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BEFORE THE HEARING EXAMINER  
FOR THE CITY OF BAINBRIDGE ISLAND

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IN THE MATTER OF THE CUP/SPR  
APPLICATION FOR THE:  
  
WINSLOW HOTEL

NO. PLN50880 SPR/PLN50880 CUP  
  
APPLICANT'S CLOSING BRIEF IN  
SUPPORT OF CUP/SPR APPROVAL

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**I. INTRODUCTION AND RELIEF REQUESTED**

Pursuant to Hearing Examiner Hunter's January 24 Post-Hearing Order, Madison Avenue Development, Inc. ("**Applicant**" or "**Madison Avenue Development**") files this Closing Brief.<sup>1</sup> Madison Avenue Development seeks the above-referenced CUP and SPR/Design Review approvals authorizing the Winslow Hotel (the "**Project**" or the "**Winslow Hotel**"). This closing brief focuses on the permit criteria that generated comment during the January 23 open record hearing and supplements the arguments in support of approval of the CUP and SPR, found in Exhibit 40.<sup>2</sup> The Applicant supports the January 15, 2020 Director's Report & Recommendation

<sup>1</sup> Until receipt of an email from David Ortman of Sound Law Center dated January 30, 2020, at 3:35 PM, containing a ruling of the Hearing Examiner excluding a late-filed brief marked as Ex. 47, I was unaware that Mr. Bricklin had filed any briefing or memo other than the four-page document included as Ex. 43, A-25, that he may have helped draft. I have never received a copy of that other brief or memo, and that other brief or memo should not be part of the record in this proceeding.

<sup>2</sup> Because the Examiner rejected the Applicant and City's timely filed SEPA exhibits, some of which were cited in Ex. 40, here are updated citations to other record materials that can replace the references to those SEPA exhibits:

Ex. 40, p. 5 reference to Exhibit C-26 (Elevations) rests on Ex. 7, Sheet A16, Winslow Way Cross-Section.  
Ex. 40, p. 7, the following sentence and citation should be edited as follows, so as to reference the April 2019 TIA, rather than the August 2019 TIA. The difference between the two was that the August 2019 TIA included the version of the project that added residential apartments. Sentence and citation revisions should be:

CLOSING BRIEF OF APPLICANT - 1

CAIRNCROSS & HEMPELMANN, P.S.  
ATTORNEYS AT LAW  
524 2nd Ave, Suite 500  
Seattle, WA 98104  
office 206 587 0700 fax: 206 587 2308

1 (“Staff Report”), Exhibit (“Ex.”) 1, which recommends approval for the CUP and SPR, subject  
2 to conditions. In addition, the Applicant asks the Examiner to adopt the revisions to conditions  
3 recommended in Attachment A to Ex. 40, as well as the new and revised conditions offered in  
4 the Declaration of Michael Burns, filed herewith.

## 5 II. FACTS

6 Facts relied upon are the Exhibits and testimony already in the record, together with the  
7 additional rebuttal testimony filed in the Declarations of Bruce Anderson, Michael Burns, Greg  
8 Heath, and Jeff Weckstein, all filed together with this Closing Brief.

## 9 III. ARGUMENT

### 10 A. The Winslow Hotel Implements the Purpose of the MUTC-CC Zone

11 The Project site is zoned Mixed Use Town Center – Core (“MUTC-CC”). As the name  
12 makes clear, the area is planned for a mix of uses, and it is undisputed that the MUTC-CC zone  
13 is the most intense zone in City. BIMC 18.06.030.A. Evidence from citizens repeatedly validated  
14 that the area is, indeed a mixed-use town center, including these attributes:

- 15 • There are residential uses ranging from senior housing to high-end condos.
- 16 • There are shopping uses ranging from small boutiques to a busy grocery store.
- 17 • There are civic facilities such as City Hall.
- 18 • There are recreation uses such as yoga studios and gyms.
- 19 • There are offices, restaurants, cafes and bars.

20 These uses combine to contribute to a vital lively community during both the day and night. As  
21 expected in a vital and lively neighborhood, testimony from local citizens made clear that

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23 Project vehicular volumes as a percentage of the volumes through each intersection range  
24 from only 0.9 0.8 percent at SR 305 and Madison Avenue, to 4.9 4.4 percent at Madison  
Avenue and Winslow Way. Ex. B-712, p. 23.

25 Ex. 40, pp. 8 and 9, each reference to Exhibit B-7 rests on Ex. 12.

25 Ex. 40, p. 9 reference to Ex. B-12 can simply rely on the City’s detailed analysis of the Comprehensive  
Plan in Ex. 1.

26 Ex. 40, p. 12 reference to Ex. B-13 is to Ex. 41.

1 residents feel there is already a lot of vehicle traffic and that parking a car in the Core can be a  
2 challenge. The testimony noted that there are multiple cross-walks in downtown Winslow, and a  
3 lot of pedestrian activity.

4 All of this evidence supports the addition of the Winslow Hotel to the downtown. The  
5 Winslow Hotel will strengthen the vitality of downtown Winslow as a place for people to live,  
6 shop and work, including providing a workplace for hotel employees, and by providing a place  
7 to shop including the hotel retail shop and spa. Implementation of Condition No. 29 also assures  
8 that the Winslow Hotel will provide at least six new apartment homes for employees to live. The  
9 hotel and its courtyard – which will be highly visible from the street – encourages a lively  
10 community during both the day and night, by providing more spaces for people to meet, talk, eat,  
11 sit, read, and even - potentially - listen to music performances. Parking will be accommodated on  
12 the hotel property, and the area roadways have sufficient capacity to carry the projected traffic.  
13 The hotel is designed to foster the pedestrian environment, and hotel guests will participate in  
14 that pedestrian atmosphere, and enhance the viability of the town center by providing more  
15 people the opportunity to walk to and patronize downtown shops and restaurants. The hotel is  
16 located on one of the largest sites in the Core zone, and its size is harmonious with the scale of  
17 the town center, including matching the building height of the existing building to the north, and  
18 either matching (at 35 feet), or slightly exceeding (at 45 feet), the heights of buildings to the east,  
19 west, and south.

20 **B. The Examiner is Authorized to Deviate from the Recommendation of the Planning**  
21 **Commission**

22 The Examiner's independent authority is briefed in Ex. 40, pp. 3 – 4.

23 **C. All CUP Criteria are met, and the CUP Should be Approved.**

24 Listed below is each CUP Permit Criterion, followed by how the Winslow Hotel meets  
25 each criterion. Because the City's CUP and SPR criteria overlap, there are circumstances where  
26 Winslow Neighbors or members of the public argue, for example, a Design Guideline was

1 somehow not met and therefore, a CUP criterion such as that the hotel be harmonious and  
2 compatible in design was not met. We ask the Examiner to note that, for sake of brevity, each  
3 substantive issue, such as how the Design Guidelines were achieved is briefed here, only once,  
4 under the most directly applicable criterion. For example, compliance with Design Guidelines is  
5 addressed under the SPR criterion no. 5.

6 *1. A conditional use may be approved or approved with conditions if:*

7 *a. The conditional use is harmonious and compatible in design, character*  
8 *and appearance with the intended character and quality of development in the*  
9 *vicinity of the subject property and with the physical characteristics of the subject*  
10 *property; provided, that in the case of a housing design demonstration project*  
11 *any differences in design, character or appearance that are in furtherance of the*  
12 *purpose and decision criteria of BIMC 2.16.020.Q shall not result in denial of a*  
13 *conditional use permit for the project; and*

14 Rationale for Approval:

15 The argument found at Ex. 40, pp. 4 – 7 is adopted and incorporated herein.

16 Determining compliance with this criterion is fact-dependent, and should be supported by  
17 substantial evidence. *Hilltop Terrace Homeowner's Ass'n v. Island Cty.*, 126 Wn.2d 22, 34–35  
18 (1995).

19 The evidence in the record shows compatibility with the physical characteristics of the  
20 subject property. For example, the unrebutted testimony of Jim Cutler and of Bruce Anderson, as  
21 well as the plans at Ex. 7, establish that the building was designed with its most active uses  
22 fronting on Winslow Way, and with an east and west wing that follow the site's topography as it  
23 slopes downward to the south. Further compatibility with the characteristics of the site is  
24 established by the decisions to design the Winslow Hotel so as to preserve the coastal redwood in  
25 the courtyard and the Pacific Madones at the south end of the west wing of the building. Ex. 7,  
26 Sheet A3; compare Ex. 8, Sheet TP101, showing earlier design with a longer west wing, that  
would have saved the redwood but not the madrones.

1 Next, the Winslow Hotel is harmonious and compatible in design, character and  
2 appearance with the intended character and quality of development in the vicinity of the subject  
3 property. During the hearing, the Examiner asked undersigned counsel to define the applicable  
4 “vicinity,” to which the reply was made, the MUTC-CC zone. That remains an accurate answer  
5 when assessing the compatibility of the use with the purpose of the zone and the character and  
6 quality of existing developments and uses within the MUTC-CC, as well as traffic and parking  
7 impacts on the downtown core. However, in other circumstances, compatibility can be tested in a  
8 broader vicinity, which does depend on context. For example, the design, character and  
9 appearance of the Winslow Hotel is harmonious and compatible with its neighboring structures  
10 both in the MUTC-CC zone and in the R-8 zone to the south; because most existing buildings are  
11 three to four stories tall, and the zoning authorizes redevelopment to also reach those heights.

12 As to building height, the CUP criterion calls for compatibility with the “intended  
13 character and quality” of development; here, it is undisputed that the height limit in the MUTC-  
14 CC Zone is 35 feet with an allowance to go to 45 feet when parking is located below a new  
15 building. BIMC Table 18.12.020-3. Likewise, building heights in the R-8 zone are 35 feet with  
16 allowed bonuses to 40 feet. BIMC Table 18.12.020-2. As shown on Ex. 7, Sheet A16, the  
17 Winslow Way Cross Section demonstrates that the building to the north is three stories tall,  
18 including multiple roof lines, that are at essentially the same height as the hotel’s multiple roof  
19 lines. Yes, the building to the north (also referred to in the record as the “Flowering Around”  
20 building) includes a cupola that is its tallest point, but contrary to Winslow Neighbors argument  
21 (Ex. 43, part A25), that cupola is not akin to a church steeple, reaching heavenward far above the  
22 roofline. Most importantly, because the current applicable zoning for surrounding properties  
23 allows new structures at least 35 feet as of right, and up to 40 to 45 feet using bonuses, the  
24 Winslow Hotel is consistent with the “intended” character of development in the vicinity.

25 As to the compatibility of building materials and other aspects of the building massing,  
26 again, the focus is on the “intended” character and quality of development in the vicinity, not just

1 the existing buildings. The Design Guidelines for the MUTC, Guideline 6, call for a “townscape  
2 that is highly variegated and diverse, with a wide variety of building forms and massing, with a  
3 high degree of activity and interest at the street level... [n]ew development should .... embody  
4 creative expression as individualized structures that contribute to the unique place that is the  
5 Core of the Town Center.” Ex. 20. Subject to isolated concerns about the building bulk and scale,  
6 public testimony generally praised the Winslow Hotel design, and its design, including the use of  
7 natural woods and glass meets the intended character and quality of the development in the  
8 vicinity.

9 As to the hotel *use* itself, arguments were made that it is not compatible or harmonious  
10 due to traffic, noise, parking spillover, and also a few concerns about lack of positive economic  
11 impact. Concerns about traffic, noise and parking spillover are addressed under CUP Criterion  
12 “c.” regarding material detriment. For the same reasons briefed there, the hotel use is harmonious  
13 and compatible with other development in the vicinity of the subject property.

14 Concerns about economic impact alleging that hotel guests will not patronize downtown  
15 businesses is purely speculative. Equal speculation is the common-sense notion that more people  
16 in an area typically results in more shoppers in stores and restaurants. In addition, the hotel and  
17 its courtyard are designed to invite existing island residents visiting downtown to enjoy the  
18 space. Testimony of M. Burns. Allegations regarding low occupancy rates at a hotel in a location  
19 outside the downtown core must be taken with a large grain of salt. Every new development  
20 involves an element of speculation as to its ultimate success. The Applicant is working with  
21 well-known local firm, Columbia Hospitality. Testimony of M. Burns, Declaration of M. Burns.  
22 That Mr. Burns or Columbia Hospitality would proceed forward in the face of a likelihood of  
23 failure is simply not credible.

24 The Winslow Hotel structure, as well as its use, is harmonious and compatible in design,  
25 character and appearance with the intended character and quality of development in the vicinity  
26

1 of the subject property and with the physical characteristics of the subject property. The CUP  
2 should be approved.

3 *b. The conditional use will be served by adequate public facilities*  
4 *including roads, water, fire protection, sewage disposal facilities and storm*  
5 *drainage facilities; and*

6 Rationale for Approval:

7 The April 2019 TIA (Ex. 12, as supplemented in Ex. 15) demonstrates that area roadways  
8 have sufficient capacity to serve the Winslow Hotel's projected vehicular traffic as well as  
9 pedestrians. Adequate public facilities are further confirmed in the Declaration of G. Heath,  
10 Section 10.a. Winslow Neighbors argue (Ex. 43, A-25) that a 2017 Island Wide Transportation  
11 Study indicates that area intersections may fail by 2021 or 2035. The TIA was prepared in 2019  
12 including supplemental traffic counts in June of 2019. Ex. 12, and Ex. 15. That an earlier 2017  
13 study concluded that overall growth in City traffic may trigger future improvements to area  
14 intersections does not countermand the TIA's conclusion that existing infrastructure is sufficient  
15 to serve the Winslow Hotel use. In addition, reports like the Island Wide Transportation Study  
16 are not the type of study that should be used in a project-specific permit review. Declaration of  
17 G. Heath, Section 7. The argument of Winslow Neighbors also overlooks the law that City-wide  
18 planned improvements are partially funded by transportation impact fees, that are paid by new  
19 developments, pursuant to Ch. 15.30 BIMC. *See also*, Declaration of G. Heath, Section 16.

20 A water and sewer availability letter was issued. Ex. 17.

21 Public testimony that the island's lack of a hospital or urgent care might overtax the  
22 island's EMTs and/or result in a lack of hotel guests was speculation. The Fire District reviewed  
23 the application and "recommended approval with condition for sprinkler systems and fire flow,"  
24 raising no concerns about EMT services. Ex. 1, p. 34.

25 No substantive evidence objecting to the site's planned storm drainage was received, and  
26 the proposed system will capture site and roof run-off to an underground cistern for recycling  
and re-use, with any excess runoff discharged to the Winslow Way public storm water

CLOSING BRIEF OF APPLICANT - 7

CAIRNCROSS & HEMPELMANN, P.S.  
ATTORNEYS AT LAW  
524 2nd Ave, Suite 500  
Seattle, WA 98104  
office 206 587 0700 fax: 206 587 2308

1 conveyance system. Ex. 1, p. 34. As summarized in the Staff Report, Ex. 1, p. 34, and explained  
2 in the Testimony of Bruce Anderson at the hearing, the hotel design continues to pursue an  
3 option where it could be self-sufficient, avoiding a sewer connection and entirely solar powered.

4 This CUP criterion is met and the CUP should be approved.

5  
6 *c. The conditional use will not be materially detrimental to uses or  
7 property in the vicinity of the subject property; and*

8 Rationale for Approval:

9 The argument from Ex. 40, pp. 7 - 9 is adopted and incorporated herein.

10 The alleged material detriments discussed at the hearing focused on the impacts of noise,  
11 traffic and parking. As argued in Ex. 40, each of these were reviewed and mitigated through the  
12 SEPA process. The SEPA and the CUP criteria impose independent requirements on the  
13 Winslow Hotel application. Because the SEPA MDNS (Ex. 30) is final and not subject to appeal,  
14 the MDNS determines conclusively that the Winslow Hotel, as mitigated, poses no adverse  
15 significant environmental impacts on any element of the environment.<sup>3</sup> The separate “material  
16 detriment” criterion for the CUP is so similar to the SEPA standard, that it is functionally the  
17 same. Therefore, on this basis alone, the Hearing Examiner should determine that the Winslow  
18 Hotel will not be materially detrimental to uses or property in the vicinity of the subject property,  
19 because the only allegations of material detriment were environmental issues, including noise,  
20 traffic and parking.

21 While the SEPA analysis should end this inquiry, for the sake of argument and in the  
22 event the Examiner chooses to conduct additional review of the noise, traffic, and parking  
23 evidence, then, the Applicant also rebuts that evidence as follows.

24 Rebuttal regarding noise appears under CUP criterion “g”, below.

25  
26 <sup>3</sup> The elements of the environment are listed in WAC 197-11-444, and include: “Noise,” “Aesthetics,” “Light and  
Glare,” “Transportation” including “transportation systems, ...vehicular traffic...parking... movement/circulation of  
people or goods...[and] traffic hazards.”

1 Regarding traffic impacts, all the public comments raised in the hearing testimony and  
2 exhibits are responded to, by topic area, in the Declaration of Gregory Heath. In summary:

- 3 • The TIA meets the “thoroughness” standard of BIMC 15.40.025. Declaration of G. Heath,  
4 Section 13. Mr. Tilghman’s Ex. 44 statement conveniently omits the end of that code section  
5 which provides:

6 The TIA scope of work and study area shall be completed in conformance with the  
7 “City of Bainbridge Island, Traffic Impact Analysis, Standardized Format  
8 Requirements” document as approved by the public works director. Prior to  
9 commencement of study activities, the TIA scope of work and study area shall be  
10 submitted by the applicant or the applicant’s traffic engineer to the public works  
11 director for review and acceptance. This review will be completed and a written  
12 notice of acceptance, with or without conditions, or a notice of correction will be  
13 issued within seven business days after submittal of the proposed scope of work  
14 and study area.

15 Here, the thorough scope of work was defined and approved by the City. The TIA includes  
16 weekday event traffic, because the fundamental trip generation numbers for the hotel include a  
17 hotel with event facilities. Declaration of G. Heath, Section 6. The TIA also accounts for  
18 pedestrian impacts. Declaration of G. Heath, Section 8. The TIA accounts for Saturday traffic by  
19 reviewing the worst case scenario of weekday PM Peak hour traffic. Declaration of G. Heath,  
20 Section 5. The TIA did consider traffic flow at the hotel driveway. Declaration of G. Heath,  
21 Section 9.

- 22 • The TIA establishes that all Conditional Use Permit criteria related to traffic are met.  
23 Declaration of G. Heath, Section 10.
- 24 • The Winslow Hotel does not create a significant impact to traffic and imposes no material  
25 detriment to other property or uses. Declaration of G. Heath, Section 17.

26 Next, some public testimony speculated that the hotel shuttle van might not be used which  
would somehow result in traffic impacts. Again, the Project was designed to assure adequate road  
capacity existing assuming there was not a shuttle van, or any other trip reduction (Declaration of  
G. Heath, Section 10.d), such that testimony that the shuttle van might not be used does not prove  
any transportation impact. In addition, the shuttle van is a condition of the project, SEPA MDNS

1 Condition 6, and the Applicant supports that condition and use of the van. Declaration of M.  
2 Burns, Section 7.

3 Regarding parking impacts, all the public comments raised in the hearing testimony and  
4 exhibits are responded to, by topic area, in the Declaration of Jeffrey Weckstein. In summary,  
5 BIMC Table 18.15.020-2, directs that for uses, like the hotel, not listed on the table, “parking  
6 requirements shall be established by the director”, based upon technical studies prepared by a  
7 qualified professional relating to the parking need for the proposed use. Those technical studies  
8 are found at Exs. 12, 13, and 32. The layout for the striped and overflow valet spaces are shown  
9 on Ex. 10. The Winslow Hotel has more than a sufficient number of parking stalls, including the  
10 ability to stack more cars via the use of professional valet service. Declaration of J. Weckstein,  
11 Section 5 (p. 4, lines 6 – 7). Even if the use of the restaurant is converted to a separate, non-hotel  
12 restaurant, and the newest edition of the shared parking guide is used, the Winslow Hotel has  
13 sufficient parking. Declaration of J. Weckstein, Section 5. Event valet parking is well-designed  
14 and will function to avoid back-ups onto Winslow Way. Declaration of J. Weckstein, Section 6.  
15 As to parking, the Winslow Hotel has been appropriately conditioned to eliminate or reduce to  
16 the greatest extent possible the impacts, and there is no material detriment to other uses and  
17 property in the vicinity. Declaration of J. Weckstein, Section 9.

18 The Winslow Hotel will not be materially detrimental to uses or property in the vicinity  
19 of the subject property, including the downtown MUTC-CC zone and surrounding areas. The  
20 CUP should be approved.

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

24 Rationale for Approval:

25 The argument from Ex. 40, pp. 9 - 10 is adopted and incorporated herein.  
26

1 The focal point for Winslow Neighbors and other opposition to this CUP criterion is the  
2 allegation that the Comprehensive Plan calls for downtown Winslow to serve the commercial  
3 and social needs of Island residents, and to create a lively, pedestrian-oriented town center with a  
4 a mix of commercial and residential uses that creates a potential tourist destination.” Ex. 43, A-  
5 25, “brief”, item 9. The Winslow Hotel serves Island residents, adds to a lively pedestrian-  
6 oriented environment, and certainly helps to create a tourist destination by providing lodging.

7 The Comprehensive Plan also makes clear that policy language is not directly applicable  
8 to permit applications, and that “shall” in a Comprehensive Plan policy is not a mandate. The  
9 Introduction to the Comprehensive Plan, at p. IN-17 explains what a Comprehensive Plan is, and  
10 what it is not, including:

11 . . . The goal and policy statements sometimes use very directive verbs such as  
12 “maintain” or “adopt.” In other cases, less directive verbs are used such as  
13 “consider” or “encourage.”

14 The more directive verbs convey a higher rank order of policy direction. Directive  
15 goal or policy language may call for the updating of development regulations,  
16 however that does not convert them into controls or conditions that can be directly  
17 applied to a permit decision.

18 A similar distinction can be made between the auxiliary verbs “should” and  
19 “shall.” Both terms are used in the Comprehensive Plan and it is intended that  
20 both provide substantive direction. The difference in meaning between “should”  
21 and “shall” is one of degree rather than kind. As used in this Plan, the word  
22 “shall” imparts a higher order of substantive direction than the word “should.”  
23 However as with the active verbs, the use of “shall” remains substantive policy  
24 direction not a land use control within the GMA meaning and definitions cited  
25 above.

26 Next, one of the guiding principles of the City’s Comprehensive Plan is to “[n]urture  
Bainbridge Island as a sustainable community by meeting the needs of the present without  
compromising the ability of future generations to meet their own needs.” As described at length  
in the record, the Winslow Hotel is attempting to be the first hotel to meet the Living Building  
Challenge, and will certainly be among the most sustainable structures on the Island. As noted in  
Ex. 43, “brief”, item 7, the Staff Recommended Condition 30 does not reference the Living

1 Building Challenge. Contained in the Declaration of M. Burns is a proposed update to that  
2 condition to reference the Living Building Challenge.

3 The Winslow Hotel is consistent with the City's Comprehensive Plan, and the CUP  
4 should be approved.

5  
6 *e. The conditional use complies with all other provisions of the BIMC,  
7 unless a provision has been modified as a housing design demonstration project  
8 pursuant to BIMC 2.16.020.Q; and*

8 Rationale for Approval:

9 Only three arguments were made during the hearing about a failure to meet codes other  
10 than the CUP and SPR criteria. First was the allegation that the building height for the east and  
11 west wings was not measured correctly. The building height is correctly measured, using  
12 applicable provisions of the BIMC, and the City confirmed the accuracy of that measurement.  
13 Declaration of B. Anderson, Section 9, p. 6.

14 Second, was the argument that a CUP cannot be approved before a Floor Area Ratio  
15 ("FAR") bonus is obtained. That is incorrect. The FAR bonus can be achieved in several  
16 different ways, including a payment set by Code, or by providing public amenities and  
17 infrastructure. BIMC 18.12.030.E. Making those payments or commitments before a CUP  
18 hearing is not appropriate, because there is a risk that the CUP might not be approved. Finally,  
19 the FAR bonus cannot be obtained until after CUP/SPR is approved, and more precise building  
20 plans are prepared, because the FAR bonus must be tied to a precise number of bonus square  
21 feet, and the size of a planned building can change during CUP/SPR permit process.

22 Third, allegations were made that the Winslow Hotel's banquet and spa facilities failed to  
23 meet the BIMC definition of hotel. Hotel is defined at BIMC 18.36.030(130) as: "a building or  
24 group of buildings containing guest rooms, where for compensation, lodging is provided for  
25 transient visitors. A hotel or motel may contain one or more restaurants...." Nothing in that  
26

1 definition prohibits a hotel from also having a spa or banquet/conference facilities. That  
2 argument, alone, is sufficient to rebut the public argument.

3 If additional authority is still required, then we ask the Examiner to note that “Accessory  
4 use” is defined at BIMC 18.36.030(12) as: “a use customarily incidental and related to the  
5 principal use on the same lot...” Spas and banquet/conference rooms are uses that are  
6 customarily associated with hotels, and are also outright permitted uses in the MUTC-CC zone (a  
7 spa is a personal service use, and a convention center, exhibition hall or meditation facility is  
8 permitted as a cultural facility).

9 The Winslow Hotel complies with all provisions of the City’s codes, and the CUP should  
10 be approved.

11  
12 *f. All necessary measures have been taken to eliminate or reduce to the*  
13 *greatest extent possible the impacts that the proposed use may have on the*  
*immediate vicinity of the subject property; and*

14 Rationale for Approval:

15 The argument from Ex. 40, pp. 10 - 11 is adopted and incorporated herein.

16 Argument in support of this criterion overlaps with argument under many other criteria,  
17 as well as the argument that because SEPA is now final, it cannot be disputed that all necessary  
18 measures have been taken to assure that, as mitigated, the Winslow Hotel has eliminated or  
19 reduced to the greatest extent possible the impacts of its use on the “immediate vicinity” of the  
20 Project site.

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

22 Rationale for Approval:

23 The argument from Ex. 40, pp. 11 - 12 is adopted and incorporated herein.

24 It is undisputed that the operations of the Winslow Hotel are required to meet the City’s  
25 adopted Noise Ordinance, Ch. 16.16 BIMC. Winslow Neighbors assert that because the  
26 Applicant did not provide a noise study, the criterion is not met. To the contrary, a study of the

1 potential noise impacts of the as-yet-undeveloped hotel would show, at best, that the Noise  
2 Ordinance limits are expected to be met, not that they are met. In addition, a noise study was not  
3 needed because the Winslow Hotel, itself, demands a quiet environment, and seeks to limit noise  
4 sources, including deliveries.<sup>4</sup> Ex. 41. Sources of noise from the hotel listed as concerns by  
5 Winslow Neighbors include possible music performances in the courtyard, mechanical  
6 equipment, loading associated with hotel operations, and garbage/recycling pickup.

7  
8 In support of their concerns, Winslow Neighbors presented testimony and reports from  
9 Mr. Jenkins. Jenkins argues that the City's Noise Ordinance requires noise at the Project's  
10 western boundary line to achieve EDNA A standards because despite being zoned for  
11 commercial uses, the property is developed with residential uses. Ex. 45. This is wrong. BIMC  
12 16.16.020 adopts by reference the State noise control standards, found in Ch. 173-60 WAC.  
13 Under WAC 173-60-030(2), the State instructs that in areas covered by a local zoning ordinance,  
14 like the City of Bainbridge Island, the City Council is authorized to designate EDNA  
15 classifications "to conform with the zoning ordinance." The City has done so by adoption of  
16 BIMC 16.16.040 which explains that "The EDNA (Environmental Designation for Noise  
17 Abatement) is established as follows: A. Residential zones, Class A EDNA; B. Commercial  
18 zones, Class B EDNA; C. Industrial zones, Class C EDNA." The City defines "zone" to mean  
19 "one of the classifications of permitted uses into which the land area of the city is divided."  
20 BIMC 18.36.030(278). Therefore, because the property to the west of the Winslow Hotel is  
21 zoned MUTC-CC, it is a Class B EDNA. The property to the south, zoned R-8, is a Class A  
22 EDNA.  
23

24 <sup>4</sup> Focusing on anecdotal statements about the frequency and timing of deliveries to the pub in downtown Winslow,  
25 public testimony expressed skepticism that the hotel can limit its truck deliveries as described in Exhibit 41. There is  
26 not an apt comparison between a pub located in a century old home, and a newly constructed hotel with modern  
loading, kitchen and storage facilities, plus the market share necessary to demand and dictate a limited number of  
vendor deliveries. Substantial weight should be provided to the analysis contained in Ex. 41, from a professional  
hotel management company.

1 Winslow Neighbors concede that the noise from possible music performances can be  
2 controlled in the future, because it is “possible to turn a volume knob down.” Ex. 45 (Jan. 22,  
3 2020 Memo, p. 3). Likewise, the Winslow Hotel is not the only location in downtown Winslow  
4 where music performances occur. Declaration of B. Anderson, Section 10. In addition, the  
5 Winslow Hotel courtyard has been designed to keep hotel activity noise within the hotel.  
6 Declaration of B. Anderson, Section 11. Accordingly, music performances at the Hotel will not  
7 add some sort of new and novel incompatible use to the downtown, and musicians can easily  
8 meet the City’s noise standards.

9 The risk of noise from mechanical equipment is also a non-issue. Part of the Winslow  
10 Hotel’s approach to sustainability is to avoid standard mechanical equipment on the roof, and  
11 instead use ground source heat pumps. The Declaration of B. Anderson, Section 12, provides  
12 more details on the desired approach to mechanical equipment. Finally, even if mechanical  
13 equipment was needed and installed at the hotel, the CUP Criterion mandating compliance with  
14 the City’s noise necessarily will drive the installation of equipment quiet enough to comply.

15 Next, the risk of noise associated with loading operations and with garbage/recycle  
16 pickup also is easily addressed. The Applicant agrees that it can be difficult to alter the building  
17 design after it is constructed to assure that applicable noise standards will be achieved. The  
18 Applicant disagrees with Mr. Jenkins impassioned testimony that garbage truck noise simply can  
19 never meet City standards; and notably, if this was true, then all property owners in the City  
20 should be turning one another in for noise violations each and every week. More importantly,  
21 and more on-point, the hotel loading, and garbage area can and will be designed to assure that  
22 noise will meet the City’s standards.

23 The building design already must be altered on the west wing so as to comply with Staff  
24 Recommended Condition 29 to add six workforce residential units. Declaration of B. Anderson,  
25 Section 13. As to noise impacts, options have been explored, and the Applicant knows that it is  
26 feasible to assure the design of the building controls noise impacts. Declaration of B. Anderson,

1 Section 13. The Applicant proposes a new condition that the final building design be evaluated  
2 in a noise study prior to City approval of a building permit. Declaration of M. Burns, Section 5.  
3 The design and operational options include potentially revising the already internal garbage and  
4 recycling area so that an insulated noise protective garage door can be shut after the garbage  
5 truck enters the dock area such that truck loading noise is shielded from the outdoors.  
6 Declaration of B. Anderson, Section 13. Another option that may be used is to reduce the  
7 number of garbage/recycling pick-ups via use of an on-site compactor, which, of course, would  
8 also be shielded. Declaration of B. Anderson, Section 13. Additional options include noise  
9 baffling within the garbage/loading pick-up area. Declaration of B. Anderson, Section 13. Noise  
10 from the Winslow Hotel can and will meet City standards, and the CUP should be approved.  
11

12 *h. The vehicular, pedestrian, and bicycle circulation meets all applicable*  
13 *city standards, unless the city engineer has modified the requirements of*  
14 *BIMC 18.15.020.B.4 and B.5, allows alternate driveway and parking area*  
15 *surfaces, and confirmed that those surfaces meet city requirements for handling*  
16 *surface water and pollutants in accordance with*  
17 *Chapters 15.20 and 15.21 BIMC; and*

18 Rationale for Approval:

19 In the opinion of the Applicant's professional transportation engineer, the vehicular,  
20 pedestrian, and bicycle circulation meets all applicable city standards. Declaration of G. Heath,  
21 Section 10.e. This criterion is met, and the CUP should be approved.

22 *i. The city engineer has determined that the conditional use meets the*  
23 *following decision criteria:*

24 *i. The conditional use conforms to regulations concerning*  
25 *drainage in Chapters 15.20 and 15.21 BIMC; and*

26 *ii. The conditional use will not cause an undue burden on the*  
*drainage basin or water quality and will not unreasonably interfere with*  
*the use and enjoyment of properties downstream; and*

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

*iv. The streets and pedestrian ways as proposed are adequate to*  
*accommodate anticipated traffic; and*

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

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

10                   Rationale for Approval:

11                   No meaningful evidence has been submitted that this requirement was not met. We rely  
12 on the analysis in the Staff Report, including at p. 37.

13                   j. *If a major conditional use is processed as a housing design*  
14 *demonstration project pursuant to BIMC 2.16.020.Q, the above criteria will be*  
15 *considered in conjunction with the purpose, goals, policies, and decision criteria*  
16 *of BIMC 2.16.020.Q.*

17                   Rationale for Approval:

18                   The Winslow Hotel is not a Housing Demonstration Project and, therefore, this criterion  
19 does not apply.

20                   2. *If no reasonable conditions can be imposed that ensure the application meets the*  
21 *decision criteria of this chapter, then the application shall be denied.*

22                   Rationale for Approval:

23                   The Staff Report recommended a plethora of conditions, and more were offered in Ex.  
24 40, and more are offered in the Declaration of M. Burns filed herewith. These reasonable  
25 conditions ensure the application meets the decision criteria of this chapter, such that the CUP  
26 for the Winslow Hotel should be approved.

**D. All SPR Criteria are met, and the SPR Should be Approved.**

                  The approval criteria for the SPR are found at BIMC 2.16.040.F and discussed below.  
Each code criterion is quoted in italics, followed by the rationale under which the criterion is  
met.

1           1. *The site plan and design is in conformance with applicable code provisions and*  
2           *development standards of the applicable zoning district, unless a standard has*  
3           *been modified as a housing design demonstration project pursuant to*  
              *BIMC 2.16.020.S;*

4           Rationale for Approval:

5           No meaningful evidence has been submitted that this requirement was not met. We rely  
6           on the analysis in the Staff Report, including at p. pp. 22 – 30. As described throughout the  
7           record and this letter, the site plan and design is in conformance with all applicable code  
8           provisions and development standards.

9           2. *The locations of the buildings and structures, open spaces, landscaping,*  
10          *pedestrian, bicycle and vehicular circulation systems are adequate, safe, efficient*  
11          *and in conformance with the Island-Wide Transportation Plan;*

12          Rationale for Approval:

13          No meaningful evidence has been submitted that this requirement was not met. We rely  
14          on the Ex. 7, and the analysis in the Staff Report, including at pp. 30–31, as well as Section 10.e  
15          of the Declaration of G. Heath.

16          3. *The Kitsap County health district has determined that the site plan and design*  
17          *meets the following decision criteria:*

18                a. *The proposal conforms to current standards regarding domestic water*  
19                *supply and sewage disposal; or if the proposal is not to be served by public*  
20                *sewers, then the lot has sufficient area and soil, topographic and drainage*  
21                *characteristics to permit an on-site sewage disposal system.*

22                b. *If the health district recommends approval of the application with*  
23                *respect to those items in subsection E.3.a of this section, the health district shall*  
24                *so advise the director.*

25                c. *If the health district recommends disapproval of the application, it shall*  
26                *provide a written explanation to the director;*

Rationale for Approval:

              No meaningful evidence has been submitted that this requirement was not met. We rely  
              on the analysis in the Staff Report, including at p. 31.

1 4. The city engineer has determined that the site plan and design meets the  
2 following decision criteria:

3 a. The site plan and design conforms to regulations concerning drainage  
4 in Chapters 15.20 and 15.21 BIMC; and

5 b. The site plan and design will not cause an undue burden on the  
6 drainage basin or water quality and will not unreasonably interfere with the use  
7 and enjoyment of properties downstream; and

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

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

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

15 f. The site plan and design conforms to the "City of Bainbridge Island  
16 Design and Construction Standards," unless the city engineer has approved a  
17 variation to the road standards in that document based on his or her  
18 determination that the variation meets the purposes of BIMC Title 18;

19 Rationale for Approval:

20 No meaningful evidence has been submitted that this requirement was not met. We rely  
21 on the analysis in the Staff Report, including at pp. 31 – 32, and the testimony of Michael  
22 Michaels.

23 5. The site plan and design is consistent with all applicable design guidelines in  
24 BIMC Title 18, unless strict adherence to a guideline has been modified as a  
25 housing design demonstration project pursuant to BIMC 2.16.020.S;

26 Rationale for Approval:

The Design Review Board ("DRB") issued a unanimous recommendation for approval of  
the Winslow Hotel. Ex. 21. One version of the approval document found in Ex. 21, includes a  
numbered list of each Guideline, followed by the answer "yes." This list should be read in the  
context of the Design Guideline checklist matrices found in Ex. 20. Each checklist matrix  
includes a final column labeled "DRB Action (Y/N)".

Winslow Neighbors argue several Design Guidelines were not properly met, focusing on  
the use of the words "shall" or "must" in certain Design Guidelines. Winslow Neighbors argue  
the Design Guideline use of "shall" or "must" is regulatory language required to be applied as a

1 mandatory directive, using the direction that “must and shall are each mandatory” found in  
2 BIMC 1.04.010.U. Winslow Neighbors argument is wrong. The use of the defined terms found  
3 in BIMC 1.04.010 is limited; specifically, the code section explains “Whenever used in the  
4 ordinances of the city, the following words and phrases shall be construed as defined in this  
5 section, **unless from the context a different meaning is intended or unless a different**  
6 **meaning is stated in the ordinance using the word or phrase.**” (Emphasis added). Here, a  
7 different meaning is plainly stated in the Design Guidelines.

8 The applicable Design Guidelines include both the Commercial and Mixed Use Design  
9 Guidelines (referred to as the “General Guidelines”), the Mixed Use Town Center/General  
10 Design Guidelines (referred to as the “Town Center Guidelines”), and the Mixed Use Town  
11 Center/Core District Guidelines (referred to as the “Core Guidelines”). Ex. 21. All Guidelines,  
12 including these sets of guidelines can be found through a link on the City’s website. Declaration  
13 of B. Anderson, Section 5. Included in the Design Guidelines, following the cover page for the  
14 Mixed Use Town Center/Core District Guidelines, is an Introduction. The Introduction explains  
15 how the City’s Design Guidelines are to be applied:

16 There is a set of overall guidelines that are applicable to all districts, followed by  
17 a set of additional guidelines for individual districts.

18 **The guidelines are meant to indicate preferred conditions, while allowing for**  
19 **other equal or better solutions to be considered. Design guidelines are not**  
20 **intended to be like quantitative, fixed zoning standards. They are to be**  
21 **applied with an attitude of flexibility.** Each development site and project will  
22 have particular characteristics that may suggest that some guidelines be  
23 emphasized and other de-emphasized. Repetitive, “cookie cutter” solutions are  
24 not desired. However, the guidelines do set forth a threshold of design  
25 expectations and shall not be ignored. **While the design criteria contained in**  
26 **this document are guidelines and not regulations, each proponent of a project**  
**has an obligation to demonstrate how each relevant guideline has been**  
**addressed.** Both the general guidelines and the appropriate guidelines for each  
district apply. While alternative solutions can be proposed, none of the criteria  
can be disregarded. It is to be expected that if criteria have been insufficiently  
addressed, conditions will be placed upon a project to assure that the criteria are  
sufficiently addressed.

...

1 (Emphasis added). The Design Guidelines are “not regulations,” and are “not quantitative, fixed  
2 zoning standards.” Instead, the Design Guidelines “are to be applied with an attitude of  
3 flexibility,” and allow for “equal or better solutions.” Even a Design Guideline that uses the  
4 words “shall” or “must” is, therefore, not mandatory.

5 Each of the Design Guidelines Winslow Neighbors argue was not met, in fact, was met,  
6 especially when applied with an attitude of flexibility, and because the Winslow Hotel structure  
7 approved by the DRB includes equal or better solutions to the express language of the Design  
8 Guidelines. How each Guideline raised by Winslow Neighbors is met is described, in detail, in  
9 the Declaration of Bruce Anderson, Section 9.

10 It is also worth noting that the Design Standards and Guidelines Chapter of the BIMC,  
11 includes BIMC 18.18.020 which calls for new development or re-development to include  
12 energy- and water-conservation measures, and other low impact development techniques where  
13 possible. The majority of community testimony was in favor of hotel’s sustainability. Indeed, as  
14 noted by David Breskin and Margaret Barbier, the Winslow Hotel “Shares the values for the  
15 environment [that] islanders care about.” Ex. 42. The Winslow Hotel’s site plan and design is  
16 consistent with all applicable design guidelines, and the SPR should be approved.

17 *6. No harmful or unhealthful conditions are likely to result from the proposed site*  
18 *plan;*

19 Rationale for Approval:

20 No meaningful evidence has been submitted that this requirement was not met. We rely  
21 on the analysis in the Staff Report, including at p. 32.

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

24 Rationale for Approval:

25 The Applicant refers the Examiner to the assessment of the Project’s compliance with the  
26 City’s Comprehensive Plan as described above, within the CUP analysis.

1 8. Any property subject to site plan and design review that contains a critical area  
2 or buffer, as defined in Chapter 16.20 BIMC, conforms to all requirements of that  
3 chapter;

4 Rationale for Approval:

5 There are no critical areas on the site. There appears to be no dispute that this criterion is  
6 met. We rely on the analysis in the Staff Report, including at pp. 32 – 33.

7 9. Any property subject to site plan and design review that is within shoreline  
8 jurisdiction, as defined in Chapter 16.12 BIMC, conforms to all requirements of  
9 that chapter;

10 Rationale for Approval:

11 The property is not within the City's Shoreline Jurisdiction. There appears to be no  
12 dispute that it is met. We rely on the analysis in the Staff Report, including at p. 33.

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

16 Rationale for Approval:

17 This criterion is not applicable because the requirements of BIMC 17.20.020 do not apply  
18 to commercial development. We rely on the analysis in the Staff Report, including at p. 33.

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

21 Rationale for Approval:

22 The argument from Ex. 40, pp. 17 - 18 is adopted and incorporated herein. No other  
23 meaningful evidence was presented during the hearing that this criterion was not met.

24 **III. CONCLUSION**

25 For these reasons and the reasons set forth in Applicant's Pre-hearing brief, Ex. 40, as well  
26 as the City's Staff Report and briefing, Madison Avenue Development, Inc., requests that the

1 Hearing Examiner approve the CUP and SPR, subject to the conditions in Ex. 1 as modified by  
2 Ex. 40, and supplemented with the conditions in the Declaration of M. Burns.

3  
4 DATED this 31st day of January, 2020.

5 CAIRNCROSS & HEMPELMANN, P.S.

6 

7 Nancy Bainbridge Rogers, WSBA No. 26662

8 E-mail: [nrogers@cairncross.com](mailto:nrogers@cairncross.com)

9 Max Burke, WSBA No. 49806

10 E-mail: [mburke@cairncross.com](mailto:mburke@cairncross.com)

11 524 Second Avenue, Suite 500

12 Seattle, WA 98104-2323

13 Telephone: (206) 587-0700

14 Facsimile: (206) 587-2308

15 Attorneys for Applicant, Madison Avenue

16 Development, Inc.

1 Certificate of Service

2 I, Amelia L. Westling, certify under penalty of perjury of the laws of the State of  
3 Washington that on January 31, 2020, I caused a copy of the document to which this is attached  
4 together with the Declaration of Mike Burns, Declaration of Greg Heath, Declaration of Jeff  
5 Weckstein, and Declaration of Bruce Anderson to be served on the following individual(s) via E-  
6 mail and two copies hand delivered to the Clerk to the Hearing Examiner:

7 David Bricklin, Attorney for Winslow Neighbors  
8 Bricklin & Newman, LLP  
9 1424 Fourth Avenue, Ste 500  
10 Seattle, WA 98101  
11 Email: [bricklin@bnd-law.com](mailto:bricklin@bnd-law.com)  
12 Assistant Email: [cahill@bnd-law.com](mailto:cahill@bnd-law.com)  
13 Assistant Email: [miller@bnd-law.com](mailto:miller@bnd-law.com)

14 Jim Haney, Attorney for the City of Bainbridge Island  
15 Ogden Murphy Wallace, PLLC  
16 901 5<sup>th</sup> Ave, Suite 3500  
17 Seattle, WA 98164  
18 Via First Class U.S. Mail  
19 Email: [jhaney@omwlaw.com](mailto:jhaney@omwlaw.com)  
20 Assistant Email: [ekelly@omwlaw.com](mailto:ekelly@omwlaw.com)

21 Theodore Paul Hunter, Hearing Examiner  
22 Carla Lundgren, Clerk to the Hearing Examiner  
23 280 Madison Ave N  
24 Bainbridge Island, WA 98110  
25 Via First Class U.S. Mail  
26 Email: [clundgren@bainbridgewa.gov](mailto:clundgren@bainbridgewa.gov)

DATED this 31st day of January, 2020, at Seattle, Washington.



Amelia L. Westling, Legal Assistant  
CAIRNCROSS & HEMPELMANN, P.S.  
524 Second Avenue, Suite 500  
Seattle, WA 98104-2323  
Telephone: (206) 587-0700  
Facsimile: (206) 587-2308  
E-mail: [awestling@cairncross.com](mailto:awestling@cairncross.com)

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BEFORE THE HEARING EXAMINER  
FOR THE CITY OF BAINBRIDGE ISLAND

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IN THE MATTER OF THE CUP/SPR  
APPLICATION FOR THE:

WINSLOW HOTEL

NO. PLN50880 SPR/PLN50880 CUP

DECLARATION OF BRUCE ANDERSON

I, Bruce Anderson, AIA, declare as follows:

1. I am at least 18 years of age and competent to testify as to the matters herein. I give this Declaration based on my own personal knowledge of the matters stated herein.

2. Together with Jim Cutler, I am one of the architects working on the Winslow Hotel, with my office in downtown Winslow, and I am a resident of the City of Bainbridge Island.

3. I was present at the hearing in this matter held January 23, 2020.

4. My response to matters raised in the hearing follows.

**DESIGN GUIDELINES AND BUILDING HEIGHT**

5. The Design Guidelines used for the Winslow Hotel were obtained at this link:  
<https://www.bainbridgewa.gov/DocumentCenter/View/2554>

6. Those Design Guidelines include a statement describing how the Guidelines are to be applied with an attitude of flexibility and that they are guidelines not regulations, such that “equal or better solutions” are allowed.

DECLARATION OF BRUCE ANDERSON- 1

CAIRNCROSS & HEMPELMANN, P.S.  
ATTORNEYS AT LAW  
524 2nd Ave, Suite 500  
Seattle, WA 98104  
office 206 587 0700 fax: 206 587 2308

1           7.       As the architecture team, we completed the checklists found at Ex. 20 at the outset  
2 of the project, for the applicable Design Guidelines including the Commercial and Mixed Use  
3 Design Guidelines (referred to as the “General Guidelines”), the Mixed Use Town Center/General  
4 Design Guidelines (referred to as the “Town Center Guidelines”), and the Mixed Use Town  
5 Center/Core District Guidelines (referred to as the “Core Guidelines”).

6           8.       The Project was reviewed in six different meetings before the Design Review Board  
7 (“DRB”), each time with revised plan sets to depict compliance with the Design Guidelines and  
8 design solutions in response to DRB direction. Several of those six meetings were pre-application  
9 reviews that helped to inform the project design. The City’s DRB unanimously approved the  
10 designs presented for the Winslow Hotel. Ex. 21.

11          9.       Winslow Neighbors and other opponents argued the following Design Guidelines  
12 were not met. We demonstrated to the DRB how each Guideline was either met under its express  
13 terms, or was met using a flexible approach that provided an equal or better solution, as described  
14 below.

15           General Guideline 7: This guideline states: “Facades over 128’ in length shall be  
16 separated by pedestrian passage or open space...” Winslow Neighbors’ argues the east and west  
17 wings exceed 128 feet in length and do not include separations. The term “façade” is not defined  
18 in the BIMC. However, the common definition of façade is the front of a building that faces the  
19 street. Here, the Winslow Way façade is broken into pieces each less than 128 feet in length.  
20 The main entry is designed to be open through the building connecting the street to the courtyard  
21 when the weather is favorable. The east and west wings of the building are not the building  
22 “façade,” and, therefore, this Design Guideline does not apply at all. The DRB agreed.

23           Core Guideline A.1: This guideline states: “Buildings shall incorporate articulation on  
24 all sides. The street facing side(s) shall receive the greatest amount of attention with respect to  
25 richness of forms, details, materials, and craft. . .” Winslow Neighbors concede façade  
26 modulation along the north, facing Winslow Way. Ex. 46, p. 3. Winslow Neighbors argue there

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CAIRNCROSS & HEMPELMANN, P.S.  
ATTORNEYS AT LAW  
524 2nd Ave, Suite 500  
Seattle, WA 98104  
office 206 587 0700 fax: 206 587 2308

1 is no articulation of the east and west wings of the building. In fact, the east and west wings  
2 demonstrate articulation through patterns of fenestration and expression of structural bays.

3 General Guideline 9 and Town Center Guideline 3: These guidelines seek to encourage  
4 pedestrian passageways between buildings and a network of pedestrian linkages. Winslow  
5 Neighbors argue these guidelines call for pedestrian connections to the east and west which are  
6 not provided by the Winslow Hotel. The actual language of Town Center Guidelines states only  
7 that connections to adjoining properties “should” be provided. The Winslow Hotel does not  
8 provide connections to the east and west because there are no existing nor potential pedestrian  
9 pathways through neighboring properties. Nor are such connections required.

10 General Guideline 15: This guideline states “Buildings in excess of 10,000 square foot  
11 footprint should be visually split into two or more distinct elements.” Winslow Neighbors  
12 concede that the Winslow Hotel is “visually split . . . into three elements.” Ex. 46, p. 4.  
13 Winslow Neighbors argues that because the east and west wing each exceed 10,000 square feet,  
14 those wings also must be visually split. The Guideline does not say that every building module  
15 must be 10,000 square feet or less. This Guideline is plainly met because the Winslow Hotel is  
16 visually split into a north, west and east wing.

17 General Guideline 10: This guideline states “building designs should respond to nearby  
18 buildings that meet the upgraded design standards by using shared elements, materials, or  
19 massing.” Winslow Neighbors argue there are not compatible elements, materials, or massing.  
20 The Guideline calls for a building to attempt to share elements, materials or massing only with  
21 nearby buildings that “meet upgraded design standards.” Here, the Winslow Hotel shares a  
22 strong expression of a building base, natural building materials, and no flat roofs with its  
23 neighbors.

24 Core Guideline 7: This guideline calls for building facades along Winslow Way to be  
25 stepped back above the second story, and states that “alternatives to this guideline may be  
26 proposed, so long as the effect is that the upper floor(s) appear to recede from view, and the

DECLARATION OF BRUCE ANDERSON- 3

CAIRNCROSS & HEMPELMANN, P.S.  
ATTORNEYS AT LAW  
524 2nd Ave, Suite 500  
Seattle, WA 98104  
office 206 587 0700 fax: 206 587 2308

1 impacts of massing on light and air are addressed.” Winslow Neighbors argue the upper floors  
2 of the Winslow Hotel appear to be emphasized, rather than recede from view. In fact, the overall  
3 building forms of the façade vary in their angles and positions to the street to assure a pedestrian  
4 sense of scale, light and air. In addition, the intent behind Core Guidelines 6 and 7 is to produce  
5 a townscape that is highly variegated and diverse, with a wide variety of building forms and  
6 massing, with a high degree of activity and interest at the street level that can engage people on  
7 foot. To this end, “new development should embody creative expression as individualized  
8 structures that contribute to the unique place that is the Core of the Town Center.” The Winslow  
9 Hotel furthers this intent because of the strong expression of wood structure and craft, reflecting  
10 the Island’s wood shipbuilding and lumber milling history.

11 Core Guideline 9: This guideline addresses roof design, and calls for the greatest amount  
12 of attention to the lower floors most closely visible to the street. Flat roofs are discouraged,  
13 except when appropriate for green building purposes, such as to accommodate solar panels.  
14 Buildings located within 100 feet of residential zones outside the Core are to incorporate pitched  
15 roof forms, with slopes between 4:12 and 12:12 in order to create a transition in development  
16 pattern. Winslow Neighbors argues that the Winslow Hotel site abuts property zoned R-8, such  
17 that the Hotel roofline should be pitched between 4:12 and 12:12 rather than a shallow-pitched  
18 shed roof. The Winslow Hotel uses a shallow-pitched shed roof for the installation of solar  
19 panels, as is allowed by the Guideline. In addition, the Winslow Way roofline is emphasized as  
20 the roofline most closely visible to the street. The east wing of the hotel ends more than 100 feet  
21 from the south property line abutting the R-8 zoned land, and the west wing ends approximately  
22 40 feet from that property line, so as to protect an existing grove of Pacific Madrones and  
23 surrounding forest. These are sufficient distances and view protection measures to provide an  
24 adequate transition to the R-8 zone. In addition, the intent supporting Core Guideline 9 is the  
25 same as the intent supporting Core Guideline 7, above. The Hotel furthers this Core Guideline 9  
26

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CAIRNCROSS & HEMPELMANN, P.S.  
ATTORNEYS AT LAW  
524 2nd Ave, Suite 500  
Seattle, WA 98104  
office 206 587 0700 fax: 206 587 2308

1 and the intent because the building scale and rooflines drop in height to emphasize a transition to  
2 the R-8 zone.

3 Town Center Guideline 8: This guideline calls for visually prominent principal  
4 entrances, within close proximity to the sidewalk, and explains that entrances should incorporate  
5 elements such as setbacks, recesses, or other architectural devices. Winslow Neighbors  
6 complain that the pedestrian entrance is not close enough to the sidewalk, and requires  
7 pedestrians to cross the car access drive, asserting that “there does not appear to be any way for  
8 the typical pedestrian to access the building without checking over their shoulder for oncoming  
9 traffic.” Ex. 46, p. 7. This is not true. The entry uses a dramatic architectural device of a  
10 setback and glazing to expose the coastal redwood to the street. Pedestrians have plainly  
11 protected access to the front door from the sidewalk, using artistic bollards between the porte  
12 cochere and hotel doorway. Ex. 7, Sheets A3 and A14, Ex. 10, Sheet A6.

13 Core Guideline 7 (subpart 4): This guideline calls for the facades of commercial  
14 buildings to incorporate a variety of architectural features to produce a visually rich and  
15 engaging experience for people on foot, and asks that at least five items from a provided list –  
16 including elements that are not listed but that meet the intent - be included. Winslow Neighbors  
17 asserts none of the items are provided such that the façade is not visually rich and engaging. Ex.  
18 46, pp. 7 – 8. The Winslow Hotel façade incorporates prominent sills on display windows, visual  
19 structural elements behind the glazing, a concrete board-formed plinth, prominent metal structure  
20 connectors, pedestrian scaled lighting and signage, and a variety of landscape elements. Ex. 7,  
21 Sheet A14 shows many of these features, as well as the overall effect of a visually rich and  
22 engaging experience, including the connection to the coastal redwood.

23 Town Center Guideline 2: This guideline calls for new development to provide facilities  
24 near or visible from the sidewalk for outdoor public use. Winslow Neighbors complains that the  
25 Project’s open space is in the central courtyard which is not public and that the glass on the  
26 façade will likely appear opaque at most times of the day, meaning the courtyard would not be

DECLARATION OF BRUCE ANDERSON- 5

CAIRNCROSS & HEMPELMANN, P.S.  
ATTORNEYS AT LAW  
524 2nd Ave, Suite 500  
Seattle, WA 98104  
office 206 587 0700 fax: 206 587 2308

1 visible. As described by Mr. Burns during the hearing, the courtyard is open to the public. As to  
2 the visibility from the street, because the courtyard is south of the building, the courtyard will in  
3 fact be transparent from the street.

4 Building Height: Winslow Neighbors also raised concerns regarding building height,  
5 largely related to the allegation that shed roofs were not allowed. To the extent the height  
6 measurement technique was questioned, the hotel height was determined consistent with BIMC  
7 18.12.050 Rules of Measurement, under subsection C. *Building Height* and Subsection I.  
8 *Grade*. The allowable building height for each segment of both the east and west wings, is  
9 consistent with BIMC Table 18.12.020 – 3 and footnote 6. As shown in Ex. 7, Sheet A.10, height  
10 is measured from the “Grade” to the midpoint of the longest segment of both the 35 foot and 45  
11 foot portions of the building. City Staff required me to confirm that these measurements complied  
12 with not just the measurement standards, but also the requirement that part of the building had to  
13 comply with the 35 foot limit, due to the restriction on the 45 foot limit tied to the limited areas of  
14 parking located beneath the building.

#### 15 **NOISE ISSUES**

16 10. Outdoor music performances already occur in the downtown Winslow area,  
17 including at the gazebo located at the Winslow Greens site, at the northwest corner of Winslow  
18 Way and Madison Avenue, and at the City’s Waterfront Park.

19 11. The Winslow Hotel courtyard and location of the music “bandshell” are designed  
20 to keep courtyard activity noise internal to the hotel.

21 12. The Winslow Hotel plans to avoid external mechanical equipment on its roof.  
22 Instead, the Hotel’s mechanical strategy is to utilize ground source heat pumps in conjunction with  
23 operable windows and mechanical ventilation of public spaces. The mechanical ventilation of  
24 these spaces includes fans, for which noise will be controlled both internally and external to the  
25 Hotel by sizing ducts and fans to minimize noise (associated with speed and volume of air flow),  
26 and by using sound traps as well, if necessary. The ground source heat pumps will be located

DECLARATION OF BRUCE ANDERSON- 6

CAIRNCROSS & HEMPELMANN, P.S.  
ATTORNEYS AT LAW  
524 2nd Ave, Suite 500  
Seattle, WA 98104  
office 206 587 0700 fax: 206 587 2308

1 internal to the building, with some exterior features, such as wells, ground loops or a combination  
2 of those features that will be buried. The ground source heat pumps produce very little to no  
3 noise. No other equipment is planned for a roof top installation. The kitchen exhaust is planned to  
4 exit through the roof, in a chimney, between adjoining segments of the building.

5 13. The building design already must be altered on the west wing so as to comply with  
6 Staff Recommended Condition 29 to add six workforce residential units. At the direction of  
7 Michael Burns, the architecture team also has examined possible revisions to the  
8 garbage/recycling/loading area of the Winslow Hotel. Feasible options include altering either or  
9 both the design of the area and/or hotel operations, including revising the already internal garbage  
10 and recycling area so that an insulated noise protective garage door(s) can be shut after the garbage  
11 truck enters the dock area such that truck loading noise is shielded from the outdoors, and/or to  
12 reduce the number of garbage/recycling pick-ups via use of an on-site compactor, which, of course,  
13 would also be shielded, and/or to add other noise baffling and shielding within the garbage/loading  
14 pick-up area.

#### 15 **SITE DESIGN ISSUES**

16 14. In response to neighbor concerns, we explored alternate locations for the service  
17 drive, and concluded the west side was the best alternative. For example, flipping the building  
18 so that the entry and passenger vehicles utilized the west side would increase, not decrease,  
19 traffic near the western property line.

20 15. The service drive and loading area design minimizes back up beepers from  
21 deliveries because it allows trucks to drive forward down the drive, and maneuver to  
22 load/unload, and turn and exit to Winslow Way, also driving forward.

23 16. Ex. 10 was prepared by my firm to demonstrate that the site contains sufficient  
24 parking stalls, and stacked valet parking areas.

25 17. In response to allegations made that the Hotel continues to seek off-site parking  
26 and has been refused, specifically, by the Winslow Green property owners, it is true that early in

DECLARATION OF BRUCE ANDERSON- 7

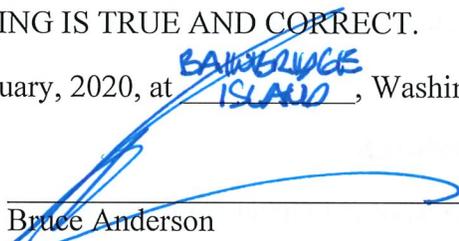
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ATTORNEYS AT LAW  
524 2nd Ave, Suite 500  
Seattle, WA 98104  
office 206 587 0700 fax: 206 587 2308

1 the process, inquiries were made to Winslow Green to use their parking at night, so as to  
2 minimize the amount of pavement and parking on-site. When Winslow Green refused, we then  
3 revised the Hotel's on-site parking to increase the number of stalls. There is no current plan to  
4 use Winslow Green parking stalls because all Hotel parking will be accommodated on site.

5 18. Conclusion. The Winslow Hotel, as shown in the plans at Ex. 7, is well-designed  
6 and planned to allow smooth and quiet operations of the hotel and associated uses. In my  
7 professional opinion, neither the hotel structure, nor the hotel uses impose any material detriment  
8 to other property or uses. Finally, in my professional opinion, both the hotel structure and the  
9 hotel use are harmonious and compatible in design, character and appearance with the intended  
10 character and quality of development in the vicinity of the subject property and with the physical  
11 characteristics of the subject property.

12 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE  
13 OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

14 DATED this 30<sup>th</sup> day of January, 2020, at BAKERLIDGE  
ISLAND, Washington.

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BEFORE THE HEARING EXAMINER  
FOR THE CITY OF BAINBRIDGE ISLAND

IN THE MATTER OF THE CUP/SPR  
APPLICATION FOR THE:

WINSLOW HOTEL

NO. PLN50880 SPR/PLN50880 CUP

DECLARATION OF GREG HEATH

I, Gregory B. Heath, declare as follows:

1. I am at least 18 years of age and competent to testify as to the matters herein. I give this Declaration based on my own personal knowledge of the matters stated herein.

2. I am a licensed Professional Engineer, and PTOE, and have practiced in the transportation engineer profession for over 40 years in both the public and private sectors.

3. I prepared the Traffic Impact Analysis ("TIA") for the Winslow Hotel. I was present at the hearing in this matter held January 23, 2020.

4. My response to matters raised in the hearing follows.

5. Effect of Saturday Impacts. The City did not request detailed analysis of Saturday traffic impacts. No data is available during Saturday peak hours nor is data available which indicates that the hotel project peak traffic would occur at the same time other Saturday traffic would peak. Because of that lack of data and correlation, the City along with many other jurisdictions that I work in, recognizes that too much speculation is needed that cannot be

1 substantiated so as to ascertain Saturday impacts and when during the day a hotel project traffic  
2 might peak. The weekday PM peak hour is the known time of the week when maximum street  
3 volumes generally occur, and that is why professional traffic reports focus on analysis of traffic  
4 impacts during the PM peak hour.

5 6. Definition of Hotel as found in ITE. The data base used from the Institute for  
6 Transportation Engineers (“ITE”) Trip Generation Manual, 10<sup>th</sup> Edition, as stated in the TIA for  
7 this use, includes hotels with supporting facilities, such as banquet facilities and restaurant activity  
8 traffic. See, Ex. 12, p. 12 for complete quote. The Trip Generation Manual is the industry standard  
9 and the data base for hotel uses that was included in the TIA is a robust data base with 25 data  
10 points for the AM peak hour and 28 data points for the PM peak hour. The description in ITE was  
11 included in the TIA indicating that the data base included the features planned for the Winslow  
12 Hotel including restaurants and banquet facilities.

13 7. Effect of Ferry Traffic. The AM and PM field counts in the TIA were taken over  
14 two hours and include ferry traffic over each time period. The analysis of these commute hours,  
15 both AM and PM, was required by the scoping conducted by Bainbridge Island Public Works.  
16 The one-hour ferry turnaround shows that ferry surges were included, because ferries both loaded  
17 and discharge ferry traffic in the field counts. The LOS analysis accounts for the ferry surge by  
18 showing lower peak hour factors; the peak hour factor (“PHF”) is used in traffic engineering  
19 analysis to focus more traffic into the 15-minute window that characterizes ferry traffic. This PHF  
20 was used for all of the intersection analyses. Next, it was suggested by Mr. Tilghman that ferry  
21 traffic will increase in summer months. The increase in ferry utilization noted by WSDOT and in  
22 the June 2014 Island Wise Transportation Plan (as cited by Tilghman) are general and are not to  
23 be used in determining traffic impacts in a project-specific TIA, prepared by a qualified traffic  
24 engineer. This potential increase in ferry utilization is information is best used to inform  
25 government agencies as they plan for infrastructure improvements given they are planning  
26 documents and forecasting documents. What was used for the Winslow hotel was a confirming

1 summertime traffic count in late June 2019. Ex. 15. This corroborating count was taken in early  
2 June 2019 at the intersection of Madison/Winslow and therefore taken during warmer weather. It  
3 also contained school traffic which was still in session on the island at the time of the count, so as  
4 to maximize the amount of background traffic.

5 8. Effects of Pedestrians. In general, pedestrian movements have little effect on  
6 intersection operations. At signal-controlled intersections, pedestrian crossings are built into the  
7 timeframes for the lights. The operation of a four-way stop sign controlled intersection where all  
8 traffic stops before entering the intersection is recognized for its safe operation as to pedestrians.  
9 Sensitivity analysis shows that the nearby intersection of Madison and Winslow also is not affected  
10 by changes in pedestrian traffic. Based on the LOS analysis in the TIA, the nearby intersection of  
11 Madison/Winslow, a four way stop, is not affected by pedestrian crossings. There is low  
12 congestion at this intersection which currently operates at LOS B. The addition of project traffic  
13 to this intersection only increases the delay at this intersection from 12.3 seconds to 12.8 seconds,  
14 only 0.5 seconds of delay increase.

15 9. Traffic Concurrency Received. The project rightfully received traffic concurrency  
16 from the City. The TIA represents the effects of how this particular project affects a number of  
17 intersections plus the project entrance along Winslow Way, and includes an analysis of traffic  
18 operations during the AM peak hour and the PM peak hour.

19 10. Response to public comments referencing CUP criteria.

20 a. The TIA shows that adequate public facilities do exist. The effect of project  
21 traffic as shown in the LOS analysis in the TIA showed modest changes to the intersection  
22 operations due to project traffic.

23 b. In my opinion, using standard traffic engineering principles as corroborated  
24 by the City in its concurrency review, demonstrates that the project is not materially detrimental  
25 to the surrounding properties and uses, or transportation infrastructure.

1 c. The project does its part for its patrons to reduce auto-dependence by  
2 including a shuttle, by including bicycle parking and bicycles for guests, and by its location within  
3 walking distance from the ferry terminal. Necessarily, any new development includes new traffic.  
4 Asking for a conditional use permit should not preclude all new development purely to encourage  
5 a reduction in auto-dependence.

6 d. The full scope of impacts is known, because the TIA assumes a conservative  
7 approach as the analysis did not reduce site traffic based on existing uses (the store and offices)  
8 and prior uses (the restaurant). In addition, the shuttle service and the proximity of walk-in  
9 pedestrian traffic from the ferry was not taken into account to reduce projected site traffic.

10 e. In my opinion, and as described in the TIA, the vehicular, pedestrian, and  
11 bicycle circulation meets all applicable city standards.

12 11. Hotel Operations. The hotel shuttle system will be developed to minimize effects  
13 on the neighborhood and hotel patrons and will be subject to monitoring as to its efficacy.  
14 Adjustments as needed will be made to refine and issues and solve any problems that might arise.  
15 The same holds true with the valet system in that once implemented, the valet system would adjust  
16 for operational characteristics as needed. The speculative numbers presented by Mr. Tilghman, if  
17 they occur, would be adjusted for by operational revisions. The hotel staff can easily adjust for a  
18 staggered checking-in procedure as needed. Conditions 11 and 12 authorize monitoring of the  
19 above activities and require solutions as needed.

20 12. Event Traffic. Both the AM and PM Peak hour LOS analysis without project traffic  
21 and with project traffic are at acceptable levels of service, which meets concurrency in the City of  
22 Bainbridge Island. The project is conditioned to provide valet service for large events, private  
23 traffic control plans to accommodate large events will be implemented as it is important that the  
24 guests are best served along with not impacting the neighborhood. There is also a requirement to  
25 monitor events for two years that will provide additional data that can lead to additional conditions  
26 and limits, if a problem actually develops.

1           13.    Change in Traffic Caused by Project and Thorough TIA. The intent of the TIA is  
2 to determine the net effect of project traffic on traffic operations. As described in the TIA and  
3 throughout this Declaration, the TIA thoroughly considered these matters, and the trip generation  
4 statistics of 727 average trips per day includes a thorough analysis of the impacts of a hotel that  
5 includes 87 guest rooms, plus event facilities, a restaurant, a cocktail lounge and other supporting  
6 uses.

7           14.    Local Concern Regarding Access Bus for "Stephens House". This Access bus  
8 activity would have been taken into account during the field counts used in the TIA for the  
9 background traffic. If blocking issues occur on Winslow Way, the City is authorized to ask for  
10 operation modifications of the bus operators. The hotel project is not altering this condition.

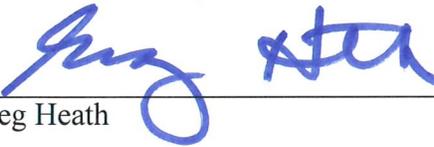
11           15.    Winslow Way/Erickson Intersection. At the direction of the City, the scope of the  
12 TIA did not include the Winslow Way/Erickson Intersection. This is expected and appropriate  
13 because that intersection is a minor "T" intersection between the two larger intersections of  
14 Winslow Way/SR 305, and Winslow Way/Madison Avenue, each of which were included in the  
15 analysis.

16           16.    Payment of Traffic Impact Fees. The project is subject to traffic impact fees. The  
17 traffic impact fees are used to provide a fair share toward projects made part of transportation  
18 improvement programs adopted by the City to provide a solution to projects which have more of  
19 an island-wide nature and which have been included in the planning studies cited by Winslow  
20 Neighbors.

21           17.    Conclusion. The TIA for the Winslow Hotel, Ex. 12, including the supplemental  
22 summer information found at Ex. 15, that I prepared and that was reviewed by the City of  
23 Bainbridge Island shows that this project will not create a significant impact to traffic, and no  
24 material detriment to other property or uses.

1 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE  
2 OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

3 DATED this 30<sup>TH</sup> day of January, 2020, at Puyallup, Washington.

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BEFORE THE HEARING EXAMINER  
FOR THE CITY OF BAINBRIDGE ISLAND

IN THE MATTER OF THE CUP/SPR  
APPLICATION FOR THE:  
  
WINSLOW HOTEL

NO. PLN50880 SPR/PLN50880 CUP  
  
DECLARATION OF JEFF WECKSTEIN

I, Jeff Weckstein, declare as follows:

1. I am at least 18 years of age and competent to testify as to the matters herein. I give this Declaration based on my own personal knowledge of the matters stated herein.

2. I hold a MA in Urban Planning from the University of California, Irvine, and am a Parking Consultant employed by Walker Consultants. I specialize in providing data-driven parking and mobility solutions for a variety of public- and private-sector client, including parking needs analysis.

3. I prepared and then updated the parking analysis for the Winslow Hotel, found at Exs. 11, 13, and 32. I was present during the hearing held on this matter on January 23, 2020

4. Below is my response to matters raised in the hearing, including the Tilghman Group in letters dated September 30, 2019 and January 23, 2020 (both Ex. 44), and reiterated verbally at the Hearing Examiner hearing on January 23, 2020.

DECLARATION OF JEFF WECKSTEIN- 1

CAIRNCROSS & HEMPELMANN, P.S.  
ATTORNEYS AT LAW  
524 2nd Ave, Suite 500  
Seattle, WA 98104  
office 206 587 0700 fax: 206 587 2308

1           5.       Response to September 30, 2019 memo (Ex. 44) and related verbal testimony.

2   This letter raised the following concerns: (1) The project's compliance with zoning requirements  
3   for parking has yet to be demonstrated by the applicant or the City; (2) The parking analysis  
4   omits restaurant and banquet employee demands and needs to revise some key assumptions; (3)  
5   The project has not demonstrated how it would secure off-site parking to accommodate overflow  
6   demand.

7           Regarding item (1), the Winslow code is clear in that there is not a specified minimum  
8   parking requirement for hotels since they often include ancillary space such as restaurants and  
9   event/banquet space. The code is clear in specifying that a parking study should be completed,  
10   subject to the approval of city staff, that identifies the recommended amount of parking for a  
11   hotel project. The parking studies Walker has completed for the Winslow Hotel project satisfy  
12   this requirement and have been reviewed and approved by City staff.

13           Regarding Item (2), the comment reflects a fundamental misinterpretation of the base  
14   parking demand ratios for ancillary hotel uses in the Urban Land Institute's (ULI) 2<sup>nd</sup> Edition of  
15   Shared Parking. The 2<sup>nd</sup> Edition of Shared Parking includes parking demand ratios and  
16   information for ancillary hotel uses such as a hotel restaurant and hotel meeting/banquet space.  
17   The 2<sup>nd</sup> Edition of the shared parking model does not provide separate base ratios for employees  
18   and patrons for these ancillary uses, because it instead provides one ratio that includes both  
19   employees and patrons. Thus, the analysis prepared by Walker is accurate and accounts for hotel  
20   restaurant and hotel meeting/banquet employees.

21           In his verbal remarks at the Hearing Examiner hearing, Mr. Ross Tilghman alleged that  
22   the ULI shared parking model is 'old.' The 2<sup>nd</sup> Edition of ULI's shared parking was released in  
23   2005. The 3<sup>rd</sup> Edition of ULI's Shared Parking Public and Shared Parking Model, is currently  
24   being printed and is available for pre-order, with a release date of February 10, 2020. Mary  
25   Smith, from my firm, Walker Consultants, is the lead author of the Shared Parking publication,  
26   as she was with the 2<sup>nd</sup> Edition, and Walker assisted in the development of the new shared

DECLARATION OF JEFFREY WECKSTEIN- 2

CAIRNCROSS & HEMPELMANN, P.S.  
ATTORNEYS AT LAW  
524 2nd Ave, Suite 500  
Seattle, WA 98104  
office 206 587 0700 fax: 206 587 2308

1 parking model. Because of Walker's involvement in the development of the Shared Parking  
2 Model, we have access to the 3<sup>rd</sup> Edition model already.

3         Within the new shared parking publication there is an extensive discussion of the hotel  
4 land use, and its ancillary uses, including discussion of changes to meeting/banquet parking  
5 ratios, since newer data showed that too much parking was being recommended for these uses,  
6 and a discussion of the impacts of transportation network companies (TNCs) such as Uber and  
7 Lyft on hotel parking demand in particular. The impact of TNCs has been a reduction in parking  
8 demand at hotels which is expected to continue and intensify with greater acceptance of both  
9 TNCs and the eventual introduction of autonomous vehicles. Additionally, in the 3<sup>rd</sup> Edition of  
10 the Shared Parking Model, the hotel restaurant and hotel meeting/banquet uses have had their  
11 base ratios split into employee and patron ratios for greater clarity.

12         Walker previously prepared an updated parking analysis, disclosed in the Project's SEPA  
13 exhibits, which utilized the new 3<sup>rd</sup> Edition model, and analyzed the project for two scenarios,  
14 the first with the restaurant analyzed as a 'hotel restaurant', and the second with the restaurant  
15 analyzed as an external fine/casual dining restaurant, which was Mr. Tilghman's  
16 recommendation in his letter. In both scenarios, the Project's proposed parking supply remains  
17 more than adequate to accommodate projected design day parking demand. Under the 3<sup>rd</sup>  
18 Edition, the Design Day parking demand was 105 for hotel patrons, and 22 for employees, for a  
19 total of 127 stalls, and the Maximum Event Scenario required 134 stalls. Under the 3<sup>rd</sup> Edition,  
20 assuming the hotel restaurant was instead an external non-hotel restaurant, the Design Day  
21 parking total was 162 stalls, and the Maximum Event Scenario called for 171 stalls. The Project  
22 site is planned to have 143 painted stalls, with the capacity to go to 180 stalls via use of a valet.

23         The letter from Mr. Tilghman also questioned the employee drive ratio assumed for the  
24 project's employees, particularly at night and on weekends when transit service is not as  
25 frequent/not running. It is important to note that the US Census journey to work data also  
26 includes data on carpooling, and it is in fact primarily carpooling combined with transportation

DECLARATION OF JEFFREY WECKSTEIN- 3

CAIRNCROSS & HEMPELMANN, P.S.  
ATTORNEYS AT LAW  
524 2nd Ave, Suite 500  
Seattle, WA 98104  
office 206 587 0700 fax: 206 587 2308

1 demand management measures the Owner is willing to deploy as discussed in Exhibit 13, that  
2 drives the drive ratio for existing employees in the downtown area of Bainbridge Island down to  
3 the 63% figure used in the analysis. Additionally, service workers tend to carpool and use transit  
4 at a higher rate than office and professional employees. It is our opinion that the drive ratios in  
5 the shared parking analysis are appropriate.

6 Regarding item 3, the proposed project is expected to park itself entirely on-site, without  
7 the need to utilize off-site parking.

8 6. Response to The Tilghman Group's letter to the Hearing Examiner dated January  
9 23, 2020 (Ex. 44) and related verbal testimony. This letter re-iterated several of the previous  
10 comments, which have been addressed above, and raised others.

11 Comment 2 referenced the Winslow Master Plan Policy WMP 6-12.1 which states that  
12 parking standards should be reviewed periodically to make sure they meet the needs of  
13 development sites. We feel that the parking analysis prepared using the most widely accepted  
14 standards of the parking profession (the Shared Parking publication), as well as subsequent  
15 analysis utilizing the brand new 3<sup>rd</sup> Edition Shared Parking Model and Shared Parking  
16 publication meets the intent of the Master Plan Policy as the update to the Shared Parking  
17 publication and model that has just occurred was a review of parking standards and trends to  
18 ensure that shared parking analyses recommend appropriate, right-sized parking supplies for  
19 developments. The oversupply of parking, particularly structured parking, has significant  
20 ramifications on the built environment as it cannot be 'un-built.'

21 Comment 4 states that the conditions of approval do not fulfill the intent of code section  
22 2.16.110.F.f in terms of using all necessary measures to eliminate or reduce to the greatest extent  
23 possible the impacts. The first bullet suggested that the shuttle condition (#6) is too vague and  
24 that there should be a ridership target for the hotel shuttle. Walker disagrees with this suggestion.  
25 The requirement to have a shuttle from a major transfer point, such as an airport, or in this case,  
26 from the ferry terminal, is a common requirement for hotel projects. A specific ridership target

DECLARATION OF JEFFREY WECKSTEIN- 4

CAIRNCROSS & HEMPELMANN, P.S.  
ATTORNEYS AT LAW  
524 2nd Ave, Suite 500  
Seattle, WA 98104  
office 206 587 0700 fax: 206 587 2308

1 would not take into account other ways that guest drive-in rates may be reduced at the hotel and  
2 could engender a condition where the hotel's parking is operating well but the hotel fails the  
3 condition by not meeting an arbitrary shuttle ridership requirement. Some examples are if a  
4 group at the hotel commissions group private transportation, such as their own shuttle bus to take  
5 them to point of interest on Bainbridge Island and beyond during their stay, or just the fact that  
6 some guests may choose to walk to the hotel, especially on nice days, rather than board a shuttle.  
7 A final point is that the shuttle represents a fixed cost to the hotel, which provides a built-in  
8 incentive for the hotel to ensure that it is well utilized.

9         The second bullet suggested that the valet parking operations is unrealistic. The  
10 comments in the second bullet speak to an unfamiliarity with modern, professional valet parking  
11 operations. Valet parking at a hotel is one of the most common applications of valet parking.  
12 The valet would be adequately staffed to ensure that queue spillback did not occur onto Winslow  
13 Way. In a scenario where the hotel expected to need to use a significant amount of the stacked  
14 parking capacity shown on the plan (Ex. 10), the hotel and valet could choose, at a certain point  
15 to make all inbound vehicles valet park only. These vehicles would be parked in striped stalls  
16 first and stacked in front of other valeted vehicles first to allow for self-parked vehicles to egress.  
17 A blocked self-parked vehicle can be unblocked quickly by a professional valet operator. There  
18 are standards in the world of valet parking regarding the number of staff needed to accommodate  
19 a given amount of valet activity. This is typically 1 valet per 25 valet maneuvers per hour. In a  
20 scenario with 100 vehicles entering the hour before a major event, such as a wedding, 4-5 valet  
21 staff would be needed (4 staff to move vehicles and 1 greeter/traffic director). The suggested  
22 scenario of 53 vehicles arriving in 10-minutes as proposed in the comment is unrealistic in and of  
23 itself given the expected size of events and the parking demand these events would generate.  
24 Since the proposed project is expected to park itself, even for large events, 53 vehicles coming to  
25 park in a 10-minute period would imply that there would still be striped parking spaces available  
26 (since the valet stacking allotment is 37 vehicles). In this instance the valet traffic director could

DECLARATION OF JEFFREY WECKSTEIN- 5

CAIRNCROSS & HEMPELMANN, P.S.  
ATTORNEYS AT LAW  
524 2nd Ave, Suite 500  
Seattle, WA 98104  
office 206 587 0700 fax: 206 587 2308

1 direct people to park in a striped stall and then leave their keys with the valet. The hotel also has  
2 the ability to stage the valet in the eastern drive aisle during events. Approximately 8 vehicles  
3 could be stacked in this drive aisle (in addition to the 8 striped parking stalls), which should  
4 alleviate queuing concerns and queue spillback from the entry porte cochere.

5 The fourth bullet point references Condition #11 (monitoring) and states that more  
6 information is needed for the condition to be effective. It is our opinion that the additional  
7 granularity requested in this comment is superfluous. There are three items that need to be  
8 monitored in regards to parking on the days of large and/or overlapping events in the event  
9 space: (1) The hotel occupancy that evening; (2) Peak observed parking demand, including a  
10 written record of any vehicles turned away due to lack of capacity (which is not projected to  
11 occur even on the busiest days); (3) Description of the event spaces in use concurrently, and the  
12 estimated number of attendees at said events. This is the only information needed to determine  
13 whether the City needs to restrict either the occupancy of the hotel or concurrent use of event  
14 space to eliminate parking deficits, if any is ever observed to occur.

15 The fifth bullet point concerns Condition #12 and suggests that the project's hotel rooms  
16 or event space should be limited in advance, before impacts occur. Walker disagrees with this  
17 recommendation. A parking analysis, utilizing the most recent standards of the parking industry,  
18 was prepared for the proposed project (Exs. 12, 13, and 32), the results of which indicate that the  
19 proposed project's striped parking supply and additional capacity through valet stacking (180  
20 spaces total) is more than adequate to accommodate both full occupancy of all hotel rooms and  
21 concurrent utilization of all event space, which is an unlikely occurrence. As mentioned in  
22 testimony during the Hearing Examiner hearing, the entirety of the hotel's event space cannot  
23 even be used concurrently, since the 1,200 square foot pre-function space is attached to the Main  
24 Ballroom (Main Ballroom guests have to walk through the pre-function space), and the hotel  
25 would not have one event's guests walking through another event to, for example, use the  
26 restroom. It is Walker's opinion that the condition as written provides a strong backstop and

DECLARATION OF JEFFREY WECKSTEIN- 6

CAIRNCROSS & HEMPELMANN, P.S.  
ATTORNEYS AT LAW  
524 2nd Ave, Suite 500  
Seattle, WA 98104  
office 206 587 0700 fax: 206 587 2308

1 gives the hotel operator an incentive to put in place programs to manage parking demand to  
2 ensure that they do not lose the ability to book all their rooms or event space.

3         The sixth bullet point suggests that the condition to limit the use of the pre-function space  
4 is too low and then states that the limit is too low since the parking analysis (1) leaves out  
5 employees from restaurant and event space, (2) assumes the restaurant as hotel internal and not  
6 fine dining/casual, and (3) assumes transit for employees. Walker disagrees with this conclusion.  
7 The original parking analysis for the project recommended that the proposed project could not  
8 concurrently use all event space by unique parties and should instead only use 6,200 square feet  
9 of event space. The analysis included as part of the project's SEPA exhibits, which is based on  
10 the new 3<sup>rd</sup> Edition of the Shared Parking Model not the "old" model as Mr. Tilghman put it  
11 during the Hearing Examiner hearing, and was summarized above, concludes that the proposed  
12 parking supply is adequate to handle the use of all event space and a sold-out hotel concurrently.  
13 Additionally, as was noted by the Project Architect during the Hearing, the pre-function and  
14 ballroom space cannot be used simultaneously by different events. Lastly, the drive ratio for  
15 employee trips is based on US Census Journey to Work data for downtown Bainbridge, with the  
16 reduction from 100% to 63% being driven primarily by carpooling combined with transportation  
17 demand management measures the Owner is willing to deploy as discussed in Exhibit 13,, which  
18 service workers do at a higher rate than office/professional workers, and not from use of transit  
19 as the comment alleges.

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DECLARATION OF JEFFREY WECKSTEIN- 7

CAIRNCROSS & HEMPELMANN, P.S.  
ATTORNEYS AT LAW  
524 2nd Ave, Suite 500  
Seattle, WA 98104  
office 206 587 0700 fax: 206 587 2308

1           7. Response to Ex. 43, A-4 (excerpts from the Bainbridge Island Downtown Parking  
2 Strategy focusing on survey responses). The excerpts provided include highlighted survey  
3 findings related to parking. We feel the highlighting of items such as “Thirty-five percent of  
4 respondents find parking to be inconvenient or difficult,” “Sixty-Six percent of the survey  
5 respondents feel that there is not enough parking in Downtown,” “About 78% of the 572  
6 respondents circle the block either sometimes or always” are intended to paint a picture that there  
7 is a parking problem in downtown Bainbridge. It is Walker’s experience, as a nationwide  
8 parking consultancy and having completed hundreds of parking studies for municipalities large  
9 and small throughout the country, that this type of survey result is typical in almost all cases,  
10 with the actual data collected failing to back up the perception of survey respondents. Put simply,  
11 the perception of a parking problem is near universal in municipalities conducting a parking  
12 study, while the existence of an actual parking problem is much rarer. There is a strong bias  
13 among all user groups (patrons, employees, and businesses owners) to desire on-street parking  
14 right in front of their destination or business, and when a prime space is not available, they circle  
15 the block hoping that a space becomes available. This is a parking management failure not a  
16 parking supply failure. The Downtown Parking Strategy found high demand for on-street  
17 parking on Winslow Way – the most desirable parking in the Downtown, but it also found areas  
18 of underutilized parking, and a lower demand for on-street parking almost everywhere else in the  
19 Downtown, not to mention at off-street parking facilities. The lack of availability in the most  
20 desirable spaces drives the perception of a parking problem even though most patrons could  
21 drive to the next block, or to a surface parking lot and find parking right away.

22           Since the proposed project will provide all its parking on site, it will not contribute to any  
23 perceived parking issues in the Downtown area (or elsewhere). Given the declining amount of  
24 parking needed at hotels with the advent of TNCs as well as what will be a 33% increase in  
25 capacity with the advent of self-parking vehicles (four self-parking vehicles with no occupants  
26 can park in three striped spaces since they can park much closer together), the hotel’s highest

DECLARATION OF JEFFREY WECKSTEIN- 8

CAIRNCROSS & HEMPELMANN, P.S.  
ATTORNEYS AT LAW  
524 2nd Ave, Suite 500  
Seattle, WA 98104  
office 206 587 0700 fax: 206 587 2308

1 parking demands will be experienced in the near-term. Over time, it is our opinion that the hotel  
2 may even have excess capacity available that it could provide in some form to other persons  
3 traveling to Downtown.

4 8. Availability of Valet Service. A final concern raised by the public during the  
5 Hearing was that the hotel wouldn't be able to just snap its fingers and provide a valet service if  
6 it was needed. Last minute decisions are not the intent of the hotel or of the conditions of  
7 approval. Based on the hotel's event schedule, professional valet services would be arranged  
8 ahead of schedule. In the unlikely event that the proposed parking supply is not adequate to  
9 capture all of the site's parking demand on-site 100% of the time, SEPA mitigation monitoring  
10 conditions 10 and 11 provide a backstop against parking spillover, as the Hotel will have to make  
11 adjustments to reduce its parking demand during large events, or lose its ability to host  
12 concurrent events. The hotel is required to track its parking usage and report this information to  
13 the City. The tracking of parking usage will also allow the hotel to make adjustments to its valet  
14 operations in terms of frequency and staffing.

15 9. Conclusion. The hotel project will not create a significant impact to parking, and  
16 no material detriment to other property or uses associated with parking.

17  
18 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE  
19 OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

20 DATED this 30<sup>th</sup> day of January, 2020, at Redondo Beach, California

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23 \_\_\_\_\_  
24 Jeff Weckstein

25  
26  
DECLARATION OF JEFFREY WECKSTEIN- 9

CAIRNCROSS & HEMPELMANN, P.S.  
ATTORNEYS AT LAW  
524 2nd Ave, Suite 500  
Seattle, WA 98104  
office 206 587 0700 fax: 206 587 2308

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BEFORE THE HEARING EXAMINER  
FOR THE CITY OF BAINBRIDGE ISLAND

IN THE MATTER OF THE CUP/SPR  
APPLICATION FOR THE:  
WINSLOW HOTEL

NO. PLN50880 SPR/PLN50880 CUP  
DECLARATION OF MICHAEL BURNS

I, Michael Burns, declare as follows:

1. I am at least 18 years of age and competent to testify as to the matters herein. I give this Declaration based on my own personal knowledge of the matters stated herein.

2. I own the Winslow Hotel project site, and am the developer for the project, attended the hearing on January 23, 2020, and am a resident of the City of Bainbridge Island.

3. Columbia Hospitality is advising me and the project team regarding hotel operational needs.

4. My architects have confirmed that there are multiple design options that can be implemented to assure that the noise from garbage trucks can be further reduced.

5. In response to continuing community concern regarding the project's compliance with the City's Noise Ordinance, I ask the Examiner to impose the following condition:

Prior to or together with its building permit application, the applicant shall provide to the City a description of changes to the garbage and recycling pickup area designed to provide additional noise protection. These changes may include enclosing the garbage and recycling pickup area by adding sound protective garage doors, or providing other noise protective or operational measures. Prior to or together with its building permit application, the applicant shall also provide to the City an analysis confirmed by a

DECLARATION OF MICHAEL BURNS - 1

CAIRNCROSS & HEMPELMANN, P.S.  
ATTORNEYS AT LAW  
524 2nd Ave, Suite 500  
Seattle, WA 98104  
office 206 587 0700 fax: 206 587 2308

1 qualified noise professional that the projected noise from garbage and recycling trucks  
2 will meet applicable City noise standards.

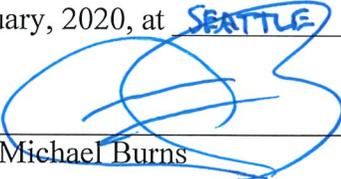
3 6. In response to community concern regarding the difference between more general  
4 "green" building practices and the Living Building Challenge, we ask the Examiner to revise Staff  
5 Recommended Condition 30 to add the final sentence, shown in underlined font:

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

13 7. Some public testimony speculated that the hotel shuttle van might not be used. I  
14 can confirm that the primary use of the shuttle van or vans will be to meet arriving guests at the  
15 Ferry Terminal and return them to the Ferry. The van(s) also can be available to guest for transport  
16 to local sites, such as the Bloedel Reserve. The van(s) may also be available to pick up staff from  
17 the bus terminal at the Ferry Terminal, if employees are using routes from off-island. Finally, as  
18 least one van is planned to be an electric van, charged on-site from the photovoltaic array (a/k/a  
19 solar panels) on the roof. So as to maintain operational flexibility for the hotel operator, the  
20 Applicant does not recommend any of these goals to be added to the project conditions. Instead,  
21 the Applicant supports the SEPA Condition no. 6, as drafted.

22 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE  
23 OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

24 DATED this 31 day of January, 2020, at SEATTLE, Washington.

25   
26 Michael Burns