier informed Mr. McNabb that phase II review would begin in the fourth quarter of 2006.

13. The McNabb amendment request was deferred by the Planning Department and never processed. Nor in the City's recently completed Shoreline Master Program Update were the McNabb properties reviewed within the framework of the original 2005 amendment request. In January, 2013, the City entered into a broad settlement agreement with Mr. McNabb, specifying that he could submit a new amendment request as part of the 2013 Comprehensive Plan amendment cycle and the City would process such request in good faith.

14. The January, 2013, settlement agreement between the City and Mr. McNabb also provided that Mr. McNabb could pursue a change in the shoreline designation for Parcel B through the SMP Update process. Mr. McNabb submitted written and oral public comments to such effect to the City Council in early 2013. The City Council declined to change the Parcel B shoreline designation to Urban and on May 15th forwarded the City's draft SMP Update to the Department of Ecology (DOE) for its review. The Department of Ecology opened a public comment period on the City's draft SMP Update that commenced on July 23, 2013.

15. Mr. McNabb submitted Comprehensive Plan Amendment and Site-specific Rezone applications to the Department of Planning and Community Development on February 13, 2013. After a review of the SEPA checklist, the City's SEPA Responsible Official issued a Determination of Nonsignificance (DNS) on March 29, 2013. As a site-specific amendment, the DNS was mailed to property owners within 500 feet of the subject properties as required by BIMC Section 16.04.130.A.2. The comment and appeal period ended on April 19, 2013. No SEPA appeals were filed.

16. The Planning staff recommended that rezoning Parcel B from Residential to Water Dependent-Industrial should be contingent on Mr. McNabb securing a change in the shoreline designation to Urban through the SMP Update process now being conducted by DOE. This proposed contingency mimics the Planning Commission recommendation for the companion Comprehensive Plan land use map amendment affecting Parcel B. Within the instant proceeding Mr. McNabb's attorney has requested deletion of the contingency tying the effectiveness of the Parcel B rezone to a shoreline redesignation. At the end of the August 9, 2013, rezone public hearing the Examiner left the record open for the receipt of briefing from the City and the applicant on potential legal consequences arising from inconsistencies between zoning and shoreline regulations affecting the same parcel. As argued within the applicant's brief, the City Attorney's memorandum should be regarded as an "advocacy document", not as a formal legal opinion.

Regulatory Requirements

17. The process for reviewing a site-specific rezone application is specified in BIMC Section 2.16.140.H. All the italicized regulatory standards quoted below must be met for a rezone application to be approved.

The following criteria shall be considered in any review for a site-specific rezone in order to establish a recommendation to approve, disapprove or approve with conditions:

- 1. The site-specific rezone will not be materially detrimental to the public welfare or injurious to the property or improvements in the immediate vicinity and zone in which the property is located;*

Allowing a further expansion of the current marina and boatyard development would be generally consistent with the existing development pattern for this section of the south shore of Eagle Harbor. The property to the east is zoned WaterDependent-Industrial. The property to the west is zoned residential but much of the shoreline is presently developed with non-residential uses of a water-dependent industrial nature, including three other marinas. The WD-I zoning regulations undertake to mitigate offsite impacts and include a number of zone-specific performance standards designed to control pollution, noise and lighting impacts, waste storage and disposal, air quality emissions, ground and soil contamination, outdoor storage and trash disposal. The Kitsap County Health District did not comment on either the CPA or rezone applications for the McNabb property.

Parcel A is directly south of Mr. McNabb's two existing Water Dependent-Industrial properties that are currently developed with the marina and its associated facilities. Changing the land use designation for this parcel from Residential to Water Dependent-Industrial would allow for an orderly extension of the existing marina and boatyard. In addition, Parcel A is no longer an appropriate or attractive location for single-family residential development due to its adjacency to an existing water-dependent industrial use.

Parcel B is located west of the currently developed Water-Dependent Industrial property with which it shares about 200 feet of upland boundary. In addition to a caretaker and office unit accessory to the marina facilities, nearly half of the marina boat slips lie within the tidelands extension of Parcel B. Changing the zoning designation from Residential to Water Dependent-Industrial on Parcel B would accommodate a further upland expansion of the existing marina and boatyard facilities from the adjacent parcel even if no new shoreline development were contemplated.

- 2. The site-specific rezone is warranted because of changed circumstances and the proposed designation is appropriate for reasonable development of the subject property, or because of a need for additional property in the proposed zone, and the proposed designation is appropriate for reasonable development of the subject property;*

The site-specific rezone is appropriate for the property because it would allow for normal expansion of the current marina and boatyard operations, bringing the zoning into conformance with the land use permits and site plan approved by Kitsap County in 1981 and recognized as valid by the City. The changed circumstance of greatest importance is that, after many years of controversy, the applicant and City have resolved most of the disputed issues concerning the regulatory framework applicable to this site. This process has been aided by recent surveys of the applicant's parcels that have corrected longstanding confusion as to the precise locations of existing site development.

- 3. The subject property is suitable for development in general conformance with zoning standards under the proposed zoning designation;*

The McNabb property has been approved for water-dependent commercial development since 1981 and its Eagle Harbor location is suitable for such use. The site's overall existing development pattern could be further extended under the proposed WD-I zoning consistent with required standards.

- 4. The property will be served by adequate public facilities including roads, water, fire protection, sewage disposal facilities and storm drainage facilities for the intensity to which it is being rezoned;*

The McNabb parcels lie outside the City's water and sewer service area and are currently served by a Class 1 private well and an on-site septic system. The property is accessed by Eagle Harbor Drive. As noted by the City's Development Engineer, facilities will be evaluated for adequacy when a specific development proposal is submitted. No obvious infrastructure deficiencies have been identified. The Health District offered no comments on the rezone application.

- 5. The site-specific rezone is in accord with the comprehensive plan;*

In general policy terms, this rezone application is consistent with the vision stated in the City's Comprehensive Plan in that it promotes the continuation of a working waterfront and the expansion of an existing facility, rather than creation of new facilities at a commercially undeveloped location. As such, it is consistent with Goal 6 of the Land Use Element of the Comprehensive Plan, which identifies the purpose of the Water Dependent-Industrial District as the continuation of water-dependent industrial uses so that the Island's remaining working waterfront can be preserved. Further, Policy W 6.5 states in part that expansion of existing facilities should be encouraged over the addition of new facilities. Bainbridge Island has an active boating community but extensive stretches of high-bank and erosional shorelines where private single-dock development is either infeasible or expensive and environmentally impactful. It is anticipated that the Island will have a continued, and indeed growing, need for marina and boatyard facilities.

In the immediate context, concurrent approval by the City Council of the McNabb Comprehensive Plan map amendment applications constitute a necessary predicate for a finding of consistency. Logically, the Comprehensive Plan amendments precede the rezone approval. The rezone cannot be granted without the Plan changes. Thus, as will be discussed below in the Conclusions section, the terms of the rezone must conform to the terms of the Plan amendment, not the other way around. The finding of consistency with the Comprehensive Plan presupposes Council approval of the Plan amendments and a harmonious relationship between the two actions.

- 6. The site-specific rezone complies with all other applicable criteria and standards of the city;*

Future uses consistent with the 1981 Kitsap County permits and approved site plans are authorized for the McNabb parcels. Specific proposals will need to comply with the current development standards contained in the Bainbridge Island Municipal Code.

- 7. The site-specific rezone would not devalue surrounding or nearby property;*

The McNabb parcels are bounded on the east by City parks property. Properties immediately to the

west are zoned residential but in actuality developed with marina facilities similar to and compatible with current development on the McNabb property, as well as its anticipated future expansion.

8. *The site-specific rezone will not result in an adverse environmental consequence.*

A Final Environmental Impact Statement for the Kitsap County applications issued in August, 1981, provided environmental review of the impacts of full development of the marina and boatyard as proposed and remains valid for those impacts reviewed. Approval of the current rezone application would authorize build-out of the 1981 proposal. Additional environmental review would be required for future WD-I development applications proposing impacts beyond the scope of the 1981 permits.

CONCLUSIONS

1. The Hearing Examiner has jurisdiction over this rezone proceeding for purposes of making a recommendation to the City Council. Public notice hearing requirements have been met.
2. As documented within the findings above, the requirements stated at BIMC 2.16.140.H for rezone approval are rather easily met by the McNabb application, provided questions of underlying Comprehensive Plan consistency are addressed. Review of the McNabb rezone request apart from the need to reconcile the various regulatory regimes affecting the property raised no serious issues. Boatyard and marina uses have been authorized on this property since 1981 and its actual development pattern is consistent with these earlier approvals. Existing uses are harmonious with the proposed Water Dependent-Industrial zoning designation and in conflict with the current R-2 Residential designation. As the attorney for the applicants related in his August 22, 2013, letter, "All my clients are seeking is to have the zoning match the uses that are allowed by the land use approvals issued by Kitsap County, which the City of Bainbridge Island concedes are in full force and effect."
3. The problems posed by this rezone application thus arise entirely from its broader regulatory context. BIMC 2.16.140.H(5) predicates the rezone approval upon a finding that the "site-specific rezone is in accord with the comprehensive plan." Since the current Comprehensive Plan designation for the subject property is Open Space Residential-2 (OSR-2), approval of the rezone presupposes concurrent (or prior) amendment of the Plan from a residential to the Water Dependent-Industrial designation in order for the consistency requirement of BIMC 2.16.140.H(5) to be met. And, in a general sense, this process is indeed going forward as required: CPA 13220B is a concurrent Comprehensive Plan amendment request to effect a WD-I designation on the McNabb parcels.
4. But the devil is in the details. The proposal to rezone Parcel A presents no obstacles to approval because it involves an entirely upland property; the Planning Commission has recommended unconditionally that Parcel A be redesignated to WD-I in the Comprehensive Plan. Parcel B, however, also possesses some 200 feet of Eagle Harbor shoreline plus associated tidelands. This Parcel B shoreline area also lies just east of the mouth of Taylor Creek. On the City's existing (pre-Update) shoreline map, while the shoreline immediately east of Parcel B is designated Urban and further west is Semi-rural, the mouth of Taylor Creek (including the Parcel B frontage) is currently designated Natural. In the City's SMP Update presently under review by DOE, the area at the mouth of Taylor Creek has been recommended for a Shoreline Residential Conservancy designation. But neither the old Natural nor the new Shoreline Residential Conservancy designations support marina and boatyard development.
5. In response to this potential conflict between zoning and shoreline use designations, the

Planning Commission accepted the staff recommendation to make approval of the change in Parcel B's Comprehensive Plan designation to WD-I conditional on first obtaining from DOE a change in the adjacent shoreline designation to Urban. Since the City's SMA Update presently before DOE proposes a residential shoreline designation for Parcel B, the effect of the Planning Commission condition is to require the applicant to convince DOE through the public comment process to reject the City's own officially preferred designation – a daunting task any way you slice it. Hence the applicant's attempt to obtain through the instant rezone an approval unburdened by the recommended disabling contingency.

6. Whatever the ultimate merits of designating the Parcel B shoreline as Urban or Natural (or something in between), it seems clear that a rezone approval that creates an inconsistency between the zoning and Comprehensive Plan designations would cause more problems than it would solve. The zoning and Plan designations need to be harmonious. Under Washington's land use scheme the Plan designation is primary, and the zoning implements the Plan. It is not the function of a rezone approval to leverage a Plan change, no matter how desirable that change may seem. Thus the conditions of rezone approval must not conflict with parallel conditions placed on the concurrent Plan amendment.

7. Having noted that critical limitation, there nonetheless may be more flexible and less drastic ways to resolve the problems attendant to potential regulatory inconsistencies affecting a single piece of property. First, a conditional rezone need not adopt the specific substantive requirements recommended by the Planning Commission for placement on the concurrent Plan amendment. It is sufficient simply to require the rezone to be activated by the same set of contingencies imposed on the Plan amendment – whatever such contingencies ultimately may turn out to be. This approach recognizes that the City Council Plan amendment approval could involve revision of the Planning Commission recommendation.

8. In reviewing the Planning Commission recommendation on the proposed CPA 13220B Comprehensive Plan amendment, the City Council might wish to take into account the fact that additional marina and boatyard development can occur on Parcel B without further construction on the shoreline itself. This is because after approval of the Parcel A rezone the entire eastern flank of Parcel B will lie adjacent to McNabb properties zoned WD-I. Marina and boatyard development to the east could be extended onto upland portions of Parcel B without triggering a requirement for a shoreline permit. But the absolute terms of the Planning Commission recommended condition preclude this kind of unconflicted upland marina and boatyard development from taking place because the condition requires all of Parcel B to remain in residential zoning until the shoreline designation is changed.

9. A more targeted solution consistent with the facts on the ground might involve the following: approval of the immediate Comprehensive Plan and zoning redesignation of Parcel B to WD-I subject to a condition that no shoreline permit applications will be processed or approved until the shoreline designation is changed to Urban. This would avoid the potential conflicts between shoreline and zoning permitted uses that are of concern to the Planning Commission without unnecessarily tying up the whole parcel in the process.

In closing, it is important to emphasize that the foregoing scenario for altering the proposed Plan amendment condition merely offers a friendly suggestion to help untangle a regulatory snarl that has plagued Island residents for more than thirty years. The Hearing Examiner has no jurisdiction regarding the Comprehensive Plan amendment process, and this suggestion cannot and does not comprise part of the formal rezone recommendation.

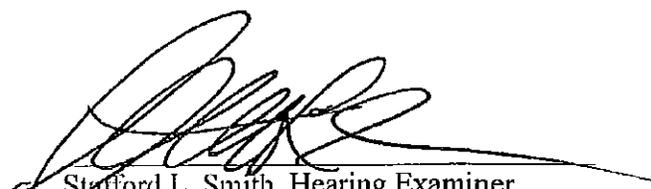
RECOMMENDED DECISION

The Hearing Examiner recommends that the Bainbridge Island City Council APPROVE the McNabb Site-Specific Rezone (file no. REZ 13220), subject to the following conditions precedent:

For Parcel A: Water Dependent-Industrial (WD-I) zoning shall become effective immediately upon City Council approval of Comprehensive Plan amendment CPA 13220B.

For Parcel B: Water Dependent-Industrial (WD-I) zoning shall become effective upon City Council approval of Comprehensive Plan amendment CPA 13220B and satisfaction of, or subject to, any contingencies and conditions stated therein limiting or modifying such approval.

Recommended September 23, 2013.



Stafford L. Smith, Hearing Examiner
City of Bainbridge Island

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

EXHIBIT LIST

McNabb CPA 13220B & REZ 13220

Staff Contact:
Jennifer Sutton, AICP
Special Project Manager

Public Hearing: 08/09/2013 at 9:00 am
Location: City of Bainbridge Island
City Hall Council Chamber

Hearing Examiner: Stafford Smith

EXHIBIT NO.	DOCUMENT DESCRIPTION	DATE	NO. OF PAGES
1	Staff Report to the City of Bainbridge Island Planning Commission Re CPA 13220B (with Attachments A – G)	05/23/2013	10
	A. CPA Application for CPA 13320B	02/13/2013 (received)	5
	B. CPA Application Aerial Photo & Map	02/13/2013 (received)	3
	C. Determination of Nonsignificance and SEPA Checklist (with Affidavit of Notification)	03/29/2013 (dated)	34
	D. Comparison of Comprehensive Plan Goals and Policies	(undated)	4
	E. CPA Courtesy Notice	03/29/2013 (published)	2
	F. Public Comment	04 & 05/2013	2
	G. Kitsap County Health District Comment	04/29/2013	1
2	COBI Development Engineer Project Review	05/24/2013	1
3	Public Comment Emails	03 – 08/2013	19
4	Application and SEPA Checklist – Re REZ 13220 (with Attachments A – E)	02/13/2013 (received)	28
	A. Site Map	02/13/2013	2
	B. Existing and Proposed Vicinity Maps	02/13/2013	2
	C. Memorandum to Mayor West re SSDP #346	06/16/1994 (dated)	28
	D. Resolution 366-1981	11/16/1981 (dated)	11
	E. Notice to Title	08/17/2010	7
5	Planning Commission Minutes	05/23/2013 & 06/27/2013	11
6	Certification of Distribution and Posting of Notice and Signs	07/24/2013 & 07/25/2013	7
7	Settlement Agreement (with attached Exhibits 1 – 6)	01/31/2013 (dated)	
8	Memo to Planning Commission from Director Cook re CPA Review	05/09/2013	21
9	ADA Site Plan	01/2013 (dated)	2
10	Stipulation and Agreement to Resolve Certain Issues on Appeal	10/22/2007 (dated)	44
11	Notice to Title of Administrative Zoning	02/07/2013 (filed)	9
12	Letter to Jack Johnson from Dennis Reynolds re Marina (with Exhibits)	05/27/2011 (dated)	120
13	COBI Comprehensive Plan Land Use Map	09/01/1994 & 03/20/1997	2
14	Two Photographs submitted by citizen	08/09/2013 (submitted)	1
15	Staff Report	08/09/2013	11
16	Memorandum to Hearing Examiner Smith from City Attorney Haney Re Zoning Designation of Property	08/15/2013	3



Theresa Rice

From: Brooke Drury [surfdrury@msn.com]
Sent: Wednesday, April 10, 2013 9:52 AM
To: PCD
Subject: McNabb Comprehensive Plan Amendment Proposal CPA13220B

Dear Ms. Cook:

I am writing to register my concern over what Mr. McNabb is trying to do with his properties on Eagle Harbor Drive, which we have known since our arrival in Eagledale in 2001 as not much more than a dump for old cars, transformers, jersey barriers and other large scale, industrial detritus. I understand that current use of this property, including the multi-story building that also lies on the property, is considered to be non-conforming.

As a neighbor, I am concerned that by applying for this amendment to the CPA, Mr. McNabb is simply trying to bring his current use of the property and the structures thereon into conformity with COBI code. This seems counter to the interests of my neighbors and myself as nearby property owners. (What else might Mr. McNabb be able to do with his property once his amendment request has been granted?) Also, if the current uses of the property are indeed non-conforming, granting this application would seem to be a very bad precedent -- very much counter to the letter and spirit of the laws and policies so painstakingly put together in the form our our Comprehensive Plan.

As Islanders, we trust you, the Department of Planning and Community Development and the COBI to make sure that we and our neighborhood and property values are protected from non-conforming uses of property.

While I don't feel I know enough to support or oppose this proposal, I am very much concerned about the implications of it being approved. I urge you and your colleagues to ask the necessary and difficult but important questions of Mr. McNabb regarding his proposal as well as the non-conforming uses of his parcels on Eagle Harbor Drive. I would also like to be kept informed of any future developments regarding this application.

Thank you.

Sincerely,

Brooke M. Drury

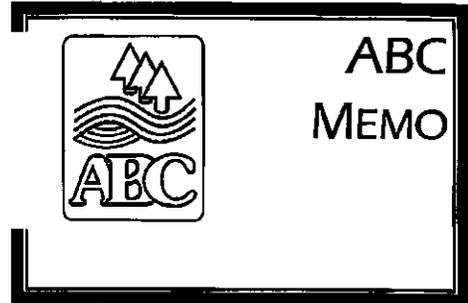
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206-595-3373 (m)
surfdrury@msn.com
LinkedIn: Brooke (Martic) Drury

To: Jennifer Sutton, Senior Planner;
Kathy Cook, Planning Director
City of Bainbridge Island

From: Charles E. Schmid, Secretary/Treasurer
Association of Bainbridge Communities
PO Box 10999
Bainbridge Island, WA 98110

Subject: 1) DNS for CPA 16146 & REZ16146
2) DNS for CPA 13220B & 13220

Date: 16 April 2012



References: 1) DNS Lynwood Center Triangle Comp Plan Amendment and Rezone Application (CPA 16146 & REZ16146)
2) DNS Bainbridge Island Marina and Boatyard Comprehensive Plan Amendment and Rezone Application (DNS for CPA 13220B & 13220)
3) Bainbridge Island Comprehensive Plan ("Comp Plan" 1994)
4) Bainbridge Island Shoreline Master Plan ("SMP")1996

Observations Applicable to both Applications

If approved both these two applications will have significant impact on the environment. My first concern is that notes by staff on the SEPA checkoff lists don't adequately state the potential impacts, often employing the words "non-project" to not cover potential impacts. While I know this approach is used for ordinances and other legislation covering multiple parcels around the Island with a large variety of conditions, these two applications are for small pieces of contiguous properties, each with one owner and environmental conditions. I would recommend that the City attorney be consulted to verify "non-project" is correctly applied to these two situations. That aside, these changes to the Comp Plan, Zoning Ordinance and SMP will affect the environment. Please make sure the B.I. Environment Technical Advisory Committee (ETAC) receives a copy of these two applications for review. Finally related requirements from past applications MUST be entered into the file, if not done already. Have the requirements for restoring the Lynwood Triangle site been completed and approved? Have you located the early reasons for designating the Boatyard Natural, which I recall were provided by the Army Corp of Engineers and a Shoreline permit?

1) DNS Lynwood Center Triangle Comp Plan Amendment and Rezone Application (CPA 16146 & REZ16146)

a) High Aquifer Recharge Area. Figure 5 of the Comp Plan Water Resource Element shows that this property lies in the Highly Susceptible Recharge Area. This area is one of the sandier places on the Island, and has been so designated since water flows easily down through sand. The Comp Plan has numerous references to protecting our water sources, mostly in the Water Resources Element of the Comp Plan. On Page 3 of that document it states "In the development of policies related to the management of our Island water resources, it is important to understand the links between water resources and land use and links between water quality, quantity and growth. Most water quality problems are caused by the way land is used." This rezone will have impact on the way it is used, and must be considered BEFORE a rezone is considered.

b) Other LM Land Available. The development of the Comp Plan required compromise to allow additional land to be zoned LM. This is covered in LM 2 of the Land Use Element of the Comp Plan. Discussion of the 35 acres north of Day Road and west of SR 35 describes the requirements for developing these parcels which were part of the compromise. There is ample land available for LM at this site. No new rezones are required for LM.

c) Location of LM. Goal 3 of the LM Land Use Element states: "Discourage the inappropriate designation of isolated Light Manufacturing Districts." This was inserted in part to prevent sprawl of LM zones. The Comp Plan and Zoning ordinance recognized there were isolated parcels which did not fit into this goal and needed to be "grandfathered." The LM zone north of the applicants site was "contract" zoned LM when it was a furniture refinishing shop at the time the City annexed the entire island in 1991. Later the "contract" label removed. It was an isolated LM zone as is this application Hence this application fails to meet Goal 3.

d) Considerations for LM. The Economic Element E2.5 provides many criteria on which LM designations apply, including: 1) Proximity to existing LM, 2) Reasonable proximity to SR 305, and 3) availability of water and sewer, and non-point sewer pollution. These are not met at the current location of the application.

2) DNS Bainbridge Island Marina and Boatyard Comprehensive Plan Amendment and Rezone Application (DNS for CPA 13220B & 13220)

The staff notes under Item 10 of the SEPA checklist that : "Applicant is seeking change in shoreline designation for tax parcel (-004) from Natural to Urban. Must be approved by DOE as part of City Shoreline Master Plan Program Update." However the cover page only describes the applicant only requests zoning and Comp Plan changes from OSR-2 Residential to Water Dependent Industrial (WD-I). If this parcel was designated Natural, then there must be definite reasons for this which must be brought up. (I haven't reviewed the files with 1981 documents yet. Were the Shoreline permits and Army Corp of Engineer documents included?) The map indicates (it is not very clear) that one parcel abuts an inlet. Allowing heavier development at this site is bound to affect fish and wildlife.

CONCLUSION

Given the environmental situations for both these applications (LM in aquifer recharge and change from Natural to Urban for a boatyard) I frankly find it hard to understand the City's conclusion for each that: "The City of Bainbridge Island (lead agency) has determined that the proposal does not have a probable significant impact on the environment. Please reconsider your determination.

CHARLES E. SCHMID

Charles Schmid

cc: Dale Spoor, President ABC



ENTERED

CPA 13220B

Theresa Rice

From: Sanjay Pal [sanjaypal@gmail.com]
Sent: Friday, August 09, 2013 4:44 AM
To: Deborah Rose
Cc: PCD; Krista Pal; Art & Mary Mirkovich
Subject: Re: McNabb CPA 13220B & REZ 13220
Attachments: DSC_3585.jpg; Scan.pdf

Dear Mr. Smith,

I would like to add one more picture to the letter and picture I had sent yesterday. The additional photo serves to further reinforce my assertion that the boat house has created undesirable views at the expense of other property owners.

A question was raised as to whether my written comments and photos would be officially received by your office for consideration into this matter and entered into the public record. The attached notice for the public hearing makes no mention of any time period in advance of when written comments can be submitted, but rather simply says written comments may be submitted prior to the hearing date.

I sincerely appreciate your time and consideration in this matter.

Best regards,

Sanjay Pal
310 701 4329

On Thu, Aug 8, 2013 at 4:51 PM, Sanjay Pal <sanjaypal@gmail.com> wrote:

Dear Mr. Stafford Smith,

I do not support the Comprehensive Plan Amendment application submitted by Mr. McNabb. Mr. McNabb's current operations have already served to de-value my property (5650 Ward Avenue NE) by obstructing desirable views, by creating views which are not desirable, and by the lack of care given to the parcels currently under consideration for re-zoning in the Comprehensive Plan Amendment. To that end any further development will only serve to exacerbate the problem at significant cost to myself and other property owners in the area. (please reference attached picture)

Mr. McNabb's boat house has, for all intents and purposes, usurped the view of Eagle Harbor that was a very valuable feature of my property and of others in the area. As well, in addition to the loss of an item of value we have been shackled with a view of a large building strewn with mechanical equipment around it and parcels of land (i.e. the parcels for which the application is being made) which are treated like a landfill. Our neighborhood is a residential one, and primary consideration should be given to that fact, which is a segue for why I am very concerned by the logic and analysis presented by the Staff Report in support of approving the application. Below are questions and concerns I have regarding Staff Report which will also serve to further register my strong belief that this application should not be approved:

Page #4 of the Staff Report

1. In the second paragraph, the Staff asserts that the ***“Expansion of the Bainbridge Marina is consistent with the overall Goal for the Water-Dependent Industrial District. It should also be noted that the current marina development is in character with the zoning and development in this section of the south shore of Eagle Harbor.”***

The comment is made with no basis in fact and is followed up with an especially frail argument that since other components of the south shore are zoned similarly, then it must be logical that any expansion of the current Bainbridge Marina must follow. The Marina, which is actually an industrial repair facility, is surrounded by residential homes, a nationally recognized monument, a public park and other marina's which primarily serve recreational needs. To rely on purely zoning labels, such as Water-Dependent Industrial, to conclude that expansion is warranted without peeling back the onion as to what exactly is going on in this area is a disservice to the process and results in erroneous conclusions. Said differently, just because the zoning is similar, it cannot be concluded that the “character” of Bainbridge Marina is consistent with this section of the south shore. Again, the Marina is surrounded by residential homes, a nationally recognized monument, a public park and other marina's which primarily serve recreational needs, while Bainbridge Marina is operating a boat repair operation on an industrial scale. Perhaps I have an overdeveloped sense of what is the character of my property and the neighborhood at large, but I welcome the chance to understand how parcels of land strewn with industrial debris and a very large industrial boathouse with industrial equipment is similar in character.

Furthermore Goal 6 of the Land Use Element of the Comprehensive Plan calls for the “... continuation of water-dependent industrial uses on Bainbridge Island in order to preserve elements of a working waterfront”. Did the Staff analyze the question of whether the lack of re-zoning Mr. McNabb's parcels is inhibiting the continuation of operations at the Bainbridge Marina? Is there a risk to the business if this application is not approved? Goal 6 says nothing about promoting growth of such businesses, and though Goal 6 may provide a window in support of the Bainbridge Marina's existence it definitely does not support growth for growth's sake. Consideration needs to be given to the shared costs that the adjacent residences are bearing, which in essence serves to subsidize Bainbridge Marina's existence.

2. In the third paragraph on page #4, the Staff concludes that **“Parcel A does not seem to be an appropriate or attractive location for single-family residential development, given its adjacency to an existing water-dependent industrial use. Therefore, staff is recommending that the land use designation for Parcel A be changed to Water-Dependent Industrial.”** Under this line of reasoning, the staff is acknowledging what a detriment the Bainbridge Marina's operations are to the attractiveness of residential property, but at the same time is using this conclusion to support further development? Was any thought given to the fact that the development of Parcel A will serve to transfer and expand the scope of Parcel A's affliction to the surrounding area? The staff is essentially making a circular, untenable argument that any land adjacent to an industrial area is not attractive and thus should be allowed to be zoned as industrial. The Staff goes on to say that they considered “surrounding uses” and Comprehensive Plan policies as detailed in Attachment D to buttress their conclusion. However, I fail to see how they can come to the conclusion to recommend approval if they actually did make such consideration and did follow the letter and spirit of the Comprehensive Plan. The Bainbridge Marina is not consistent with the land-use of the area within it operates and has a negative effect on the attractiveness of near-by residences.

Regarding attachment D, I would like to understand in greater detail how the following Comprehensive Plan policies are in support of Mr. McNabb's application:

- How does this application foster the diversity of the residents of the island? I would think maintaining and increasing the supply of land available for residential development would go much farther in fostering development of diversity of residents as opposed to supporting further development of an industrial-scale boat repair business.
- Regarding the policy that costs and benefits to property owners should be considered in making land use decisions, was this accomplished? Has any thought or analysis been given to the effect on property values in the surrounding area with the proposed re-zone? I urge you and city officials to consider the fact that the largest economic engine, by far, driving the sustainable development on Bainbridge Island is residential property ownership and thus industrial development in a residential and recreational neighborhood by definition comes at significant cost to both the nearby residents and the island as a whole. This is an economic fact and its analysis should not be taken lightly.
- How does McNabb rezone support development that is based on the principle that the island's environmental resources are finite and must be maintained at a sustainable level?
- Regarding Goal #6 how does not approving the McNabb rezone not support the continuation and preservation of a working waterfront in Urban shoreline areas?
- How does the McNabb rezone retain and enhance an economy that reinforces Bainbridge Island's diverse character and capitalizes on its assets, including: history and heritage, high educational attainment, diverse skills, artistic creativity, rural quality, agricultural base, natural resources, maritime orientation, and proximity to the metropolitan area. How does not approving the McNabb rezone, not achieve this as well?

3. Regarding the Bainbridge Island Municipal Code Review, I would like to understand in greater detail how the Staff came to their conclusions.

C. 2. How does the expansion allow continuation of a working waterfront? Is the current business unable to perform without the expansion?

D. 3. How does the expansion preserve a working waterfront? Again, is the current business faltering or suffering hardship without the expansion?

Additional questions and concerns include:

- The re-zoning of such property will invariably cause more commercial truck traffic on Eagle Harbor Drive. Has a traffic impact analysis been performed?

- Is Mr. McNabb's current boat house in compliance with height standards of the BIMC?

At the end of the day, this application serves to benefit one party at the expense of many and I respectfully ask that the Hearing Examiner not recommend approval to the City Council. Thank you for your time and consideration.

Sincerely,

Sanjay Pal

5650 Ward Avenue NE

Bainbridge Island, WA 98110

310 701 4329

**NOTICE OF PUBLIC HEARING
CITY OF BAINBRIDGE ISLAND
HEARING EXAMINER**

McNabb CPA 13220B & REZ 13220

YOU ARE HEREBY NOTIFIED that the City of Bainbridge Island Hearing Examiner will conduct a PUBLIC HEARING at 9:00 a.m. on Friday, August 9, 2013, in the Council Chamber, City Hall, 280 Madison Avenue N, Bainbridge Island, Washington, pursuant to BIMC Section 2.16.100, Section 2.16.140 and Section 2.16.190, to consider a Comprehensive Plan Amendment application requesting an amendment to the Land Use Map of the Comprehensive Plan to change the land use designation from Open Space Residential, Two Units per Acre (OSR-2) to Water Dependent Industrial (WD-I) and a concurrent Rezone application requesting an amendment to the City's Official Zoning Map for the same two parcels from Two Units per Acre (R-2) to Water Dependent Industrial (WD-I).

Owner: Darrell McNabb

Location of Proposal: City of Bainbridge Island, Tax Parcel Nos. 352502-2-004-2006 & 352502-2-003-2007 (aggregated with Lots 001 and 002 under Tax Parcel No 352502-2-086-2007); 4250 and 4200 NE Eagle Harbor Drive.

YOU ARE INVITED to attend the hearing and make oral and written comments. The Hearing Examiner has discretion to limit testimony to relevant, non-repetitive comments and to set time limits. If you are unable to attend, written comments, photographs or other exhibits on the application may be submitted prior to the hearing date. All such submissions should state the specific case and be directed to the Hearing Examiner's Clerk at City Hall.

The Mitigated Determination of Nonsignificance (MDNS), filed under the State Environmental Policies Act (SEPA), was issued on March 29, 2013. The appeal period ended on April 19, 2013.

QUESTIONS may be directed to and the file accessed from Jennifer Sutton, AICP, Special Project Planner, Department of Planning and Community Development at (206)780-3772.
Email: pcd@bainbridgewa.gov

CITY OF BAINBRIDGE ISLAND
STAFFORD SMITH
HEARING EXAMINER

Date of Publication: July 19, 2013

drose bairn wa .50) Mr. Stafford Smith
CATHY - Approval -
- (South end)
- west
(Urban)





McNabb

Theresa Rice

From: Kathy Cook
Sent: Friday, September 13, 2013 9:41 AM
To: Theresa Rice
Subject: FW: Bainbridge Island Marina
Attachments: HE Stafford re BIM Rezone 082213.pdf

This should go in the McNabb CPA/rezone file. Thanks,

Kathy Cook
Director, Planning and Community Development
City of Bainbridge Island
280 Madison Avenue No.
Bainbridge Island, WA. 98110
206-842-2552

From: Christy Reynolds [<mailto:christy@ddrlaw.com>]
Sent: Friday, August 23, 2013 11:56 AM
To: Deborah Rose
Cc: Kathy Cook; jhaney@omwlaw.com; Laing, Aaron M.; 'Dennis D. Reynolds Law Office'; Rob Palmer; karen@ddrlaw.com
Subject: Bainbridge Island Marina

By Email (drose@bainbridgewa.gov) and Hand Delivery
Stafford Smith, Hearing Examiner
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 989110

Re: Bainbridge Island Marina Re-Zone Matter

Dear Examiner Smith: Attached please find Mr. Reynolds' letter on behalf of Bainbridge Island Marina and Darrell McNabb in reply to the City of Bainbridge Island's memorandum submitted to the Examiner dated August 15, 2013. The original is being hand delivered to the Hearing Examiner's Office today. Thank you.

Christy
Christy Reynolds, Legal Assistant
Dennis D. Reynolds Law Office
200 Winslow Way West, #380
Bainbridge Island, WA 98110
(206) 780-6777, tel / (206) 780-6865, fax

This message and any attachments hereto are intended only for use by the addressee(s) named herein. It may contain confidential, proprietary or legally privileged information. If the reader of this message is not the intended recipient, you are hereby notified that any copying, distribution or dissemination of this communication, and any attachments hereto, is strictly prohibited. If you have received this communication in error, please immediately notify sender and permanently delete the original message from your computer and delete any copy or printout thereof. We reserve the right to monitor all email communications. Although we believe this email and any attachments are virus-free, we do not guarantee that it is virus-free, and we accept no liability for any loss or damage arising from its use. Thank you for your courtesy and cooperation



Dennis D. Reynolds Law Office

200 Winslow Way W, Suite 380 Bainbridge Island, WA 98110

Land Use • Fisheries Law • Environmental Law • Business Law • Indian Law • Real Estate
206.780.6777 206.780.6865 fax www.ddrlaw.com

August 22, 2013

By Email (drose@bainbridgewa.gov) and Hand Delivery

Stafford Smith, Hearing Examiner

City of Bainbridge Island

280 Madison Avenue North

Bainbridge Island, WA 989110

Re: Bainbridge Island Marina Re-Zone Matter

Dear Examiner Smith:

Please treat this letter as the reply to the City of Bainbridge Island's memorandum submitted to the Examiner dated August 15, 2013 ("the Memorandum"). The Memorandum is assigned Hearing Exhibit No. 16.

First, Bainbridge Island Marina and Mr. McNabb object to consideration of the Memorandum to the extent that the City Attorney, Mr. James Haney, is providing a "legal opinion" to the Examiner.

Mr. Haney has advised the City on zoning and other issues relating to Bainbridge Island Marina and the McNabb property. It is respectfully submitted that if the Memorandum is treated as a legal opinion, instead of an advocacy document, then the Examiner must request and obtain an opinion from independent counsel. In so stating, my clients (and my law firm) do not impugn Mr. Haney's ethics or integrity in the slightest.

Second, the City states in its "Zoning Letter" that all of the property used by Bainbridge Marina and owned by Mr. and Mrs. McNabb is allowed "WD-I" uses. *See* Hearing Exhibit 11. *See also* Hearing Exhibit 7, attached Exhibit 6. The proposed rezone if granted simply affirms the existing use of the McNabb parcel.

All my clients are seeking is to have the zoning match the uses that are allowed by the land use approvals issued by Kitsap County, which the City of Bainbridge Island concedes are in full force and effect. A rezone would be unnecessary had Kitsap County not attached the wrong property description and tax parcel map to the unclassified use permit it issued.

Third, with due respect, the Memorandum misses the point that the McNabbs and Bainbridge Marina are trying to change the planning level designations to fit the long-established permits and uses of the parcel. The question before the Examiner is whether the proposed rezone fits the criteria, not broad considerations of "consistency." Indeed, consistency is relevant only in the context of the Shoreline Master Program update, a matter not before the Examiner.

The criteria for a rezone states:

H. Decision Criteria. The following criteria shall be considered in any review for a site-specific rezone in order to establish a recommendation to approve, disapprove or approve with conditions:

1. The site-specific rezone will not be materially detrimental to the public welfare or injurious to the property or improvements in the immediate vicinity and zone in which the property is located; and
2. The site-specific rezone is warranted because of changed circumstances and the proposed designation is appropriate for reasonable development of the subject property, or because of a need for additional property in the proposed zone, and the proposed designation is appropriate for reasonable development of the subject property; and
3. The subject property is suitable for development in general conformance with zoning standards under the proposed zoning designation; and
4. The property will be served by adequate public facilities including roads, water, fire protection, sewage disposal facilities and storm drainage facilities for the intensity to which it is being rezoned; and
5. The site-specific rezone is in accord with the comprehensive plan; and
6. The site-specific rezone complies with all other applicable criteria and standards of the city; and
7. The site-specific rezone would not devalue surrounding or nearby property; and
8. The site-specific rezone will not result in an adverse environmental consequence.

BIMC § 2.16.140(H).

There is no requirement for a site-specific rezone that the subject parcel needs to be in accord with the Shoreline Management Act designations, either existing or proposed. As the City's Shoreline Master Program designations are currently in flux, it is respectfully suggested that the City avoid compounding (or confusing) the issue until the SMP is approved in a final form by the State of Washington Department of Ecology.

The yet adopted Draft SMP would require keeping all parcels within the marina as "Urban Shoreline Designation." Thus, the Examiner should recommend approval of the rezone to avoid perpetuating the issue of the appropriate "to be adopted" shoreline designation.

The rezone criteria specifically require accordance with the Comprehensive Plan. The uncontroverted record is that the requested WD-I zoning for both "Parcel A" and "Parcel B" is in accord with the City's current Comprehensive Plan. *See* Hearing Exhibit 13 (COBI Comprehensive Plan Land Use Map, 9/1/1994), assigning a WD-I land use designation under the Comprehensive Plan.

The City's Memorandum addresses "consistency," emphasizing the Growth Management Act. However, the GMA also encourages economic development, including "the retention and expansion of existing businesses." *See* RCW 36.70A.020(5).

The City's approach would leave a portion of the McNabb property potentially nonconforming. This unfavorable status must be avoided since the City concedes that the uses of the McNabb property are "conforming." *See* City Zoning Letter Hearing Exhibit 7, p.4. In addition, the GMA encourages retention and development of existing businesses, and a nonconforming status is inconsistent with the stated GMA goal.

Bainbridge Island Marina and the McNabbs urge the Examiner to enter findings along the lines set out below, explaining (1) the history of the property, (2) the City's recognition of WD-I uses as set out in the approved site plan, and (3) that there is a vested entitlement to develop and redevelop the McNabb parcel:

- The McNabbs are owners of a certain real property located at 4200 Eagle Harbor Drive, City of Bainbridge Island, Kitsap County, Washington, 98110, Kitsap County aggregated tax parcel number 352502-2-086-2007 (352502-2-002-2008, 352502-2-001-2009, 352502-2-003-2007) and tax parcel number 352502-2-004-2006, comprising approximately 2.71 acres and including associated tidelands.
- The City of Bainbridge Island has entered into a stipulation dated October 22, 2007 (Hearing Exhibit 10) with Mr. and Mrs. McNabb and Bainbridge Island Marina that the following permits issued by Kitsap County are still in effect:
 - Conditional Use Permit No. 810924068 (issued November 16, 1981),
 - Unclassified Use Permit No. 810924038 (issued October 23, 1981),
 - Shoreline Substantial Development Permit No. 346 (issued November 23, 1981),
 - Shoreline Variance No. 830623251 (issued November 23, 1981),
 - Septic and Drainage Plans issued in 1989;

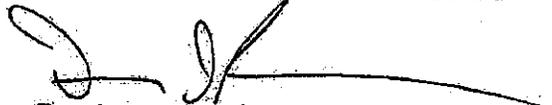
Stafford Smith
Bainbridge Island Hearing Examiner
August 22, 2013
Page 4

- Bainbridge Island Marina has also been issued State Hydraulic Code, Control No. B2-12200-03 (issued March 2, 1992, reissued February 1, 1994), and Shoreline Variance No. 830623251 (issued July 14, 1983).
- The City acknowledges the approved site plan for the entire McNabb parcel as transmitted to the City by Kitsap County on July 27, 1993. The City further agrees that the approved site plan allows WD-I uses on the entirety of the McNabb ownership and development and redevelopment of the McNabb property is consistent with the approved site plan.
- The land use approvals issued by Kitsap County created a vested entitlement to Bainbridge Island Marina and the McNabbs to develop, construct, operate and maintain a business known commonly as Bainbridge Island Boatyard, including the commercial marina/boatyard and accessory uses of the upland area for haul-out, repair, maintenance and storage of boats and associated parking to serve the stated use. The vested entitlement is broadly worded, and should be construed as such.

Thank you for your kind attention to these comments.

Very truly yours,

DENNIS D. REYNOLDS LAW OFFICE



Dennis D. Reynolds

cc: Kathy Cook (by email kcook@bainbridgewa.gov)
James Haney, City Attorney (by email jhaney@omw.com)
Aaron Laing (by email, alaing@schwabe.com)
Darrell McNabb (by email)

DDR/cr

Theresa Rice

From: Jennifer Sutton
Sent: Friday, April 19, 2013 8:22 AM
To: 'Charles Schmid'; Kathy Cook; PCD
Cc: drspoor@mindspring.com
Subject: RE: Comments on DNS for Lynwood Triangle and McNabb Boatyard.

Hi Charles, I don't understand your question about the Natural designation for the McNabb property, but Kathy is the lead staffer on that amendment, so perhaps you could send her an email or phone call clarifying your question. As a committee, ETAC won't be reviewing the comprehensive plan amendments (CPA's)- it isn't part of the role of the committee- I've pasted the link to the ETAC homepage below. The CPA's and rezone applications are discussed in SEPA as non-project actions because there is not any development (or project) proposal- we are just reviewing whether or not the Comp Plan Land Use Map and Official Zoning map designations should be changed for those properties.

http://www.ci.bainbridge-isl.wa.us/environmental_technical_advisory_committee.aspx

Hope that answers your questions.

Jennifer Sutton, AICP
Special Project Planner
Department of Planning & Community Development
City of Bainbridge Island
(206) 780-3772

 Please consider the environment before printing this email and any attachment. Thank you.

From: Charles Schmid [<mailto:ceschmid@att.net>]
Sent: Wednesday, April 17, 2013 11:05 AM
To: Jennifer Sutton; Kathy Cook
Cc: drspoor@mindspring.com
Subject: Re: Comments on DNS for Lynwood Triangle and McNabb Boatyard.

Jennifer -
Thanks for explaining this - and 1) I hope ETAC has received this, 2)
past recording of the Natural designation is available, and 3) whether or not
the "non-project" label to rezone of single parcels is proper.
Charles

From: "jsutton@bainbridgewa.gov" <jsutton@bainbridgewa.gov>
To: ceschmid@att.net; KCook@bainbridgewa.gov
Cc: drspoor@mindspring.com
Sent: Tue, April 16, 2013 3:34:32 PM
Subject: RE: Comments on DNS for Lynwood Triangle and McNabb Boatyard.

Hi Charles,
We have received your memorandum from ABC- it will be added to the official record of public comment for the Lynwood Triangle and McNabb comprehensive plan amendments/ rezones. The Planning Commission will take up the Comprehensive Plan Amendment applications at their May and June meetings- you will be reminded of the meetings by

email, since you submitted a written comment. Further questions about the Lynwood Triangle application may be directed to me, and questions regarding the McNabb application may be directed to Kathy Cook.

Jennifer Sutton, AICP
Planner
Department of Planning & Community Development
City of Bainbridge Island
(206) 780-3772

 Please consider the environment before printing this email and any attachment. Thank you.

-----Original Message-----

From: Charles Schmid [<mailto:ceschmid@att.net>]
Sent: Monday, April 15, 2013 4:00 PM
To: Jennifer Sutton; Kathy Cook
Cc: Dale; Charles Schmid
Subject: Comments on DNS for Lynwood Triangle and McNabb Boatyard.

Jennifer and Kathy -
I didn't get a chance to review the background material yet as I will be on travel when the deadline occurs. However I look forward to finding the background details as these have - as you will see in my memo - significant impacts on the environment.

I would appreciate it if you confirm receiving this memo.

Thanks

Charles

Charles Schmid



Theresa Rice

From: Jennifer Sutton
Sent: Wednesday, May 08, 2013 11:43 AM
To: 'Elise Wright'
Cc: Kathy Cook; PCD
Subject: McNabb CPA13220B
Attachments: mcnabb courtesy notice.pdf

Hi Elise,

Please see the attached notice which describes the McNabb Comprehensive Plan Amendment (CPA)/ Rezone application- there is a map/graphic on the second page. Mr. McNabb is requesting the CPA/ Rezone to change the two properties (outlined on the map by the dashed line) from Open Space Residential-2 (R-2) to Water Dependent Industrial (WD-I). McNabb owns two properties zoned WD-I located immediately north of the eastern property to be changed (west of Pritchard Park). One of those existing WD-I properties has his Marina business upon it.

The shoreline designation of the subject property is something different. Under the current Shoreline Master Program (SMP), Mr. McNabb's WD-I property is Urban and the shoreline property is requesting to change to WD-I is Natural. I'm not sure what his shoreline designation is under the proposed SMP update.

Kathy Cook is the staff person assigned to this CPA/ Rezone request, so if you have additional questions, she would be the best person to answer them.

Jennifer Sutton, AICP
Special Project Planner
Department of Planning & Community Development City of Bainbridge Island
(206) 780-3772

P Please consider the environment before printing this email and any attachment. Thank you.

-----Original Message-----

From: Elise Wright [<mailto:emtw46@gmail.com>]
Sent: Wednesday, May 08, 2013 6:56 AM
To: Jennifer Sutton
Subject: CPA 18573

Jennifer; I understand there are two parcels owned by Darrell and Vanee MacNabb for which they are seeking reclassification. Does this item include reclassification of the separate property parcel adjacent to his marina? (I believe it is currently zoned "Residential" and he is seeking to have it reclassified as "Urban".) Or does it include only the upper portion of his current marina parcel?

Thanks.
~ Elise Wright

Theresa Rice

From: Sanjay Pal [sanjaypal@gmail.com]
Sent: Friday, August 09, 2013 4:44 AM
To: Deborah Rose
Cc: PCD; Krista Pal; Art & Mary Mirkovich
Subject: Re: McNabb CPA 13220B & REZ 13220
Attachments: DSC_3585.jpg; Scan.pdf

Dear Mr. Smith,

I would like to add one more picture to the letter and picture I had sent yesterday. The additional photo serves to further reinforce my assertion that the boat house has created undesirable views at the expense of other property owners.

A question was raised as to whether my written comments and photos would be officially received by your office for consideration into this matter and entered into the public record. The attached notice for the public hearing makes no mention of any time period in advance of when written comments can be submitted, but rather simply says written comments may be submitted prior to the hearing date.

I sincerely appreciate your time and consideration in this matter.

Best regards,

Sanjay Pal
310 701 4329

On Thu, Aug 8, 2013 at 4:51 PM, Sanjay Pal <sanjaypal@gmail.com> wrote:

Dear Mr. Stafford Smith,

I do not support the Comprehensive Plan Amendment application submitted by Mr. McNabb. Mr. McNabb's current operations have already served to de-value my property (5650 Ward Avenue NE) by obstructing desirable views, by creating views which are not desirable, and by the lack of care given to the parcels currently under consideration for re-zoning in the Comprehensive Plan Amendment. To that end any further development will only serve to exacerbate the problem at significant cost to myself and other property owners in the area. **(please reference attached picture)**

Mr. McNabb's boat house has, for all intents and purposes, usurped the view of Eagle Harbor that was a very valuable feature of my property and of others in the area. As well, in addition to the loss of an item of value we have been shackled with a view of a large building strewn with mechanical equipment around it and parcels of land (i.e. the parcels for which the application is being made) which are treated like a landfill. Our neighborhood is a residential one, and primary consideration should be given to that fact, which is a segue for why I am very concerned by the logic and analysis presented by the Staff Report in support of approving the application. Below are questions and concerns I have regarding Staff Report which will also serve to further register my strong belief that this application should not be approved:

Page #4 of the Staff Report

1. In the second paragraph, the Staff asserts that the *“Expansion of the Bainbridge Marina is consistent with the overall Goal for the Water-Dependent Industrial District. It should also be noted that the current marina development is in character with the zoning and development in this section of the south shore of Eagle Harbor.*

The comment is made with no basis in fact and is followed up with an especially frail argument that since other components of the south shore are zoned similarly, then it must be logical that any expansion of the current Bainbridge Marina must follow. The Marina, which is actually an industrial repair facility, is surrounded by residential homes, a nationally recognized monument, a public park and other marina’s which primarily serve recreational needs. To rely on purely zoning labels, such as Water-Dependent Industrial, to conclude that expansion is warranted without peeling back the onion as to what exactly is going on in this area is a disservice to the process and results in erroneous conclusions. Said differently, just because the zoning is similar, it cannot be concluded that the “character” of Bainbridge Marina is consistent with this section of the south shore. Again, the Marina is surrounded by residential homes, a nationally recognized monument, a public park and other marina’s which primarily serve recreational needs, while Bainbridge Marina is operating a boat repair operation on an industrial scale. Perhaps I have an overdeveloped sense of what is the character of my property and the neighborhood at large, but I welcome the chance to understand how parcels of land strewn with industrial debris and a very large industrial boathouse with industrial equipment is similar in character.

Furthermore Goal 6 of the Land Use Element of the Comprehensive Plan calls for the “... **continuation** of water-dependent industrial uses on Bainbridge Island in order to preserve elements of a working waterfront”. Did the Staff analyze the question of whether the lack of re-zoning Mr. McNabb’s parcels is inhibiting the **continuation** of operations at the Bainbridge Marina? Is there a risk to the business if this application is not approved? Goal 6 says nothing about promoting growth of such businesses, and though Goal 6 may provide a window in support of the Bainbridge Marina’s existence it definitely does not support growth for growth’s sake. Consideration needs to be given to the shared costs that the adjacent residences are bearing, which in essence serves to subsidize Bainbridge Marina’s existence.

2. In the third paragraph on page #4, the Staff concludes that **“Parcel A does not seem to be an appropriate or attractive location for single-family residential development, given its adjacency to an existing water-dependent industrial use. Therefore, staff is recommending that the land use designation for Parcel A be changed to Water-Dependent Industrial.”** Under this line of reasoning, the staff is acknowledging what a detriment the Bainbridge Marina’s operations are to the attractiveness of residential property, but at the same time is using this conclusion to support further development? Was any thought given to the fact that the development of Parcel A will serve to transfer and expand the scope of Parcel A’s affliction to the surrounding area? The staff is essentially making a circular, untenable argument that any land adjacent to an industrial area is not attractive and thus should be allowed to be zoned as industrial. The Staff goes on to say that they considered “surrounding uses” and Comprehensive Plan policies as detailed in Attachment D to buttress their conclusion. However, I fail to see how they can come to the conclusion to recommend approval if they actually did make such consideration and did follow the letter and spirit of the Comprehensive Plan. The Bainbridge Marina is not consistent with the land-use of the area within it operates and has a negative effect on the attractiveness of near-by residences.

Regarding attachment D, I would like to understand in greater detail how the following Comprehensive Plan policies are in support of Mr. McNabb’s application:

- How does this application foster the diversity of the residents of the island? I would think maintaining and increasing the supply of land available for residential development would go much farther in fostering development of diversity of residents as opposed to supporting further development of an industrial-scale boat repair business.
- Regarding the policy that costs and benefits to property owners should be considered in making land use decisions, was this accomplished? Has any thought or analysis been given to the effect on property values in the surrounding area with the proposed re-zone? I urge you and city officials to consider the fact that the largest economic engine, by far, driving the sustainable development on Bainbridge Island is residential property ownership and thus industrial development in a residential and recreational neighborhood by definition comes at significant cost to both the nearby residents and the island as a whole. This is an economic fact and its analysis should not be taken lightly.
- How does McNabb rezone support development that is based on the principle that the island's environmental resources are finite and must be maintained at a sustainable level?
- Regarding Goal #6 how does not approving the McNabb rezone not support the continuation and preservation of a working waterfront in Urban shoreline areas?
- How does the McNabb rezone retain and enhance an economy that reinforces Bainbridge Island's diverse character and capitalizes on its assets, including: history and heritage, high educational attainment, diverse skills, artistic creativity, rural quality, agricultural base, natural resources, maritime orientation, and proximity to the metropolitan area. How does not approving the McNabb rezone, not achieve this as well?

3. Regarding the Bainbridge Island Municipal Code Review, I would like to understand in greater detail how the Staff came to their conclusions.

C. 2. How does the expansion allow continuation of a working waterfront? Is the current business unable to perform without the expansion?

D. 3. How does the expansion preserve a working waterfront? Again, is the current business faltering or suffering hardship without the expansion?

Additional questions and concerns include:

- The re-zoning of such property will invariably cause more commercial truck traffic on Eagle Harbor Drive. Has a traffic impact analysis been performed?

- Is Mr. McNabb's current boat house in compliance with height standards of the BIMC?

At the end of the day, this application serves to benefit one party at the expense of many and I respectfully ask that the Hearing Examiner not recommend approval to the City Council. Thank you for your time and consideration.

Sincerely,

Sanjay Pal

5650 Ward Avenue NE

Bainbridge Island, WA 98110

[310 701 4329](tel:3107014329)

**NOTICE OF PUBLIC HEARING
CITY OF BAINBRIDGE ISLAND
HEARING EXAMINER**

McNabb CPA 13220B & REZ 13220

YOU ARE HEREBY NOTIFIED that the City of Bainbridge Island Hearing Examiner will conduct a PUBLIC HEARING at 9:00 a.m. on Friday, August 9, 2013, in the Council Chamber, City Hall, 280 Madison Avenue N, Bainbridge Island, Washington, pursuant to BIMC Section 2.16.100, Section 2.16.140 and Section 2.16.190, to consider a Comprehensive Plan Amendment application requesting an amendment to the Land Use Map of the Comprehensive Plan to change the land use designation from Open Space Residential, Two Units per Acre (OSR-2) to Water Dependent Industrial (WD-I) and a concurrent Rezone application requesting an amendment to the City's Official Zoning Map for the same two parcels from Two Units per Acre (R-2) to Water Dependent Industrial (WD-I).

Owner: Darrell McNabb

Location of Proposal: City of Bainbridge Island, Tax Parcel Nos. 352502-2-004-2006 & 352502-2-003-2007 (aggregated with Lots 001 and 002 under Tax Parcel No 352502-2-086-2007); 4250 and 4200 NE Eagle Harbor Drive.

YOU ARE INVITED to attend the hearing and make oral and written comments. The Hearing Examiner has discretion to limit testimony to relevant, non-repetitive comments and to set time limits. If you are unable to attend, written comments, photographs or other exhibits on the application may be submitted prior to the hearing date. All such submissions should state the specific case and be directed to the Hearing Examiner's Clerk at City Hall.

The Mitigated Determination of Nonsignificance (MDNS), filed under the State Environmental Policies Act (SEPA), was issued on March 29, 2013. The appeal period ended on April 19, 2013.

QUESTIONS may be directed to and the file accessed from Jennifer Sutton, AICP, Special Project Planner, Department of Planning and Community Development at (206)780-3772. Email: pcd@bainbridgewa.gov

CITY OF BAINBRIDGE ISLAND
STAFFORD SMITH
HEARING EXAMINER

Date of Publication: July 19, 2013

droseebain' wa . go) Mr. Stafford

*CAT#1 - Approval -
- (Southward)
- west
(Urban)*



Theresa Rice

From: Brown, Steve [steve.brown@kitsappublichealth.org]
Sent: Monday, April 29, 2013 11:32 AM
To: PCD
Subject: Attn Cathy Cook

Project Name: Bainbridge Marina CPA
Project Number: PRJ-0013220

The Health District has no comments on this proposed CPA.

Steven J. Brown, R.S.

Inspector, On-Site Sewage Program
Kitsap Public Health District
345 6th Street, Suite 300
Bremerton, WA 98337-1866
360-337-5277 office
360-475-9264 fax

Table 18.09.020 Use Table																				
"P" = Permitted Use "C" = Conditional Use Blank = Prohibited Use "CA" = Conditional Accessory Use "T" = Temporary Use										"A" = Accessory Use Additional Use restrictions for BIMC 16.12 and 16.20 may apply to shoreline or critical area properties										
ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSR I and II	NSC	B/I	WD-I	Use Specific Standards 18.09.030
											CC	MA	EA	Gate	Ferry [1]					
USE CATEGORY / TYPE																				
PRINCIPAL USES																				
AGRICULTURAL																				
Note: Agricultural uses may be subject to additional requirements in BIMC 16.12.220 Forest Practices. All agricultural uses are subject to the Critical Area regulations in BIMC 16.20. Agricultural uses are not allowed within the shoreline jurisdiction pursuant to BIMC 16.12.																				
Agriculture, Animal	P	P	P	C	C	C	C									P			A-1	
Agriculture, Crop	P	P	P	P	P	P	P	P	P	P						P			A-2	
Agriculture Research Facility	C	C	C																A-3	
Agricultural Processing															P		P			
RESIDENTIAL																				
Note: Residential uses may be subject to additional requirements in BIMC 16.12.260 Residential development																				
Household Living																				
Single-family Dwelling	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			B-1	
Single-family Dwelling existing on April 15,1996											P	P	P						B-1	
Multifamily Dwellings	C	C	C	C	C	C	P	C	P	P	P	P	P	P	P	P			B-2	
Commercial/Residential Mixed-Use Developments											P	P	P	P	P	P	P		B-3	
Group Living																				
Foster Home	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P				

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											CC	MA	EA	Gate	Ferry [1]					
Small Group Living Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
Group Care Facility	C	C	C	C	C	C	C	C	C	P	P	P	P	P	C	P	P	C	C	
PUBLIC AND INSTITUTIONAL																				
Community and Educational Facilities																				
Educational Facility	C	C	C	C	C	C	C	C	C	P	P	P	P	C	C	P	C	C	C	C-1
Governmental Facility	C	C	C	C	C	C	C	C	C	P	P	P	P	C	C	P	C	C	C	C-2
Religious Facility	C	C	C	C	C	C	C	C	C	P	P	P	P	C	C	P	C	C	C	C-3
Parks and Park-related																				
Note: Parks and Park-related uses may be subject to additional requirements in BIMC 16.12.250 Recreational Development																				
Community Garden	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			C-4
Park, Active Recreation	P	P	P	C	C	C	C	C	C	C	P	P	P	P	P	P	P		P	
Park, Passive Recreation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	
Recreation Activity, Indoor	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	C	C	P	
Recreation Activity, Outdoor	P	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	
Other Public and Institutional																				
Cemetery	C	C	C																	
Day Care Center	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P	P		C-5
Family Day Care Home	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			C-6

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											CC	MA	EA	Gate	Ferry [1]					
Healthcare Facility	C	C	C	C	C	C	C	C	C	P	P	P	P	P	C	P	P	C		C-7
CULTURAL AND ENTERTAINMENT																				
Artist Studio											P	P	P	P	P	P	P	P		
Club	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P			
Commercial Amusement											P	P	P	P	P	P	C			
Cultural Facility	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	C	C	C	
Entertainment Facility											P					P	C			
COMMERCIAL SALES AND SERVICE																				
Note: Commercial Sales and Service uses may be subject to additional requirements in BIMC 16.12.200 Commercial development																				
Accommodation																				
Bed and Breakfast (3+ bedrooms)	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P			
Inn											P	P	P	P	P	P	P			
Hotel											C			C	C	P				D-1
Animal Sales and Service																				
Equestrian Facility	C																	P		
Kennel, Indoor	C																	P		
Kennel, Outdoor	C																	C		
Veterinarian Clinic or Office	C	C	C	C	C	C	C	C	C	P	P	P	P	P	C	P	C	P		

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											CC	MA	EA	Gate	Ferry [1]					
USE CATEGORY / TYPE																				
Food and Beverage																				
Formula Take-Out Restaurant																P				D-2
Restaurant													P	P	P	P	P	P		
Food Service Establishment																		P		D-3
Mobile Retail Food Establishment													P	P	P	P	P	P	P	D-4
Offices and Services																				
Personal Service													P	P	P	P	P	P		D-5
Professional Service													P	P	P	P	P	P	C	D-6
Retail																				
Commuter-Oriented Retail Sales															P					D-7
Open-air Sales for Garden Supply	C	C	C														P			
Retail Sales													P	P	P	P		P	P	D-8
PRIVATE MOTOR VEHICLE RELATED																				
Note: Private Motor Vehicle Related uses may be subject to additional requirements in BIMC 16.12.270 Transportation facilities																				
Auto Repair Services																C	C			E-1
Car Wash Facility, Manual or Automatic																C	C	C		
Commercial Parking Structure													C							

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											CC	MA	EA	Gate	Ferry [1]					
USE CATEGORY / TYPE																				
Commercial Parking, Surface											P			P						
Ferry Commuter Parking											P			P	P					
Gasoline Service Station																C	C			
Motor Vehicle Sales																C				E-4
Non-commuter Ferry Parking														C						E-5
Park and Ride Facility/Lot	C	C	C													C	C	C	C	E-6
Park and Ride Lot, Shared-use	C	C	C	C	C	C	C	C	C	C						C	C	C	C	E-7
Small Engine Repair																C	C			
Transport and Delivery Service																P	C	P		E-8
Motor Vehicle-Related Services, Not Including Retail and Not Otherwise Listed																C				
UTILITY AND TELECOMMUNICATIONS																				
Note: Utility and Telecommunications uses may be subject to additional requirements in BIMC 16.12.280																				
Communication Tower or Antenna																		P		
Monopole or Lattice Tower	P																	P		
Small Wind Energy Generator	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P/C	P/C	P/C	F-1
Solar Panel	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Utility, Primary	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	C	F-2

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											CC	MA	EA	Gate	Ferry [1]					
USE CATEGORY / TYPE																				
Wireless Communication Facilities, Facility I	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	F-3
Wireless Communication Facilities, Facility II	P													P	P	P	P	P	P	F-3
Wireless Communication Facilities, Facility III	P																P	P		F-3
INDUSTRIAL USES																				
Note: Industrial uses may be subject to additional requirements in BIMC 16.12.230 Industry																				
Manufacturing and Production																				
Manufacturing, Small-scale																C	P			
Manufacturing, Light																	P			
Manufacturing, General																	C			
Mining and Quarrying	C	C	C																	G-1
Research and Development																	P			
Waste and Salvage																				
Recycling Center	C	C												C		C	C			G-2
Waste Transfer Facility	C																			G-3
Warehouse and Freight Movement																				
Commercial Moving and Freight Terminal																	C			

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											CC	MA	EA	Gate	Ferry [1]					
Self-service Storage Facility																	C	P		G-4
Warehouse																		P		
Ferry and Waterfront Related																				
Note: Ferry and Waterfront related uses may be subject to additional requirements in BIMC 16.12.180 Boating facilities; BIMC 16.12.190 Boat launches; and BIMC 16.12.340 Piers, docks, recreational floats, and mooring buoys																				
Barge Moorage and Off-load Ships																			C	H-1
Boat Building																			C	H-2
Boat Repair Facility																			P	H-3
Cross Harbor Passenger-only Ferry Terminal and Associated Parking																			C	
Dry Storage for Boats and Marine Equipment																			P	
Ferry Terminal and associated docks, ramps, walkways, trails, waiting rooms, and holding areas														P						
Ferry Slips and Repair Facility																			P	H-4
Marine Rental and Sales																			P	
Marine Way																			C	
Pleasure and Commercial Vessel Moorage																			P	
Small Boat Haul Out Facility																			P	

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											CC	MA	EA	Gate	Ferry [1]					
Water-related Supply and Retail Sale																			P	
ACCESSORY USES																				
Accessory Agricultural Education	A	A	A	A	A	A	A										A			I-1
Accessory Agricultural Retail, Minor	A	A	A	A	A	A	A										A			I-2
Accessory Agricultural Retail, Major	CA	CA	CA	CA	CA	CA	CA										CA			I-3
Accessory Agricultural Special Event	A	A	A	A	A	A	A										A			I-4
Accessory Agricultural Tourism	A	A	A	A	A	A	A										A			
Accessory Composting Bin	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Accessory Dwelling Unit (outside shoreline jurisdiction)	A	A	A	A	A	A	A		A	A							A			I-5
Accessory Dwelling Unit (within shoreline jurisdiction)	CA	CA	CA	CA	CA	CA	CA		CA	CA							CA			I-5
Accessory Agricultural Processing and Livestock and Poultry Slaughtering	A	A	A	A	A	A	A										A		A	I-6
Accessory On-site Treatment and Storage Facilities for Hazardous Wastes																	A	A	A	I-7
Accessory Outdoor Storage																	A	A	A	I-8

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											CC	MA	EA	Gate	Ferry [1]					
Accessory Raingarden/Swale	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Accessory Rainwater Harvesting Barrel	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	I-9
Accessory Small Wind Energy Generator	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	I-10
Accessory Solar Panel	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Accessory Uses to Agriculture (not otherwise listed)	A	A	A	A	A	A	A									A				
Accessory Utilities	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	I-11
Bed and Breakfast (1-2 bedrooms)	A	A	A	A	A	A	A	A	A	A						A				
Minor Home Occupations	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			I-12
Major Home Occupations	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA			I-13
Non-Agricultural Accessory Uses and Structures (not otherwise listed)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	I-14
TEMPORARY USES																				
Temporary Construction Building	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	J-1
Temporary Container Storage	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	J-2
Temporary Contractor Parking											T	T	T	T	T	T				J-3
Temporary Public Events or Gatherings	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T			J-4

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											CC	MA	EA	Gate	Ferry [1]					
Temporary Ferry Commuter Parking											T			T	T					J-5
Temporary Non-Commuter Parking														T						J-6
Temporary Seasonal Sales	T	T	T								T			T	T	T	T			J-7
MARIJUANA-RELATED USES																				
Marijuana Retailer																		P		K
Marijuana Processor																		P		K
Marijuana Producer																		P		K
Collective Garden																				

[1] In the Ferry Terminal District, all development shall include at least 10 percent of landscaped or naturally vegetated open space. Parking may be located under the open space. Development south of Winslow Way shall include pedestrian walkways that connect to Winslow Way East and Olympic Drive Southeast, and/or that align with Cave Avenue and Ferncliff Avenue.



City of Bainbridge Island
Department of Planning & Community Development
280 Madison Ave. N.
Bainbridge Island, WA 98110
(206) 842-2552 www.ci.bainbridge-isl.wa.us

**Development Engineer
Project Review**

To: Jennifer Sutton, Planning
From: Janelle Hitch, Development Engineer *JCH*
Date: May 24, 2013
Re: McNabb - Comprehensive Plan Amendment 13220B

The proposal is to amend the Comprehensive Plan to rezone the McNabb property from R-2 to Water Dependent Industrial. The property is bordered by Eagle Harbor Road to the south, city parkland to the east, water dependent industrial land to the north, Eagle Harbor to the northwest and R-2 residential to the west.

Comments:

The Development Engineer has completed a review of the above referenced proposal and informational materials and has the following comments.

Sewer Impacts:

The affected property is outside of the City's sewer service area. Any development on the site would require an evaluation of the existing and proposed septic systems by the county department of health.

Water Impacts:

The affected property is outside of the City's water service area.

Stormwater Impacts:

Any development of the site would have to meet with BIMC 15.20 and 15.21. Stormwater impacts would be addressed on-site.

Traffic Impacts:

Any site development would be required to meet traffic concurrency standards. Depending on the type of development and the anticipated traffic generation that is determined using the ITE Trip Generation Manual, there will be an analysis of the impact on the city's traffic system. Mitigation measures will be required if a development will significantly degrade the traffic system conditions in the vicinity of the project or on Bainbridge Island.

Attachment H

ITEMS DISCUSSED

1. EXECUTIVE SESSION: PROPERTY DISPOSITION (RCW 42.30.110(1)(c))
2. CALL TO ORDER/ROLL CALL
3. ACCEPTANCE OR MODIFICATION OF AGENDA/CONFLICT OF INTEREST DISCLOSURE
4. STAFF INTENSIVE
 - A. HEAD-OF-THE-BAY BOUNDARY LINE ADJUSTMENTS, AB 13-146 - EXECUTIVE
 - B. COMPREHENSIVE PLAN AMENDMENTS – PLANNING
 - ORDINANCE NO. 2013-18, HISTORIC PRESERVATION - CPA18503, AB 13-149
 - ORDINANCE NO. 2013-16, MCNABB/BAINBRIDGE MARINA – CPA/REZ13220B, AB 13-148
 - C. ORDINANCE NO. 2013-25, HOUSING DESIGN DEMONSTRATION PROJECT REVISIONS, AB 09-010 – PLANNING
 - D. PERMITTING SYSTEM CONTRACT, AB 13-144 – EXECUTIVE
 - E. POLICE DEPARTMENT UPDATE, AB 13-151 – POLICE
 - F. ORDINANCE NO. 2013-26, 2014-2019 CAPITAL FACILITIES PLAN, AB 13-145 – EXECUTIVE
 - G. 2014 UTILITY RATES – FINANCE
 - ORDINANCE NO. 2013-28, ELIMINATING THE AUTOMATIC ANNUAL FEE ADJUSTMENT OF THE CITY'S WATER UTILITY RATES FOR 2014, AB 13-126
 - ORDINANCE NO. 2013-29, ELIMINATING THE AUTOMATIC ANNUAL FEE ADJUSTMENT OF THE CITY'S SEWER UTILITY RATES FOR 2014, AB 13-127
 - ORDINANCE NO. 2013-30, ELIMINATING THE AUTOMATIC ANNUAL FEE ADJUSTMENT OF THE CITY'S SSWM RATES FOR 2014, AB 13-128
 - H. ORDINANCE NO. 2013-27, PROPERTY TAX LEVY FOR COLLECTION IN 2014, AB 13-125 – FINANCE
 - I. RESOLUTION NO. 2013-16, AUTHORIZING INVESTMENT IN THE STATE TREASURER'S LOCAL GOVERNMENT INVESTMENT POOL, AB 13-122 – FINANCE
 - J. RESOLUTION NO. 2013-17, APPROVING AN INTERLOCAL AGREEMENT WITH ASSOCIATION OF WASHINGTON CITIES EMPLOYEE BENEFIT TRUST, AB 13-137 – FINANCE
5. COUNCIL DISCUSSION
 - A. 2014 LTAC AWARDS – APPLICATION CHANGES, AB 13-131 – COUNCIL
 - B. BUDGET ADJUSTMENT RELATING TO THE KITSAP ECONOMIC DEVELOPMENT ALLIANCE [ADDED]
6. CITY MANAGER'S REPORT
7. COMMITTEE REPORTS
8. REVIEW OF UPCOMING COUNCIL MEETING AGENDAS
9. FOR THE GOOD OF THE ORDER
10. ADJOURNMENT

1. EXECUTIVE SESSION: PROPERTY DISPOSITION (RCW 42.30.110(1)(c))

Mayor Pro Tem Blair called the meeting to order at 6:30 PM and then adjourned to executive session to discuss property disposition under RCW 42.30.110(1)(c). Councilmembers Ward, Blossom, Lester, and Mayor Bonkowski were present. Mayor Pro Tem Blair reconvened the meeting at 7:00 PM and announced that no decision was made.

2. CALL TO ORDER / ROLL CALL 6:59:50 PM

Councilmembers Blair, Blossom, Lester, Ward, and Mayor Bonkowski were present. Councilmembers Hytopoulos and Scales were absent and excused. Court Clerk Rose monitored the recording of the meeting and prepared the minutes.

3. ACCEPTANCE OR MODIFICATION OF AGENDA / CONFLICT OF INTEREST DISCLOSURE 7:00:05 PM

Mayor Pro Tem Blair requested adding, as 5B under Council Discussion, budget adjustment relating to the Kitsap Economic Development Alliance.

*MOTION: I move we accept the agenda, as amended.
BONKOWSKI/WARD – Motion carried unanimously, 5-0.*

Councilmember Blossom stated that regarding item 4C she would be part of the discussion but recused from voting.

4. STAFF INTENSIVE 7:02:50 PM

A. HEAD-OF-THE-BAY BOUNDARY LINE ADJUSTMENTS, AB 13-146 – EXECUTIVE

7:03:18 PM

Deputy City Manager Morgan presented the item and described the history behind the request for an adjustment. She noted that if future development occurs, it would be subject to review.

MOTION: *I move that the City Council approve the Head of the Bay Boundary Line Adjustment and authorize the City Manager to execute the related agreements substantially in the form presented.*
BONKOWSKI/LESTER – Motion carried unanimously, 5-0.

B. COMPREHENSIVE PLAN AMENDMENTS

- **ORDINANCE NO. 2013-18, HISTORIC PRESERVATION - CPA18503, AB 13-149 7:07:53 PM**
Planner Beckman described the background of the ordinance and displayed a PowerPoint presentation. She stated that the three outcomes of the amendment are to expand our local register, define the word “iconic” and to create a collaborative effort between the Preservation Commission and the Design Review Board. David Williams, Chair of the Historic Preservation Commission, spoke to the amendment.

MOTION: *I move that the City Council forward to first reading Ordinance No. 2013-18, Historic Preservation CPA18503, on November 13, 2013.*
LESTER/WARD – Motion carried unanimously, 5-0.

- **ORDINANCE NO. 2013-16, MCNABB/BAINBRIDGE MARINA – CPA/REZ13220B, AB 13-148 7:18:32 PM**

Planning Director Cook described the ordinance and displayed a PowerPoint presentation. She presented the background regarding the CPA and Rezone. Director Cook discussed the recommendations from staff, Planning Commission and the Hearing Examiner. 7:34:10 PM Dennis Reynolds, attorney for Mr. McNabb, spoke to the historic background of the property. 7:41:43 PM Mr. McNabb testified and submitted a memorandum to Council and displayed maps. Council questions and discussion followed regarding boundary line adjustment, relation of the property to a park, and designation of the property as waterfront industrial. 7:50:10 PM Charles Schmid expressed concern regarding the boundary line adjustment. 7:53:12 PM Director Cook described the uses of the property and noted that the Department of Ecology report is pending.

MOTION: *I move that the City Council forward Ordinance No. 2013-16 pertaining to the McNabb/Bainbridge Marina, Comprehensive Plan Amendment/Rezone Request 13220B to first reading on November 13, 2013.*
BONKOWSKI/BLOSSOM – Motion carried unanimously, 5-0.

8:01:14 PM Carmella Houston spoke on behalf of Clarence Morikawi and stated that he will be commenting on the ordinance at first reading, regarding the adjacent parcel.

C. ORDINANCE NO. 2013-25, HOUSING DESIGN DEMONSTRATION PROJECT REVISIONS, AB 09-010 – PLANNING 8:02:31 PM

Special Project Planner Sutton described the ordinance, the background and the recommended revisions. She presented a PowerPoint display. Council questions and discussion followed. Director Cook answered questions regarding current projects, the evaluation process and neighborhood service centers. 8:23:34 PM Architect and Housing Resources Board (HRB) member Charlie Wenzlau spoke in favor of the ordinance. 8:24:48 PM Jeb Thornburg, architect, spoke in favor of the project and suggested there be criteria of what the measures are of success or failure so there can be the ability for quantitative decision making by Council and the Planning Commission. 8:26:54 PM Ryan Vancil spoke on behalf of a property owner in the Lynwood neighborhood service center with a concern regarding property designation. Planner Sutton responded that a CPA amendment has been issued to fix the error. Vancil also spoke in favor of incorporating green building in future City Code. 8:30:44 PM Charles Schmid asked a question regarding the number of homes built inside and outside Winslow to which Director Cook responded she will obtain further information. In addition, Mr. Schmid spoke in favor of keeping trees. Further Council discussion and questions followed regarding density. Director Cook stated that staff will have a memo to present at the November 6, 2013, meeting.

D. PERMITTING SYSTEM CONTRACT, AB 13-144 – EXECUTIVE 8:40:51 PM

IT Manager Miller presented the contract information. He spoke to the benefits of the system which will interact with the City's new website. The annual expense will be approximately \$21,000.

MOTION: *I move that the City Council forward the contract with Paladin Data Systems in the form approved by the Interim City Attorney to the October 23, 2013, Consent Agenda.*
BONKOWSKI/LESTER – Motion carried unanimously, 5-0.

8:44:28 PM RECESS

8:53:52 PM Mayor Pro Tem Blair reconvened the meeting and 8:53 PM.

ITEMS DISCUSSED

1. EXECUTIVE SESSION: CURRENT LITIGATION (RCW 42.30.110(1)(i))
2. CALL TO ORDER / ROLL CALL / PLEDGE OF ALLEGIANCE
3. ACCEPTANCE OR MODIFICATION OF AGENDA / CONFLICT OF INTEREST DISCLOSURE
4. PUBLIC COMMENT
5. ORDINANCES/2ND READING
 - A. ORDINANCE NO. 2013-28, ELIMINATING THE AUTOMATIC ANNUAL FEE ADJUSTMENT OF THE CITY'S WATER UTILITY RATES FOR 2014, AB 13-126 – FINANCE
 - B. ORDINANCE NO. 2013-29, ELIMINATING THE AUTOMATIC ANNUAL FEE ADJUSTMENT OF THE CITY'S SEWER UTILITY RATES FOR 2014, AB 13-127 – FINANCE
 - C. ORDINANCE NO. 2013-30, ELIMINATING THE AUTOMATIC ANNUAL FEE ADJUSTMENT OF THE CITY'S SSWM RATES FOR 2014, AB 13-128 – FINANCE
6. ORDINANCES/1ST READING
 - A. ORDINANCE NO. 2013-18, HISTORIC PRESERVATION – COMPREHENSIVE PLAN AMENDMENT 18503, AB 13-149 – PLANNING
 - B. ORDINANCE NO. 2013-17, NON-MOTORIZED TRANSPORTATION PLAN – COMPREHENSIVE PLAN AMENDMENT 18420, AB 13-140 – PLANNING
 - C. ORDINANCE NO. 2013-20, BUSINESS/INDUSTRIAL DISTRICT NAME CHANGE – COMPREHENSIVE PLAN AMENDMENT 18572, AB 13-139 – PLANNING
 - D. ORDINANCE NO. 2013-19, CITY LAND USE MAP CORRECTIONS – COMPREHENSIVE PLAN AMENDMENT 18573, AB 13-138 – PLANNING
 - E. ORDINANCE NO. 2013-16, MCNABB/BAINBRIDGE MARINA – COMPREHENSIVE PLAN AMENDMENT/ REZONE 13220B, AB 13-148 – PLANNING
 - F. ORDINANCE O. 2013-35, AMENDING THE APPOINTMENT AND COMPENSATION OF POLICE RESERVE OFFICERS, AB 13-156 – POLICE
 - G. ORDINANCE NO. 2013-34, ADOPTING THE CITY OF BAINBRIDGE ISLAND SHORELINE MASTER PROGRAM UPDATE, AB 13-143 – PLANNING
7. NEW BUSINESS
 - A. CONFIRM APPOINTMENT OF SARA L. MCCULLOCH AS MUNICIPAL COURT JUDGE AND APPROVE CONTRACT FOR EMPLOYMENT, AB 13-157 – EXECUTIVE
 - B. DESIGN REVIEW BOARD REAPPOINTMENT AND APPOINTMENT, AB 13-157 – MAYOR BONKOWSKI
 - C. RESOLUTION NO. 2013-20, RELATING TO SHORT-TERM BORROWING FROM THE GENERAL FUND TO THE CAPITAL CONSTRUCTION FUND, AB 13-155 – FINANCE
 - D. UPDATE ON THE PROPOSED CHANGES TO DEPARTMENT OF NATURAL RESOURCES LEASE FOR EAGLE HARBOR - EXECUTIVE
 - E. 2013 CITY MANAGER PERFORMANCE REVIEW, AB 13-160 – CITY COUNCIL [MOVED FROM 9G]
8. UNFINISHED BUSINESS: 2014 BUDGET ADJUSTMENT DISCUSSION, AB 13-150 – FINANCE
9. CONSENT AGENDA
 - A. ACCOUNTS PAYABLE VOUCHER AND PAYROLL APPROVAL
 - B. SPECIAL/REGULAR STUDY SESSION MEETING MINUTES, OCTOBER 16, 2013
 - C. SPECIAL/REGULAR BUSINESS MEETING MINUTES, OCTOBER 23, 2013
 - D. SPECIAL CITY COUNCIL MEETING MINUTES, OCTOBER 30, 2013
 - E. REGIONAL STORMWATER MONITORING PROGRAM FUNDING INTERAGENCY AGREEMENT, AB 13-154 – PUBLIC WORKS
 - F. LOCAL AGENCY STANDARD CONSULTING AGREEMENT(S) WITH HDR, INC. FOR THE WING POINT WAY NON-MOTORIZED IMPROVEMENTS PROJECT DESIGN INFORMATION, AB 13-086 – PUBLIC WORKS
 - G. ~~2013 CITY MANAGER PERFORMANCE REVIEW, AB 13-160 – CITY COUNCIL [MOVED TO 7E]~~
10. CITY MANAGER'S REPORT
11. COMMITTEE REPORTS
12. REVIEW UPCOMING COUNCIL MEETING AGENDAS
13. FOR THE GOOD OF THE ORDER
 - A. PROCLAMATION DECLARING NOVEMBER, 2013 AS NATIONAL PANCREATIC CANCER AWARENESS MONTH [ADDED]
14. ADJOURNMENT

There was no public comment.

Motion carried unanimously, 5-0.

The proclamation declaring November 2013 as National Pancreatic Cancer Awareness Month was added to For the Good of the Order.

6. ORDINANCES/1ST READING

A. ORDINANCE NO. 2013-18, HISTORIC PRESERVATION – COMPREHENSIVE PLAN AMENDMENT 18503, AB 13-149 – PLANNING 7:08:43 PM

Special Project Planner Sutton introduced the ordinance.

MOTION: I move to forward the Comprehensive Plan Amendment or 18503, Ordinance No. 2013-18 on to the second reading and the public hearing on November 25, 2013.

BLAIR/LESTER – Motion carried unanimously, 6-0.

B. ORDINANCE NO. 2013-17, NON-MOTORIZED TRANSPORTATION PLAN – COMPREHENSIVE PLAN AMENDMENT 18420, AB 13-140 – PLANNING 7:10:06 PM

Special Project Planner Sutton introduced the ordinance.

MOTION: I move to forward the Comprehensive Plan Amendment 18420, Ordinance No. 2013-17 on to the second reading and the public hearing on November 25, 2013.

BLAIR/LESTER – Motion carried unanimously, 6-0.

C. ORDINANCE NO. 2013-20, BUSINESS/INDUSTRIAL DISTRICT NAME CHANGE – COMPREHENSIVE PLAN AMENDMENT 18572, AB 13-139 – PLANNING 7:11:41 PM

Special Project Planner Sutton introduced the ordinance.

MOTION: I move to forward CPA18572 Ordinance No. 2013-20 to second reading/public hearing on November 25, 2013.

WARD/BLAIR – Motion carried unanimously, 6-0.

D. ORDINANCE NO. 2013-19, CITY LAND USE MAP CORRECTIONS – COMPREHENSIVE PLAN AMENDMENT 18573, AB 13-138 – PLANNING 7:13:24 PM

Special Project Planner Sutton introduced the ordinance.

MOTION: I move to forward Comprehensive Plan Amendment 18573 Ordinance No. 2013-19 on to the second reading and a public hearing on November 25, 2013.

BLAIR/LESTER – Motion carried unanimously, 6-0.

E. ORDINANCE NO. 2013-16, MCNABB/BAINBRIDGE MARINA – COMPREHENSIVE PLAN AMENDMENT/ REZONE 13220B, AB 13-148 – PLANNING 7:16:30 PM

Planning Director Cook introduced the ordinance.

MOTION: I move to forward Ordinance 2013-16 CPA-REZ13220B to second reading/public hearing on November 25, 2013.

WARD/LESTER – Motion carried unanimously, 6-0.

F. ORDINANCE NO. 2013-35, AMENDING THE APPOINTMENT AND COMPENSATION OF POLICE RESERVE OFFICERS, AB 13-156 – POLICE 7:19:07 PM

Police Chief Hamner introduced the item and explained the reasons for the change. City Manager Schulze commented on a recent email expressing concerns about the ordinance. Following brief comments, a motion was made.

7:24:51 PM

MOTION: I then move that the City Council forward Ordinance No. 2013-35, Amending the Appointment and Compensation of Police Reserve Officers to the consent agenda for December 11, 2013.

BLAIR/WARD – Motion carried unanimously, 6-0.

ITEMS DISCUSSED

1. EXECUTIVE SESSION: REVIEW THE QUALIFICATIONS OF AN APPLICANT FOR CITY EMPLOYMENT (RCW 42.30.110(1)(g))
2. CALL TO ORDER / ROLL CALL / PLEDGE OF ALLEGIANCE
3. ACCEPTANCE OR MODIFICATION OF AGENDA / CONFLICT OF INTEREST DISCLOSURE
4. PUBLIC COMMENT
5. PRESENTATION: COAL-BASED ELECTRICITY, SIERRA CLUB
6. PUBLIC HEARING/2ND READING
 - A. ORDINANCE NO. 2013-18, HISTORIC PRESERVATION – COMPREHENSIVE PLAN AMENDMENT 18503, AB 13-149 – PLANNING
 - B. ORDINANCE NO. 2013-17, NON-MOTORIZED TRANSPORTATION PLAN – COMPREHENSIVE PLAN AMENDMENT 18420, AB 13-140 – PLANNING
 - C. ORDINANCE NO. 2013-20, BUSINESS/INDUSTRIAL DISTRICT NAME CHANGE – COMPREHENSIVE PLAN AMENDMENT 18572, AB 13-139 – PLANNING
 - D. ORDINANCE NO. 2013-19, CITY LAND USE MAP CORRECTIONS – COMPREHENSIVE PLAN AMENDMENT 18573, AB 13-138 – PLANNING
 - E. ORDINANCE NO. 2013-16, MCNABB/BAINBRIDGE MARINA – COMPREHENSIVE PLAN AMENDMENT/ REZONE 13220B, AB 13-148 – PLANNING
 - F. ORDINANCE NO. 2013-32, ESTABLISHING A MORATORIUM ON MARIJUANA GROWING OPERATIONS, AND ADOPTING INTERIM REGULATIONS FOR MARIJUANA PROCESSING, RETAILING, AND COLLECTIVE GARDENS, AB 13-136 – PLANNING
7. UNFINISHED BUSINESS
 - A. ORDINANCE NO. 2013-25, HOUSING DESIGN DEMONSTRATION PROJECT REVISIONS, AB 09-010 – PLANNING
 - B. ORDINANCE NO. 2013-26, 2014-2019 CAPITAL FACILITIES PLAN, AB 13-145 – FINANCE
 - C. REVISIONS TO THE CITY'S TRAFFIC STUDY REQUIREMENTS, AB 13-104 – PUBLIC WORKS
 - D. TRAFFIC IMPACT FEE UPDATE AB 13-123 – PUBLIC WORKS
15. NEW BUSINESS: WATERFRONT PARK BRIDGE REPAIR CONTRACT AWARD, AB 13-173 – PUBLIC WORKS [ADDED]
8. ORDINANCES/1ST READING
 - A. ORDINANCE NO. 2013-36, 2013 FINAL BUDGET ADJUSTMENTS, AB 13-024 – FINANCE
 - B. ORDINANCE NO. 2013-37, 2014 FINAL BUDGET ADJUSTMENTS, AB 13-150 – FINANCE
9. CONSENT AGENDA
 - A. ACCOUNTS PAYABLE VOUCHER AND PAYROLL APPROVAL
 - B. SPECIAL/REGULAR STUDY SESSION MEETING MINUTES, NOVEMBER 6, 2013
 - C. RESOLUTION NO. 2013-20, RELATING TO SHORT-TERM BORROWING FROM THE GENERAL FUND BY THE CAPITAL CONSTRUCTION FUND, AB 13-155 – PUBLIC WORKS
 - D. KITSAP COUNTY SHERIFF'S OFFICE JAIL SERVICES CONTRACT, AB 13-163 – POLICE
 - E. WEST SOUND STORMWATER OUTREACH GROUP WITH KITSAP COUNTY SURFACE AND STORM WATER MANAGEMENT – INTERLOCAL AGREEMENT, AB 12-004 – PUBLIC WORKS
10. CITY MANAGER'S REPORT
11. COMMITTEE REPORTS
12. REVIEW UPCOMING COUNCIL MEETING AGENDAS
13. FOR THE GOOD OF THE ORDER
14. ADJOURNMENT

1. EXECUTIVE SESSION: REVIEW THE QUALIFICATIONS OF AN APPLICANT FOR CITY EMPLOYMENT (RCW 42.30.110(1)(g)) 6:45:14 PM

At 6:45 PM, Mayor Bonkowski recessed the meeting to an executive session in the Planning Conference Room with Councilmembers Blair, Lester, Ward and legal counsel to review the performance of an employee. The recording system was turned off and the door to Council Chambers was posted. Councilmember Hytopoulos arrived at 6:31 PM.

2. CALL TO ORDER / ROLL CALL / PLEDGE OF ALLEGIANCE 7:01:57 PM

Mayor Bonkowski called the meeting to order at 7:01 PM with Councilmembers Blair, Hytopoulos, Lester, and Ward present. He indicated no decisions were made in executive session. Councilmember Scales was absent and excused. City Clerk Lassoff monitored the recording of the meeting and prepared the minutes. Councilmember Blossom arrived at 7:18 PM.

Following a brief discussion, the motion carried unanimously, 6-0.

7:57:35 PM **MOTION:** *I would move that the Council direct the staff to integrate into the draft tree ordinance, as it's worked on, a policy of requiring some sort of revegetation or vegetation to be integrated into the system of the Sound to Olympics Trail on the island.*
HYTOPOULOS/BLAIR – Motion carried unanimously, 6-0.

C. ORDINANCE NO. 2013-20, BUSINESS/INDUSTRIAL DISTRICT NAME CHANGE – COMPREHENSIVE PLAN AMENDMENT 18572, AB 13-139 – PLANNING 7:59:39 PM

Special Projects Planner Sutton explained this amendment was submitted by City staff to change the name of the Light Manufacturing District to the Business/Industrial District throughout the Introduction, Land Use and Elements sections of the Comprehensive Plan.

At 8:00 PM, Mayor Bonkowski opened and immediately closed the public hearing as no one had signed up to speak.

MOTION: *I would move to approve Ordinance No. 2013-20.*
BLAIR/LESTER – Motion carried unanimously, 6-0.

D. ORDINANCE NO. 2013-19, CITY LAND USE MAP CORRECTIONS – COMPREHENSIVE PLAN AMENDMENT 18573, AB 13-138 – PLANNING 8:00:31 PM

Special Project Planner Sutton explained the City initiated amendment proposes to correct three errors that have been discovered on the Land Use Map of the Comprehensive Plan.

At 8:01 PM, Mayor Bonkowski opened and immediately closed the public hearing as no one had signed up to speak.

MOTION: *I move to approve Ordinance No. 2013-19.*
LESTER/WARD – Motion carried unanimously, 6-0.

E. ORDINANCE NO. 2013-16, MCNABB/BAINBRIDGE MARINA – COMPREHENSIVE PLAN AMENDMENT/ REZONE 13220B, AB 13-148 – PLANNING 8:02:18 PM

Planning Director Cook introduced the proposed amendment which was submitted by Darrell McNabb requesting an amendment to the Land Use Map of the Comprehensive Plan, to change the designation of two parcels from Open Space Residential to Water Dependent-Industrial.

Mayor Bonkowski opened the public hearing at 8:04 PM.

8:04:46 PM Darrell McNabb, 4200 Eagle Harbor Drive, thanked Council for considering the correction to the zoning and land use designations on his property. He offered to answer any questions Council might have.

8:06:08 PM Clarence Moriwaki, Japanese Memorial Inclusion Memorial Association President, wanted to have some sort of assurance that some buffers are put in place and dealing with potential noise impacts.

8:09:18 PM Kay Sakai Nakata shared her historical perspective regarding the memorial site.

8:11:44 PM Lilly Kodama, 6099 NE Battle Point Drive, reinforced earlier comments regarding the memorial site.

8:12:49 PM Jacqueline Ashwell, National Parks Service, voiced her concern regarding the rezone that could result in visual and/or noise impacts to the contemplative nature of the memorial. She submitted a letter for the record.

8:16:10 PM Charles Schmid, 10677 Manitou Park Boulevard, shared his frustration over the proposed rezone, as it is less stringent than current regulations.

Mayor Bonkowski closed the public hearing at 8:17 PM. Councilmember Hytopoulos said she does not support spot rezones and would not support the ordinance.

MOTION: *I move to approve Ordinance No. 2013-16, amending the Land Use Map of the Comprehensive Plan to change the designation from Open Space Residential to Water-Dependent Industrial for two properties owned by Darrell McNabb and located on the south shore of Eagle Harbor.*
BLOSSOM/WARD

Following brief comments, the motion carried 4-2 with Councilmember Blair, Bonkowski, Blossom, and Ward voting in favor. Councilmember Hytopoulos and Lester voted against the motion.

F. ORDINANCE NO. 2013-32, ESTABLISHING A MORATORIUM ON MARIJUANA GROWING OPERATIONS, AND ADOPTING INTERIM REGULATIONS FOR MARIJUANA PROCESSING, RETAILING, AND COLLECTIVE GARDENS, AB 13-136 – PLANNING 8:22:44 PM

Planning Director Cook introduced the proposed ordinance which would establish a six-month moratorium on growing operations and six-month interim regulations that would allow the processing and retailing of recreational marijuana as well as collective gardens for medical marijuana uses in the business industrial zone only. She explained how the 1,000-foot restriction would apply. Mayor Bonkowski opened the public hearing at 8:26 PM.

8:26:31 PM Mary Claire Kersren, commented on the proposed moratorium and I-502.

8:30:13 PM Anakka Hartwell commented why she was opposed to the proposed ordinance.

8:37:38 PM Scott Edwards, 13226 Teem Loop Road, was strongly opposed to the ordinance. He requested the Council amend the ordinance so the moratorium extends to marijuana retailing and during that time the City develop comprehensive zoning, licensing and permitting regulations designed to minimize and mitigate recognized issues.

8:41:10 PM Rick Thurrott, 8451 Springridge Road, urged Council to pay attention to what they were doing while making this decision.

8:43:07 PM Emily Groff, 8040 Fletcher Bay Road, objected to the moratorium on growing.

8:46:23 PM Kelse Thurrott asked how Council got to this decision.

8:46:24 PM Dian Aversano, 12990 Phelps Road NE, said she did not know what the City would be adding to the process by passing some moratorium.

8:50:24 PM Dylan Wilkins, Ferncliff, thought the moratorium was a bad idea.

Mayor Bonkowski closed the public hearing at 8:51 PM.

Councilmember Hytopoulos explained her support of the interim moratorium had nothing to do with not supporting this going forward. She asked some clarifying questions regarding whether it was legal to have your own individual plant/plants and, if so, will this moratorium affect that. Interim City Attorney Haney replied this regulation does not affect individual marijuana growing. Councilmember Lester asked about collective gardens and where those can be sited, how many and the distance between them. Planning Director Cook referred to the ordinance (sections 5 B and D). Councilmember Blair said that while she supported I-502, she also supports the moratorium and the interim regulations as proposed. Mayor Bonkowski noted it was important that we recognize this as an interim ordinance. Councilmember Hytopoulos said the ordinance was being offered as a justification of why we need to be thinking about this. Councilmember Lester suggested making two motions to separate the growing moratorium and interim zoning regulations, as she did not support the moratorium.

8:58:51 PM ***MOTION:** I will just make a motion on the second part. I move to adopt interim zoning regulations for marijuana processing, retailing and collective gardens.*
LESTER/NO SECOND

8:59:40 PM ***MOTION:** I move to approve Ordinance No. 2013-32, establishing a moratorium on marijuana growing operations and adopting interim zoning regulations for marijuana processing, retailing and collective gardens.*
***BLAIR/BLOSSOM** – Motion carried 5-1 with Councilmembers Blair, Blossom, Bonkowski, Hytopoulos, and Ward voting in favor. Councilmember Lester voting against the motion.*

7. UNFINISHED BUSINESS

A. ORDINANCE NO. 2013-25, HOUSING DESIGN DEMONSTRATION PROJECT REVISIONS, AB 09-010 – PLANNING 9:02:16 PM

Councilmember Blossom indicated she would like to comment on the ordinance however would not vote on the item. There was consensus she could do so. Special Project Planner Sutton described recommended changes made by the adhoc committee and fielded questions from Council. Staff will bring back information regarding R-8 & R-14. There was a brief discussion regarding parking.

