

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

In the Matter of the Application of)	No. PLN 51524 SPRA/CUPA
)	
Barry Loveless, on behalf of)	City Police and Court Facility
the City of Bainbridge Island)	SPRA/CUPA
)	
For Approval of a Site Plan/Design Review)	FINDINGS, CONCLUSIONS,
Major Adjustment and Approval of a)	AND DECISION
<u>Conditional Use Permit Major Adjustment</u>)	<i>(Corrected September 3, 2020)¹</i>

SUMMARY OF DECISION

The request for approval of a site plan/design review major adjustment and a conditional use permit major adjustment to convert an existing health care facility to a governmental facility to house the City Police and Court departments, including exterior changes to the façade of the existing building, a new roof overhang on the south side of the building for covered impound storage, and a 484 square foot 2-story addition on the west side of the building, at 8804 Madison Avenue North is **APPROVED**. Conditions are necessary to address specific impacts of the proposal.

SUMMARY OF RECORD

Hearing:

The Hearing Examiner held an open record hearing on the request on August 13, 2020, using remote technology in light of the ongoing COVID-19 pandemic.

Testimony:

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

Ellen Fairleigh, City Associate Planner
Barry Loveless, Applicant Representative
Matthew Coates, Project Architect

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, dated August 6, 2020
2. Master Land Use Application, dated October 8, 2019

¹ On September 3, 2020, the City requested corrections to non-substantive errors in Finding 5, noting that the comment deadline for the consolidated notice was November 29, 2020; that the Mitigated Determination of Nonsignificance (MDNS) was issued on February 5, 2020; and the deadline to appeal the MDNS was February 19, 2020. The Hearing Examiner has corrected these errors, which do not affect the remaining findings, conclusions, or decision.

3. Notice of Complete Application, dated November 6, 2019
4. Notice of Application/SEPA Comment Period/Hearing, dated November 15, 2019
5. Certification of Public Notice, dated February 4, 2020
6. Certificate of Posting, dated January 5, 2020
7. Site Plan (Sheet A1.00), dated July 1, 2019
8. Call Out Plan (Sheet L1.1), revised May 19, 2014
9. Floor Plans
 - A. Main Level-Overall Floor Plan (Sheet A2.01), dated November 12, 2019
 - B. Upper Level-Overall Floor Plan (Sheet A2.05), dated November 12, 2019
10. Six (6) elevation renderings and sketches (North, SE, SW, NW, Birds-Eye View, Front), dated November 12, 2019
11. Planting Plan (Sheet L4.1), revised May 19, 2014
12. Parking Space Needs Validation, dated January 6, 2017
13. Trip Generation Analysis, Transpo Group, dated May 8, 2019
14. Traffic Impact Assessment Memorandum, dated October 6, 2019
15. SEPA Environmental Checklist with staff response, received October 9, 2019
16. Mitigated Determination of Nonsignificance & Adoption of Existing Document, dated February 5, 2020; Joint Notice of Administrative Decision and Notice of SEPA Mitigated Determination of Nonsignificance (MDNS), dated December 17, 2013
17. Comment from Ron Peltier, dated March 1, 2020
18. City Department of Public Works-Engineering Recommendations, dated January 10, 2020
19. Comments from Bainbridge Island Fire Department, dated January 6, 2020, with email string; Memorandum from Jared Moravec, Fire Marshal, to Kelly Tayara, dated September 4, 2019
20. Letter of Transmittal, Kitsap Public Health District (KPHD), dated October 24, 2019
21. Design Review Board (DRB) Review and Recommendation
 - A. DRB Review and Recommendation Meeting Minutes for December 2, 2019
 - B. DRB Review and Recommendation Meeting Minutes for March 2, 2020
 - C. DRB Review and Recommendation Special Meeting Minutes for May 18, 2020
 - D. DRB Final Design Review, dated May 18, 2020
22. Planning Commission Review and Recommendation
 - A. Planning Commission Meeting Minutes for February 13, 2020
 - B. Planning Commission Preliminary Recommendation, dated February 13, 2020
 - C. Planning Commission Meeting Minutes for June 11, 2020
 - D. Planning Commission Recorded Motion, Meeting of June 11, 2020
23. Critical Area Review, Wetland Resources, Inc., dated April 8, 2020
24. Hearing Examiner's Findings, Conclusions, and Decision, Right Medical Building, LLC, (CUP14430B and SPR14430B), dated October 14, 2008
25. Joint Notice of Administrative Decision and Notice of SEPA Mitigated Determination of Nonsignificance (MDNS), dated December 17, 2013; email from Theresa Rice to reviewing agencies, dated December 18, 2013

Findings, Conclusions, and Decision (Corrected September 3, 2020)
 City of Bainbridge Island Hearing Examiner
 City Police and Court Facility SPRA/CUPA
 No. PLN51524 SPRA/CUPA

26. PowerPoint Presentation

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

FINDINGS

Background

1. On October 14, 2008, the former City of Bainbridge Island Hearing Examiner *pro tem* (Margaret Klockars) approved consolidated applications for a conditional use permit and site plan review to develop a medical complex on two lots, with a 47,300 square foot, 53-unit assisted-living facility to be constructed on one lot and a 27,700 square foot medical office building to be constructed on the other adjacent lot. In 2013, a minor adjustment was approved to reduce the size of the health care facility and change the building and parking configuration. A special use review was approved in 2014 to create an outfall pipe across a wetland buffer on the southern portion of the subject property. *Exhibit 1, Staff Report, page 6; Exhibit 24.*

Application and Notice

2. Barry Loveless, on behalf of the City of Bainbridge Island (City, or Applicant), requests approval of a site plan/design review major adjustment (SPRA) and a conditional use permit major adjustment (CUPA) to convert the existing medical office building and associated parking area to a governmental facility to house the City Police and Court departments, including exterior changes to the façade of the existing building, a new roof overhang on the south side of the building for covered impound storage, and a 484 square foot 2-story addition on the west side of the building. The property is located at 8804 Madison Avenue North.² *Exhibit 1, Staff Report, page 1; Exhibit 2; Exhibits 7 through 11.*
3. The City Planning and Community Development Department (PCDD) determined that the application was complete on November 6, 2019. On November 15, 2019, PCDD provided notice of the application and the associated public hearing by mailing notice to property owners within 500 feet of the subject property and to reviewing City departments and government agencies, posting notice at City Hall kiosks and on the City website, and publishing notice in the *Bainbridge Island Review*. The Applicant posted notice at the subject property on November 13, 2019. *Exhibit 1, Staff Report, page 7; Exhibit 3; Exhibit 4; Exhibit 6.*
4. PCDD received reviewing agency comments in response to its notice materials. The City Fire Marshal noted that fire flow would be met through existing hydrants and recommended approval provided that the project would be required to comply with the

² The property is identified by tax parcel number 232502-3-083-2002. *Exhibit 1, Staff Report, page 1.*

International Fire Code and that a fire sprinkler and fire alarm system be installed. PCDD staff recommended conditions addressing the Fire Marshal's concerns. Kitsap Public Health District notified PCDD that it did not have any comment on the proposal. *Exhibit 1, Staff Report, pages 7, 28, and 29; Exhibit 19; Exhibit 20.*

State Environmental Policy Act

5. PCDD acted as lead agency and analyzed the environmental impacts of the proposal under the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). PCDD consolidated notice of the SEPA review and application comment periods under the optional process provided for by Washington Administrative Code (WAC) 197-11-355, with a comment deadline of November 29, 2019. The notice materials stated that the City expected to issue a Determination of Nonsignificance (DNS) for the proposal. No comments were received. PCDD reviewed the Applicant's Environmental Checklist and other information on file and determined that, with several mitigation measures that were included in the Mitigated Determination of Nonsignificance (MDNS) issued for the original project, the proposal would not have a probable significant adverse impact on the environment. Accordingly, PCDD Director Heather Wright issued an MDNS for the proposal on February 5, 2020, with an appeal deadline of February 19, 2020. The MDNS requires the Applicant to obtain a building permit or site development permit prior to construction activities and to conform with clean air regulations, provide a Storm Water Pollution Prevention Plan (SWPPP), provide specific erosion and sedimentation control design measures as part of the SWPPP, obtain a National Pollutant Discharge Elimination System permit, maintain a trail network, limit removal of vegetation within the wetland and wetland buffer to trail network development, obtain City approval prior to removal of any significant trees, obtain approval prior to any on-site mobile fueling from temporary tanks, comply with construction noise ordinances, comply with lighting ordinances, stop work and notify PCDD and the Washington State Office of Archaeology and Historic Preservation if any artifacts are discovered on-site; and install motion sensor lighting in the rear of the site. *Exhibit 1, Staff Report, pages 2 and 7; Exhibit 4; Exhibit 5; Exhibit 15; Exhibit 16; Exhibit 24.*

Comprehensive Plan and Zoning

6. The property is designated Urban Multi-Family R-8 by the City Comprehensive Plan. PCDD staff identified the following Comprehensive Plan goals and policies as relevant to the proposal:
 - By providing enterprises that both serve and employ local residents, Bainbridge Island will be better able to withstand fluctuations in the larger regional economy. In addition, people who live and work in their community are available to invest time and money in their families, organizations, and community life. A key to a healthy, stable, and vital economy is to create and undertake business opportunities that anticipate and respond to conditions that affect our community.

- This would include identifying emerging needs and markets so that Bainbridge Island businesses benefit from being on the leading edge of change. [Goal EC-1]
- In order to provide opportunities for business enterprise, adequate space must be provided for efficient use of existing developed areas near public transportation (e.g., ferry, bus service) and for growth that recognizes and protects the Island's valued natural amenities, its limits of land and water, and the quality of its residential neighborhoods. [Policy EC-1.5]
 - Encourage the use of green building materials and techniques in all types of construction, as well as design approaches that are responsive to changing conditions. [Policy EC-3.1]
 - Encourage public sector solid waste reduction, reuse, and recycling. [Policy EC-3.4]
 - Preserve and enhance Bainbridge Island's natural systems, natural beauty, and environmental quality. [Goal EN-1]
 - Encourage sustainability in City government operations. [Goal EN-2]
 - In managing City government operations, take reasonable steps to reduce impacts to the environment and ecosystems upon which we depend. This includes recognizing and preparing for the impacts of climate change. [Policy EN-2.1]
 - Protect wetlands and riparian areas. [Policy EN-5.6]
 - Ensure beneficial indoor air quality in all renovations and new construction of City-owned facilities and promote design choices that enhance beneficial indoor air quality in private construction. [Policy EN-10.5]
 - Set street design guidelines that establish street widths, reflecting the desired vehicle speeds; accommodating bicycle, pedestrian, wheelchair, equestrian, and transit uses; and providing for emergency vehicle access, considering community character. [Policy TR 6.1]
 - Support the construction of the STO and its branch trails. [Policy TR 7.6]
 - The Capital Facilities Element and Capital Improvement Plan provides the public facilities needed to support orderly compact urban growth, protect and support public and private investments, maximize use of existing facilities, promote economic development and redevelopment, increase public well-being and safety, and implement the Comprehensive Plan. [Goal CF-1]
 - When planning for public facilities, consider expected future land use activity. [Policy CF 2.1]
 - New taxpayer-funded buildings shall use carbon-neutral energy for heating, cooling, and operational use to the maximum extent practical within site specific and existing technology limitations. [Policy 14.7]

Exhibit 1, Staff Report, pages 8 through 10.

7. PCDD staff determined that the proposal would be consistent with the goals and polices of the Comprehensive Plan by serving and employing local residents; being located near public transportation and supporting non-motorized transportation; avoiding impacts to

Findings, Conclusions, and Decision (Corrected September 3, 2020)
 City of Bainbridge Island Hearing Examiner
 City Police and Court Facility SPRA/CUPA
 No. PLN51524 SPRA/CUPA

critical areas; utilizing an existing building that complies with the 2015 Washington State Energy Code; utilizing green stormwater infrastructure, such as a rain garden, permeable pavement, and a storm filter system; and proposing additional sustainability practices, such as reducing indoor water fixtures, installing low-flow fixtures, and installing efficient HVAC controls. *Exhibit 1, Staff Report, pages 9 and 10.*

8. The subject property is within the Residential 8 (R-8) zoning district. The purpose of the R-8 zoning district is “to provide for medium-density residential areas in pleasant, uncongested surroundings allowing for the maximum amenities for the occupants.” *Bainbridge Island Municipal Code (BIMC) 18.06.020.I.* The proposed use is for a governmental facility, which is allowed in the R-8 zone with a conditional use permit.³ *BIMC 18.09.020.* BIMC Table 18.12.020-2 provides dimensional standards applicable to development in the R-8 zone. The Applicant’s proposal would comply with dimensional standards for development in the R-8 zone related to lot coverage, building height, and setbacks for front and side lot lines. Because the property has more than one front lot line, all other lot lines are considered side lot lines and, thus, the minimum rear lot line setback requirements of BIMC Table 18.12.020-2 would not apply. *BIMC 18.12.050.N.*

Existing Site and Surrounding Development

9. As noted above, the subject property is currently developed with a medical office building and associated parking. Property to the west is zoned R-8 and is developed with the assisted-living facility that was approved in conjunction with the medical office building. Property to the south is zoned R-8 and consists of undeveloped forested area containing wetlands and a fish bearing stream. Property to the north is zoned R-2 and is developed with a church facility. The property is bordered to the east by SR-305. *Exhibit 1, Staff Report, pages 4, 5, 12, and 13.*

Critical Areas

10. A wetland and associated buffer cover the southern portion of the project site. When the health care facility project was originally approved in 2008, applicable critical area regulations required a 100-foot wetland buffer and an additional 15-foot building setback. Additionally, at the time of original project approval, a stream located to the south of the site was classified as non-fish-bearing, with a required 50-foot buffer that was subsumed within the 100-foot wetland buffer. A later stream classification review determined that the stream was fish-bearing and required a 200-foot buffer, which extends into the southern portion of the project site. *Exhibit 1, Staff Report, pages 6, 10, and 11; Exhibit 8; Exhibit 15; Exhibit 23.*

³ *Governmental facility* is defined as “an institution operated by a federal, state, county, or city government, or special purpose districts.” *BIMC 18.36.030(107).*

11. The Applicant’s proposed addition to the west side of the existing building would be located within a portion of the 200-foot stream buffer. BIMC 16.20.040.B provides an exemption, however, for activities within a critical area buffer when the buffer area is “separated from the critical area by an existing permanent substantial development, use or activity which serves to eliminate or greatly reduce the impact of the proposed activity on the critical area,” provided that proposed activities within the buffer would not increase impacts to the critical area. PCDD staff conducted a site visit and determined that the area between the existing building and the wetland and stream critical areas contains permanent substantial development, including a protective fence, rock wall, maintained lawn, and several stormwater catch basins, all of which serves to eliminate or greatly reduce the impact of the proposed activity on the critical area. At the request of the Planning Commission, Wetland Resources, Inc., prepared a critical area report on behalf of the Applicant, dated April 8, 2020. The report determined that the area landward of the protective fence and within the 200-foot stream buffer is disturbed with permanent substantial development and provides no ecological support functions to the wetland and stream. The report further determined that the proposed building addition would not increase impacts to the critical areas relative to the existing developed conditions. Accordingly, PCDD staff, the Planning Commission, and a third-party consultant concur that the proposed development would be exempt from critical area permit requirements under BIMC 16.20.040.B’s exemption provisions. *Exhibit 1, Staff Report, pages 6, 10, and 11; Exhibit 8; Exhibit 15; Exhibit 23.*
12. The property contains an erosion hazard area and a small area of steep slopes that are approximately 10 feet high. The City Engineer determined that the proposal would not have any potential adverse impacts to the erosion hazard and steep slope areas and recommends approval without requiring the Applicant to submit a geotechnical analysis. *Exhibit 1, Staff Report, pages 11 and 12; Exhibit 18.*

Traffic, Parking, and Access

13. Transpo Group prepared a Traffic Impact Analysis (TIA) on behalf of the Applicant, dated May 8, 2019. The TIA determined that the proposed police and court facility would generate 20 AM peak-hour trips and 6 PM peak-hour trips, which is less than the 76 AM peak-hour trips and 95 PM peak-hour trips generated by the existing medical office building. Because the proposal would generate fewer trips than the existing building use, the TIA determined that the Applicant would not be required to pay traffic impact fees. *Exhibit 13; Exhibit 14.*
14. BIMC 18.15.020 provides the minimum off-street parking space requirements for development in residential zoning districts and allows for on-street parking spaces that are created or designated in conjunction with and adjacent to a project to be included in the parking space calculation, with approval from the Director. Because governmental facilities do not have specified minimum off-street parking requirements, the number of

required off-street parking spaces is established by the Director based on an evaluation of actual parking demand for the proposed use. *BIMC Table 18.15.020-1*. The existing medical office building has 73 parking spaces, including 6 on-street parking spaces. The Director reviewed a parking demand analysis prepared by Coates Design Architects, together with the Applicant's TIA, and determined that the existing 73 parking spaces would be adequate to serve the proposed use. The Director also determined that the proposal would meet requirements for maximum compact parking spaces. The Applicant would be required to provide one parking space near the building entrance for use by a shared-car program or electric vehicle charging station. *BIMC 18.15.020.B(11)*. *Exhibit 1, Staff Report, pages 13 and 14; Exhibit 7; Exhibit 12; Exhibit 13; Exhibit 14*.

15. The existing medical office building is currently accessed from Madison Avenue North, with no change of access proposed for the project. BIMC 18.15.030 provides requirements for pedestrian, bicycle, and transit user access. PCDD staff reviewed the proposal and determined that the subject property currently provides well-defined circulation for motor vehicles, bicycles, and pedestrians in compliance with code requirements. The subject property also currently provides the required minimum number of bicycle parking spaces, and compliance with this requirement would be verified prior to building permit approval. *Exhibit 1, Staff Report, pages 14 and 15*.

Landscaping

16. The Applicant does not propose any changes to the existing landscape perimeter or roadside buffers. In 2013, the existing medical office building was required to install a 25-foot-wide full screen landscape buffer along SR-305 to provide mitigation for visual and lighting impacts, as well a 25-foot-wide partial screen landscape buffer along NE New Brooklyn Road. Although the 25-foot-wide landscape buffer along SR-305 exceeded code requirements at that time, the existing eastern parking lot is now legally nonconforming with the current code requirement for a 50-foot full screen and 35-foot minimum landscape buffer along SR-305. Accordingly, if the nonconforming eastern parking lot is removed, a landscape buffer would be required to be installed along the property's SR-305 frontage in compliance with current code requirements. A parking lot area in the northern portion of the property adjacent to the assisted-living facility is also legally nonconforming with current code requirements for a 25-foot-wide full screen landscape buffer along the western property line. Accordingly, if the nonconforming northern parking lot is removed, a landscape buffer would be required to be installed along the property's western property line in compliance with current code requirements. *Exhibit 1, Staff Report, pages 12 and 13; Exhibit 7*.

Stormwater

17. The proposed police and court facility would be served by the existing stormwater management system. The City Engineer reviewed the proposal and determined that it would be eligible for a site assessment review exemption based on the creation of less

than 800 square feet of new or replaced hard surfaces. The exemption would be issued upon review of building permit submittals. The City Engineer also recommended a condition requiring the Applicant to provide an updated operation and maintenance plan reflecting any changes in the storm drainage system prior to building permit final inspections for certificate of occupancy. As noted above, the MDNS issued for the proposal included conditions requiring the Applicant to provide a Storm Water Pollution Prevention Plan prior to construction activities. *Exhibit 1, Staff Report, pages 16, 17, 23, and 30; Exhibit 16; Exhibit 18.*

Utilities

18. The City currently provides water and sewer services to the property. A water and sewer availability application would be required at the time of building permit application if any plumbing is added or changed. *Exhibit 1, Staff Report, pages 6 and 21.*

Site Plan and Design Review

19. A proposal requiring site plan/design review must be reviewed by the City's Design Review Board (DRB), as well as by the City's Planning Commission, to ensure the proposal complies with City design review guidelines. *BIMC 2.16.040; BIMC 2.16.110.* An applicant may request that review of a site plan and design be consolidated with review of other land use permits, such as a CUP. *BIMC 2.16.040.E.7; BIMC 2.16.170.* The Applicant requested consolidated review of its site plan and design review major adjustment with its request for a CUP major adjustment. *Exhibit 1, Staff Report, page 2.*
20. The DRB reviewed the proposal at a meeting on December 2, 2019. The DRB determined that the proposal would be consistent with City design review guidelines and recommended approval. The Planning Commission reviewed the proposal at a February 13, 2020, meeting and requested additional materials, including an analysis of how the project would comply with CUP criteria, analysis from the DRB describing how the project would comply with applicable design guidelines, and a critical areas analysis. Following the Planning Commission's request, the DRB again reviewed the proposal at meetings on March 2 and May 18, 2020. Ron Peltier submitted a public comment to the DRB, dated March 2, 2020, expressing concerns with the lack of a proposed sally port for the transport of inmates, inadequate stormwater facilities, lack of private spaces for attorneys and clients to confer, and lack of security regarding the long gravel driveway. The DRB completed a final design review worksheet documenting how the project would comply with applicable design guidelines and again recommended approval. The Planning Commission reviewed additional submitted materials at a June 11, 2020, meeting; determined that the project, as conditioned, would be consistent with the Comprehensive Plan, zoning regulations, and applicable design standards; and recommended approval of the proposal, subject to the conditions included in the staff report. *Exhibit 1, Staff Report, pages 2 and 6 through 8; Exhibit 17; Exhibit 21; Exhibit 22.*

21. PCDD staff analyzed the proposal and determined that, with conditions, the proposal would meet the site plan and design review criteria of BIMC 2.16.040, noting:
- The Director’s recommendation and report includes conditions to ensure the proposal’s conformance with applicable code provisions and development standards in the R-8 zoning district.
 - Due to uncertainty in the final Sound to Olympic (STO) trail alignment, construction of the STO segment along the eastern edge of the property is not a required frontage improvement. To ensure compliance with the Island-Wide Transportation Plan, the City Engineer recommends a condition designed to avoid preclusion of public non-motorized improvements along SR-305 in the future.
 - The Kitsap Public Health District (KPHD) did not comment on the application. Approval of the building permit from KPHD would be required.
 - The City Engineer determined that a concurrency certificate would not be required because the proposed use would result in a net decrease in trip generation. The City Engineer recommends a 15-foot right-of-way dedication along the NE New Brooklyn Road frontage to align with the right-of-way of the adjacent property and recommends approval of the proposal, subject to conditions to ensure conformance with drainage, water quality, and street and pedestrian ways.
 - The DRB determined that the project would be consistent with applicable design guidelines.
 - Recommended conditions would ensure that no harmful or unhealthful conditions would likely result from the development.
 - The Planning Commission determined that the project would comply with the Comprehensive Plan and recommends approval.
 - The proposal conforms to all critical area regulations. There are no potential adverse impacts to geologic hazard areas. As stated in the critical area report, the proposed addition would not increase impacts to the critical area relative to the existing developed condition.
 - The site plan and design were prepared consistent with the purpose of the site design review process pursuant to BIMC 2.16.040. The proposed change of use of the existing building is compatible with the existing site. The site was initially designed in a logical, safe, and attractive manner. The proposal does not require dedication of open space.

Exhibit 1, Staff Report, pages 16 through 18.

Conditional Use Permit

22. PCDD staff analyzed the proposal and determined that, with conditions, the proposal would meet the criteria for amending a CUP, under BIMC 2.16.110.F, noting:
- Other uses in the vicinity include a fire station, church, and assisted-living facility. Recommended conditions ensure that the use would be harmonious and

compatible in design, character, and appearance with the intended character and quality of development in the vicinity of the subject property and with the physical characteristics of the subject property.

- The project would be served by adequate public facilities, including roads, water, fire, sewer, and storm drainage. The streets and pedestrian ways coordinate with existing streets and conform to the Island Wide Transportation Plan and the City Design and Construction Standards.
- Recommended conditions would ensure that the use would not be materially detrimental to uses or property in the vicinity of the subject property.
- The Planning Commission determined that the project is in accord with the Comprehensive Plan and recommends approval.
- Recommended conditions would ensure that the conditional use would comply with all other provisions of municipal code.
- SEPA conditions would adequately address potential environmental impacts of the proposal. Occasional siren noise may occur on-site from emergency vehicles. The expected traffic volume fits within the City's adopted level of service standards.
- The project would be required to comply with code noise regulations.
- Recommended conditions address pedestrian and bicycle circulation.
- The City Engineer recommends approval, subject to conditions.

Exhibit 1, Staff Report, pages 18 through 21.

Institutions in Residential Zones

23. Former BIMC 2.16.110.G contains additional decision criteria applicable to proposals for governmental facilities in residential zones. PCDD staff analyzed the proposal and determined that it would meet the criteria, noting:
- The site fronts SR-305, which is classified as a primary arterial in the Island Wide Transportation Plan.
 - The City Engineer determined that the proposed use would result in a net decrease in trip generation and would not impact the City's adopted level of service standards.
 - The proposal would not impact or alter existing previously approved perimeter and roadside buffers.
 - The DRB determined that the project would be consistent with applicable design guidelines.
 - The existing building is compatible with the immediately surrounding area. The bulk, height, and architectural design features of the proposed additional would be compatible with the existing building and the immediately surrounding area.
 - The facility would include an assembly seating area (courtroom) that has a maximum seating capacity of 48 occupants.

- The proposed lot coverage is below the required 25 percent maximum for the R-8 zone.

Exhibit 1, Staff Report, pages 21 and 22.

Testimony

24. City Associate Planner Ellen Fairleigh testified generally about the proposal and how, with conditions, it would meet the criteria for a site plan/design review major adjustment and a conditional use permit major adjustment. She noted that there have been recent amendments to City code and that the project vests to the code criteria in effect at the time of the complete application. Ms. Fairleigh explained that the proposal to convert the existing health care facility to a governmental facility would change the character of the use and, therefore, would require major adjustments to the previously approved site plan/design review and conditional use permit. She noted that the changes to the existing building would include construction of a 484 square foot 2-story addition to enclose an existing stairway and to add a locker room and lunchroom, as well as adding a roof overhang for covered impound storage. Ms. Fairleigh stated that the addition would fall within a critical area buffer under current critical area regulations, but that City code would allow for the proposed development within this area because it is functionally isolated from the critical area through existing permanent substantial development. She detailed how PCDD provided notice of the application, the associated public hearing, and the SEPA determination consistent with code requirements. *Testimony of Ms. Fairleigh.*
25. Applicant Representative Barry Loveless testified about the Applicant's response to public comments submitted by Ron Peltier to the Design Review Board regarding the lack of a proposed sally port and private spaces for attorneys and clients, as well as stormwater management and security concerns. He noted that the Applicant had to make certain compromises when choosing to develop City police and court facilities within an existing building. Mr. Loveless explained that, although the building would not include a sally port, it would have a secure fenced location in which to transport inmates. Regarding stormwater concerns, he noted that the existing stormwater management system for the site is functioning as designed. Mr. Loveless stated that the building would have one or two private rooms for attorneys to meet with clients. Regarding security concerns, he noted that there would be a large police presence in the building. *Testimony of Mr. Loveless.*
26. The project architect, Matthew Coates, testified generally about how the existing building would be redesigned to meet the needs of the proposed City police and court facilities. He noted the structure would largely remain the same, apart from seismic improvements that would be required for an essential facility. Mr. Coates stated that bullet-resistant cladding would be added to certain areas of the building exterior to provide a safe environment inside the building. He noted that the lobby area and the suspect intake area would be able to be locked down in response to security issues. *Testimony of Mr. Coates.*

Staff Recommendation

27. Ms. Fairleigh testified that the PCDD Director reviewed recommendations from PCDD staff, the Design Review Board, and the Planning Commission; determined that the project would comply with municipal code requirements and with the Comprehensive Plan; and recommends approval of the application subject to conditions. *Testimony of Ms. Fairleigh; Exhibit 1, Staff Report, pages 22 through 31.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and approve, approve with conditions, or deny applications for major adjustments to conditional use permits, under BMIC 2.14.030 and BMIC 2.16.110. The Hearing Examiner is also granted jurisdiction to hear and approve, approve with conditions, or deny applications for major adjustments to approved site plan and design review through a consolidated review process under BIMC 2.16.040 and BIMC 2.16.170.

In a major conditional use permit or major adjustment application, the planning commission reviews the application prior to the review and final decision. The planning commission recommends approval, approval with conditions, or denial of an application. *BIMC 2.16.110.E.3.*

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

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

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

BIMC 2.16.110.E.5.

Criteria for Review
Conditional Use Permit

A major conditional use permit is a mechanism by which the city may require specific conditions on development or the use of land to ensure that designated uses or activities are compatible with other uses in the same zone and in the

vicinity of the subject property. If imposition of conditions will not make a specific proposal compatible the proposal shall be denied.

BIMC 2.16.110.A.

“Major adjustments to an approved major conditional use permit require an amended application and shall be processed in the same manner as a new conditional use permit application.” *BIMC 2.16.110.J.2.*

Under the decision criteria applicable to this proposal, a conditional use may be approved or approved with conditions if:

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

Findings, Conclusions, and Decision (Corrected September 3, 2020)
City of Bainbridge Island Hearing Examiner
City Police and Court Facility SPRA/CUPA
No. PLN51524 SPRA/CUPA

18.15.020.B.4 and B.5, allows alternate driveway and parking area surfaces, and confirmed that those surfaces meet city requirements for handling surface water and pollutants in accordance with Chapters 15.20 and 15.21 BIMC; and

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

Former BIMC 2.16.110.F.1.

Additional Decision Criteria for Institutions in Residential Zones

As applicable to this proposal, applications to locate governmental facilities in residential zones shall be processed as major conditional use permits and shall be required to meet the following criteria:

1. All sites must front on roads classified as residential suburban, collector, or arterial on the Bainbridge Island functional road classification map.
2. If the traffic study shows an impact on the level of service, those impacts have been mitigated as required by the city engineer.
3. If the application is located outside of Winslow study area, the project shall provide vegetated perimeter buffers in compliance with BIMC 18.15.010.
4. The proposal meets the requirements in BIMC 18.18.030.
5. The scale of proposed construction including bulk and height and architectural design features is compatible with the immediately surrounding area.

Findings, Conclusions, and Decision (Corrected September 3, 2020)
City of Bainbridge Island Hearing Examiner
City Police and Court Facility SPRA/CUPA
No. PLN51524 SPRA/CUPA

6. If the facility will have attendees and employees numbering fewer than 50 or an assembly seating area of less than 50, the director may waive any or all the above requirements in this subsection E, but may not waive those required elsewhere in the BIMC.
7. Lot coverage does not exceed 50 percent of the allowable lot coverage in the zone in which the institution is located, except that public schools and governmental facilities, as defined in BIMC Title 18, that are located in the R-0.4 zoning district shall be allowed 150 percent of the lot coverage established in the R-0.4 zoning district, and such public schools and governmental facilities located in other zoning districts shall be allowed 100 percent of the lot coverage established in the underlying zoning district in which the facility is located, unless, regardless of which zoning district such a facility is located, conditions are required to limit the lot coverage to mitigate impacts of the use.

Former BIMC 2.16.110.G.1.

Site Plan and Design Review

The stated purpose of the City's site plan and design review code provisions is:

to establish a comprehensive site plan and design review process that ensures compliance with the adopted plans, policies, and ordinances of the city. The overall goal of this chapter is to minimize land alteration, provide greater site development flexibility and consequently provide more creative and imaginative design than generally is possible under conventional zoning regulations. It is further intended to provide for the review of development proposals with respect to overall site design and to provide a means for guiding development in a logical, safe, attractive, and expedient manner, while also allowing property to be developed in phases. An additional purpose is to promote those specific purposes for each zoning district stated in Chapter 18.06 BIMC.

BIMC 2.16.040.A.

“Adjustments other than minor adjustments to an approved site plan and design review require a new or amended application as determined by the director.” *BIMC 2.16.040.H.2.*

As applicable to this proposal, the following criteria apply to recommendations or decisions on site plan and design review or major adjustment applications:

1. The site plan and design is in conformance with applicable code provisions and development standards of the applicable zoning district . . . ;
2. The locations of the buildings and structures, open spaces, landscaping, pedestrian, bicycle and vehicular circulation systems are adequate, safe, efficient and in conformance with the Island-Wide Transportation Plan;

Findings, Conclusions, and Decision (Corrected September 3, 2020)
City of Bainbridge Island Hearing Examiner
City Police and Court Facility SPRA/CUPA
No. PLN51524 SPRA/CUPA

3. The Kitsap County Health District has determined that the site plan and design meets the following decision criteria:
 - a. The proposal conforms to current standards regarding domestic water supply and sewage disposal; or if the proposal is not to be served by public sewers, then the lot has sufficient area and soil, topographic and drainage characteristics to permit an on-site sewage disposal system.
 - b. If the Health District recommends approval of the application with respect to those items in subsection E.3.a of this section, the health district shall so advise the director.
 - c. If the Health District recommends disapproval of the application, it shall provide a written explanation to the director;
4. The City Engineer has determined that the site plan and design meets the following decision criteria:
 - a. The site plan and design conforms to regulations concerning drainage in Chapters 15.20 and 15.21 BIMC; and
 - b. The site plan and design will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use and enjoyment of properties downstream; and
 - c. The streets and pedestrian ways as proposed align with and are otherwise coordinated with streets serving adjacent properties; and
 - d. The streets and pedestrian ways as proposed are adequate to accommodate anticipated traffic; and
 - e. If the site will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the site, and the applicable service(s) can be made available at the site; and
 - f. The site plan and design conforms to the “City of Bainbridge Island Design and Construction Standards,” unless the city engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of BIMC Title 18.
5. The site plan and design is consistent with all applicable design guidelines in BIMC Title 18 . . . ;
6. No harmful or unhealthful conditions are likely to result from the proposed site plan;
7. The site plan and design is in conformance with the comprehensive plan and other applicable adopted community plans;
8. Any property subject to site plan and design review that contains a critical area or buffer, as defined in Chapter 16.20 BIMC, conforms to all requirements of that chapter;

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

Former BIMC 2.16.040.F.

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

BIMC 2.16.040.G.

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

Conclusions Based on Findings

1. **With conditions, the proposed development would comply with the criteria for site plan and design review major adjustment approval.** The City Planning and Community Development Department (PCDD) provided reasonable notice and opportunity to comment on the proposal. PCDD received two reviewing agency comments in response to its notice materials. The City Fire Marshal provided a comment noting that the project would be required to comply with the International Fire Code and would be required to install a fire sprinkler and fire alarm system. Conditions, as detailed below, are included to address the Fire Marshal’s concerns. The Kitsap Public Health District responded that it did not have any comment on the application. PCDD staff reviewed the proposal and determined that, with conditions, it would be consistent with several identified goals and polices of the City Comprehensive Plan by serving and providing employment opportunities to local residents, supporting non-motorized transportation, utilizing an existing building that complies with the 2015 Washington State Energy Code, and utilizing green stormwater infrastructure and additional sustainability practices. The Planning Commission also reviewed the proposal and determined that, with conditions, it would be consistent with the Comprehensive Plan and would comply with the criteria for a site plan and design major adjustment and all other applicable code requirements, including requirements under the City critical area regulations.

The Design Review Board reviewed the proposal and determined that the proposal would comply with City design standards and guidelines. The DRB received one public comment that raised concerns regarding the lack of a proposed sally port for the transport of inmates, inadequate stormwater facilities, lack of private spaces for attorneys and clients to confer, and lack of security regarding the long gravel driveway. Applicant Representative Barry Loveless testified that the existing stormwater management system

Findings, Conclusions, and Decision (Corrected September 3, 2020)
City of Bainbridge Island Hearing Examiner
City Police and Court Facility SPRA/CUPA
No. PLN51524 SPRA/CUPA

for the site is functioning as designed and that the building would include private spaces for attorneys to meet with clients, and he also testified about how specific security features of the proposal would ensure public safety. Accordingly, the concerns raised by the public have been addressed. The City Engineer reviewed the proposal and determined that, with recommended conditions, the proposal would conform with drainage, water quality, street, pedestrian way, and other applicable design standards. Water and sewage services would be provided by the City. The proposed change of use of the existing building and the proposed changes to the existing building, including the two-story addition, would be compatible with the existing site and surrounding development. No harmful or unhealthful conditions are likely to result from the proposed site plan major adjustment. Conditions, as detailed below, are necessary to ensure that the project complies with all local, state, and federal requirements related to the proposed development and to ensure that the proposal meets all criteria for approval of a site plan and design review major adjustment. *Findings 1 – 27.*

2. **With conditions, the proposed development would comply with the criteria for CUP major adjustment approval, including the specific criteria applicable to institutions located in residential zones.** As addressed in Conclusion 1, above, the proposed project would be consistent with the City Comprehensive Plan, would meet applicable design guidelines, and would be adequately served by public facilities. The proposal would comply with dimensional standards for development in the R-8 zone. Environmental impacts of the proposal were considered, as required by SEPA, and PCDD issued an MDNS that was not appealed. The MDNS conditions are incorporated into the conditions for CUP major adjustment approval. The project would be required to comply with municipal noise regulations. The Applicant's Traffic Impact Analysis demonstrates that the proposed change of use would generate fewer trips than the existing medical office building. PCDD staff reviewed the proposal and determined that the subject property currently provides well-defined circulation for motor vehicles, bicycles, and pedestrians in compliance with code requirements. The City Engineer reviewed the proposal and determined that, with conditions, the project would meet requirements for drainage, water quality, street, pedestrian ways, and other applicable design standards. Existing perimeter and street buffer landscaping provides screening to surrounding development. As conditioned, the proposed use would be harmonious with the character of the subject property and with surrounding development, and would not be materially detrimental to uses or property in the vicinity of the subject property. Conditions, as detailed below, are necessary to ensure that the project would comply with all local, state, and federal requirements related to the proposed development and to ensure that the proposal meets all criteria for approval of a conditional use permit adjustment. *Findings 1 – 27.*

DECISION

Based on the preceding findings and conclusions, the request for approval of a site plan/design review major adjustment and a conditional use permit major adjustment to convert an existing health care facility to a governmental facility to house the City Police and Court departments, including exterior changes to the façade of the existing building, a new roof overhang on the south side of the building for covered impound storage, and a 484 square foot 2-story addition on the west side of the building, at 8804 Madison Avenue North is **APPROVED**, with the following conditions:⁴

[For continuity, all of the conditions from the previously approved SPRs and CUPs associated with the project site have been carried forward, with any new conditions/modifications underlined and any revised or no longer applicable language struck through.]

SEPA Conditions:

1. No clearing, grading or other construction activities shall occur until a building permit or site development permit has been submitted by the Applicant and approved by the city.
2. All graded materials removed from the development shall be hauled to and deposited at city approved locations.
3. To mitigate impacts on air quality during earth moving activities, contractors shall conform to Puget Sound Clean Air Agency Regulations, which ensure that reasonable precautions are taken to avoid dust emissions.
4. A Storm Water Pollution Prevention (SWPPP) for the proposed development shall be provided for city review and approval in accordance with BIMC Chapter 15.20. The plans must be approved, the improvements constructed (or a construction bond provided if applicable), and an acceptable final inspection obtained prior to issuance of Certificate of Occupancy. The design submittal shall incorporate all proposed project improvements including complete civil plans, grading and erosion control plans, roadway plans and profiles, and storm drainage facilities and drainage report. These reports shall be prepared by a professional engineer currently licensed in the State of Washington. A construction Stormwater Permit (NPDES) will be required prior to construction approval in accordance with BIMC Section 15.20.030.B (4). More information about this permit can be found at: <http://www.ecy.wa.gov/programs/wg/stormwater/construction/> or by contacting Charles Gilman at (360) 407-7451, email chgi461@ecy.wa.gov. This permit is required prior to any construction activities.
- ~~5. During the construction of the proposed infiltration facilities, the Project Engineer shall provide an inspection report to verify that the facilities are installed in accordance with~~

⁴ Conditions include both ordinance requirements applicable to all developments and requirements to mitigate the specific impacts of this development.

~~the design documents and the actual soil conditions encountered meet the design assumptions. The Project Engineer shall submit the inspection report properly stamped and sealed with a professional engineer's stamp to Public Works Engineering.~~

- ~~6. An easement to COBI for access and maintenance of the proposed public stormwater facilities will be required prior to issuance of the Certificate of Occupancy.~~
7. The Applicant's engineer shall provide specific erosion and sedimentation control design measures as part of the SWPP to protect the public stormwater infiltration facilities during construction of the development.
- ~~8. To the satisfaction of the Public Works Department, the Applicant shall improve the roadway section for New Brooklyn Road to provide a minimum 18-foot wide paved driving surface, with appropriate storm drainage facilities per COBI Design Standards. The roadway shall be built to COBI Design standards, including curb, gutter, and sidewalk along the property's north frontage.~~
- ~~9. To the satisfaction of the Public Works Department, the Applicant shall improve the property's Madison Avenue frontage with curb, gutter, and sidewalk per COBI Design Standards.~~
- ~~10. To mitigate anticipated traffic impacts, to the satisfaction of the Public Works Department, the Applicant shall construct a right turn lane on the south leg of Madison Avenue in accordance with the technical appendix diagram submitted in the Island Medical Traffic Impact Analysis date stamped received April 1, 2008 by the Department of Planning and Community Development unless an alternative plan is recommended for approval by the Washington State Department of Transportation and approved by the City's Development Engineer.~~
11. In order to provide recreation and access to the adjacent open space to the south, a trail network, consisting of four to six-foot wide trails, shall be developed and maintained by the Applicant within wetlands/wetland buffer in the southern portion of the site. The network shall extend from the Madison Avenue to the east, towards State Route 305, and terminate at the southern property line. A public access easement shall be granted over the trail network.
12. Within the wetlands/wetland buffer unless approved under a subsequent permit, removal of vegetation shall be limited to development of a trail network. No soil disturbance shall occur outside of the six-foot wide trail construction corridor. ~~The trails shall be "field-fit" between or around existing trees, so that significant tree removal shall be avoided. Limbs and branches up to nine feet over the trail and within one foot of the trail edges shall be removed. The four to six foot wide trail shall be constructed with a four inch layer of~~

~~crushed 3/4 inch gravel over a geotextile mat barrier. All pedestrian improvements shall be installed prior to the issuance of the Certificate of Occupancy.~~

- ~~13. Prior to final plat submittal, an Operations and Maintenance Plan and Declaration of Covenant for all constructed stormwater facilities shall be provided for city review and approval in accordance with BIMC Chapter 15.21.~~
- ~~14. A minimum two year maintenance bond period for the stormwater facilities is required prior to issuance of the Certificate of Occupancy. The maintenance period will begin after final construction acceptance of the improvements and shall run for a minimum period of two years. Regular maintenance of the stormwater system is required during this period. Documentation of maintenance shall be provided to the city on an annual basis.~~
15. In accordance with BIMC Chapter ~~18.85.060 (C)~~ 18.15.010 and to discourage the removal of wildlife habitat, significant trees that are removed from designated protection areas without prior City approval will be replaced with new trees as follows: New trees measuring 1.5 inches in caliper if deciduous and four to six feet high if evergreen, at a replacement rate of 1.5 inches diameter for every one-inch diameter of the removed significant tree or trees within a tree stand. The replacement rate determines the number of replacement trees. The tree removed shall be replaced with trees of the same type, evergreen or deciduous. The replacement trees shall also be replaced in the same general location as the trees removed.
16. Any non-exempt tree harvesting shall require the appropriate Forest Practices Permit from the Department of Natural Resources. The conditions of the Island Medical Conditional Use Permit, Case No. CUP 14430B, shall become conditions of the Forest Practices Permit.
17. On-site mobile fueling from temporary tanks is prohibited unless the Applicant provides and is granted approval for a Permit and Best Management Plan that addresses proposed location, duration, containment, training, vandalism and cleanup. (Reference 1. Uniform Fire Code 7904.5.4.2.7 and 2. Department of Ecology, Stormwater Management Manual, August 201, see Volume IV "Source Control BIMP's for Mobile Fueling of Vehicles and Heavy Equipment".) (Chapter 173-304 WAC).
18. In order to mitigate any noise impacts, all construction activities must comply with BIMC Section ~~15.15.025~~ 16.16.025 Limitation of Construction Activities.
19. All lighting within the development shall comply with the City's Lighting Ordinance, BIMC Chapter ~~15.34~~ 18.15. Compliance will require exterior lighting to be shielded and directed downward.

Findings, Conclusions, and Decision (Corrected September 3, 2020)
City of Bainbridge Island Hearing Examiner
City Police and Court Facility SPRA/CUPA
No. PLN51524 SPRA/CUPA

20. Contractors are required to stop work and immediately notify the Department of Planning and Community Development and the Washington State Office of Archaeology and Historic Preservation if any historical or archaeological artifacts are uncovered during excavation or construction.
21. To protect the wetland buffer, the Applicant shall only install motion sensor lighting in the rear of the site to ensure that the buffer is not constantly illuminated through the night.

Project Conditions

22. Except as modified by conditions of approval, the project shall be constructed in substantial conformance with the site plans date stamped June 26, 2008 for the assisted-living facility and ~~July 9, 2013 for the medical building~~ October 9, 2019 for the Police and Court facility.
23. Prior to submittal of any building permit applications, the Applicant shall contact planning staff to schedule a pre-submittal meeting to review the necessary components for a complete building permit application. In addition, with the building permit application submittal, the Applicant shall attach a narrative detailing how each condition of approval is addressed by the building plans.
24. To verify that the buildings comply with the ~~35-foot~~ 40-foot height limit, the site plans submitted as part of the building permit shall contain existing contours overlain with the building footprints. The submitted material shall include surveyed benchmark information to verify the actual height during construction.
- ~~25. Prior to any clearing and/or construction activities, fencing delineating the northern boundary of the wetland buffer shall be installed by the Applicant and inspected by planning staff. Upon completion of construction and prior to issuance of the Certificate of Occupancy, the construction fencing shall be replaced with split rail fencing and signage. The signs shall inform readers of the boundary and its significance. Any disturbed buffer setback area shall be re-planted with native vegetation upon completion of construction and prior to issuance of the building's Certificate of Occupancy.~~
26. Any required landscaping shall be installed prior to the issuance of a temporary certificate of occupancy for the project. ~~The project's state licensed landscape architect, certified nursery professional, or certified landscaper shall submit a landscaping declaration to the department to verify installation in accordance with approved plans.~~ The time limit for compliance may be extended to allow installation of landscaping during the next appropriate planting season if the director determines that a performance assurance device, for a period of not more than one year, will adequately protect the

interests of the city. The performance assurance device shall be for 150 percent of the cost of the work or improvements covered by the assurance device.

- ~~27. The landscape plans submitted with the building permit shall depict the items listed in BIMC Chapter 18.85 including partial landscape screens along the site's Madison Avenue and New Brooklyn frontage with the following exceptions: a) within the 25-foot zoning setback along the parking lot adjoining New Brooklyn, a more intense screen, as stipulated in BIMC 18.85.070(E)(1)(b) shall be installed and b) within the 29-foot front setbacks along the assisted living facility, landscaping shall substantially conform to the plans date stamped September 8, 2008. Along the sites' highway frontage, a full landscaping screen, as defined in BIMC 18.85.070(B) 1) shall be installed in the 25-foot zoning setback. All significant trees, as defined in BIMC 18.85.010 and located within the required perimeter landscape buffer areas, shall be retained and incorporated into the required landscape screen. All required landscaping shall be maintained and retained for the life of the project.~~
- ~~28. As the code required New Brooklyn landscaping screens are located within areas shown as being developed with rain gardens, the Applicant must demonstrate that the dual purposes, perimeter landscape screening and stormwater treatment facility, are compatible. If not, the rain gardens would need to be relocated. Proof of compatibility or relocation of the raingardens shall be submitted as part of the building permit application.~~
- ~~29. Prior to the issuance of the Certificate of Occupancy final inspection, the Applicant shall secure the landscape maintenance assurance required by BIMC Section 18.85.090(D).~~
30. The service area, including trash and recycling enclosures, for the medical office Police and Court facility must be located as far away as possible from the assisted-living facility and shall be properly screened with fencing.
31. Prior to issuance of the Certificate of Occupancy, the Applicant shall install bicycle racks or hangers supplying parking for at least 20 bicycles. Of those spaces, a portion shall be located near the front entrance of the medical building Police and Court facility.
32. Civil construction plans for all roads, storm drainage facilities, sanitary sewer and water facilities, and appurtenances shall be prepared by a professional engineer and approved by the Public Works Department prior to issuance of a building permit. All civil improvement plans, reports, and computations shall be prepared by a civil engineer registered in the State of Washington and submitted with the application(s) for a construction permit (building, grading, right of way use, etc.) to the City for review and approval to construct of all necessary infrastructure and utilities serving the site. Certificate of occupancy will not be issued for new building until all civil improvements are completed.

33. All on-site stormwater facilities shall remain privately owned and maintained that are specific to the Madrona House Assisted Living property. All on-site stormwater facilities that are specific to the Police and Court facility property shall be owned and maintained by the City. Annual inspection and maintenance reports shall be provided to the City. ~~The owner shall be responsible for maintenance of the storm drainage facilities for this development following construction. Before issuance of the Certificate of Occupancy for this development, the person or persons holding title to the subject property for which the storm drainage facilities are required shall record a Declaration of Covenant that guarantees to the City that the system will be properly maintained. Wording must be included in the covenant that will allow the City to inspect the system and perform the necessary maintenance in the event the system is not performing properly. This will be done only after notifying the owner and giving him a reasonable time to do the necessary work. Should City crews be required to do the work, the owner will be billed the maximum amount allowed by law.~~
- ~~34. The property owner shall dedicate, as right of way, 25 feet of property fronting along New Brooklyn as shown on the preliminary civil drawings date stamped June 2, 2009. In addition, a pedestrian easement shall be dedicated for the sidewalk along the proposed on street parking along New Brooklyn to make them public thoroughways.~~
35. A right-of-way (ROW) construction permit will be required prior to any construction activities within the ROW. The ROW permit will be subject to conditions and coding bonding requirements.
- ~~36. The water and sanitary sewer facilities shall be designed in conformance with BIMC Title 13 and the City's adopted Design Standard and Specifications. The utilities plans submitted with building permit's civil drawings shall include profile and detail and shall demonstrate compatibility of the facilities with future street improvements currently proposed by the City. Specifications for water and sewer facilities include the following:~~
- ~~a. An eight-inch diameter ductile iron class 52 water main shall be installed along the site's New Brooklyn frontage.~~
 - ~~b. A 15 foot wide easement for the on-site water main extension shall be provided from the right of way to the proposed buildings.~~
 - ~~c. An isolation valve shall be provided at the connection to the force main located in Madison Avenue.~~
- ~~37. Binding water and sewer service letters from the City's Public Works Department shall be submitted with the building permit application.~~
38. To the satisfaction of the Bainbridge Island Fire Department, the project shall meet all applicable requirements of the ~~2006~~ 2015 International Fire Code.

39. To the satisfaction of the Bainbridge Island Fire Department, fire sprinkler and fire alarm systems shall be installed throughout the buildings.
- ~~40. To the satisfaction of the Bainbridge Island Fire Department, the proposed hydrant in front of the assisted living facility shall be relocated to the west parking lot entrance, a fire hydrant must be installed at the east parking lot entrance, and the proposed hydrant in front of the medical office building shall be relocated to the entrance of the parking garage.~~
41. Building overhangs covering the main entrances shall provide at least 13' 6" of clearance.
42. The driving lanes within the project are considered fire lanes and shall be labeled as such to the satisfaction of the Bainbridge Island Fire Department.
- ~~43. To the satisfaction of the Kitsap County Health District, the Applicant shall:
 - a. Abandon the site's existing septic tank per that agency's code.
 - b. Have the site's existing well decommissioned by a certified well driller.
 - c. Apply for a sewer building clearance accompanied by a water and sewer availability letter from the water purveyor.~~
44. To the satisfaction of planning staff, all exterior building surfaces shall be sided with non-reflective materials.
45. To the satisfaction of the Washington Department of Transportation (WSDOT), the following provisions must be followed:
 - a. WSDOT will only accept stormwater runoff from the project site that currently enters SR 305 right-of-way. Any proposal by the Applicant to discharge stormwater runoff to the right-of-way either during construction or upon completion will require appropriate stormwater treatment in accordance with the WSDOT Highway Runoff Manual. If such discharge is proposed, a drainage plan must be reviewed and approved by WSDOT prior to any earth disturbance.
 - b. No excavation, grading, filling, landscaping or any other activity associated with the proposal may occur within state right-of-way without prior approval by WSDOT.
 - c. No lighting from the site may be directed towards the state highway and no glare from the completed project shall impact the state highway.
 - d. No signs shall be placed in the highway right-of-way (unless otherwise approved).

- ~~46. The Applicant shall coordinate with the Washington Department of transportation (WSDOT) to determine if signage can be added to the highway that indicates the location of the urgent care facility. The Applicant shall coordinate with staff to ensure that said signage meets the sign code requirements of BIMC 15.18.~~
- ~~47. As most of the dining terrace is located within the building setback associated with the wetland buffer, it must be constructed with a pervious surface (wood decking, pavers, permeable concrete, etc) to the satisfaction of planning staff.~~
48. The mechanical units shall be screened from SR 305 and New Brooklyn, as indicated on the site plans submitted by the Applicant on November 26, 2013. The mechanical units shall be inspected during the permit review and found to be screened prior to the issuance of occupancy.
- ~~49. Prior to directly discharging any stormwater into the wetland and/or its buffer, the Applicant shall secure a Special Use Review permit from the City of Bainbridge Island.~~
50. At the time of building permit application, the Applicant must indicate on the site plan which vegetation will be disturbed to gain access to the building during construction of the Police and Court facility. Any vegetation disturbance shall be re-planted prior to final on the building permit. A landscape plan must be submitted to and approved by the City prior to replanting and if any trees are removed, the project shall continue meet the applicable tree unit requirements.
51. At least one parking space near the entrance of the Police and Court facility must be reserved and signed for use by a shared-car program or electric vehicle charging station. This condition will be verified prior to final on the building permit.
52. Any portion of the security fence that is within a setback shall be a maximum of eight feet high. Within a setback, a fence may be screened up to six feet high with an additional two feet of nonscreening material for a total of eight feet. This condition will be verified at the time of building permit review.
53. 15' of Public Right of Way (ROW) shall be dedicated on the north frontage with NE New Brooklyn Road from the northwest property corner east until it meets the SR305 ROW, to align with the existing ROW of the adjacent property to the west (Madrona Assisted Living). This ROW dedication along the NE New Brooklyn Frontage shall be completed and recorded prior to the issuance of any construction permit (to include Building, ROW, and Grade and Fill) or no later than 12 months from the date of SPRA/CUPA approval, whichever occurs first.

54. This project shall not result in any action that would preclude the future construction of the STO trail along the eastern frontage with SR305.
55. Prior to building permit final inspections for certificate of occupancy, an updated Operation and Maintenance plan reflecting any changes in the storm drainage system shall be provided to City of Bainbridge Public Works Department (Operations and Maintenance) for use of the personnel responsible for the on-going maintenance of the storm drainage system.
56. Applicant shall provide updated Drainage Fixture Unit count and comparative analysis between existing and proposed conditions to ensure water service meter is appropriately sized for the new use.
57. Sanitary sewer connections shall be protected during construction. Prior to returning the sanitary sewer lateral connection to service, Applicant shall demonstrate via video inspection or equivalent methods that the lateral is free of obstruction/debris and is in good working order.
58. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempt activity shall be considered a violation of this chapter and subject to enforcement and restoration under BIMC 16.20.170.
59. A land use permit automatically expires and is void if the Applicant fails to file for a building permit or other necessary development permit within three years of the effective date of the permit unless (a) the Applicant has received an extension for the permit; or (b) the permit provides for an extended time period. The director may grant one extension to the permit, in writing, for a period not to exceed one year if the Applicant can demonstrate, (a) unforeseen circumstances or conditions necessitate the extension of the permit; and (b) termination of the permit would result in unreasonable hardship to the Applicant, and the Applicant is not responsible for the delay; and (c) the extension of the permit will not cause substantial detriment to existing uses in the immediate vicinity of the subject property; and (d) the extension request is received by the department no later than 30 days prior to the expiration of the permit.
60. Minor adjustments to an approved site plan and design review may be made after review and approval by the Director. Minor adjustments are those that include minor changes in dimensions or siting of structures or the location of public amenities, but do not include changes to the intensity or character of the use. Minor adjustments are processed through a written request from the Applicant and a written response from department staff. The City response is placed in the project file and is effective to modify the approval as described in the response. Adjustments other than minor adjustments to an approved site plan and design review require a new or amended application as determined by the

Director. Major adjustments are those that change the basic design, intensity, density, or character of the use.

DECIDED this 27th day of August 2020.



ANDREW M. REEVES
Hearing Examiner
Sound Law Center