OFFICE OF THE HEARING EXAMINER

CITY OF BAINBRIDGE ISLAND, WASHINGTON

FINDINGS, CONCLUSIONS AND RECOMMENDATION TO CITY COUNCIL

Project: Ericksen Urban Cottages Housing Design Demonstration Project Preliminary Subdivision

File Number: SUB 13025

Applicant: Ahn Quach
132 Harbor Square Loop NE
Bainbridge Island, WA 98110

Request: The Applicant requests approval as a 'Tier I Green Building' Housing Design Demonstration Project (HDDP) through underlying approval to subdivide two lots totaling 1.08 acres into 16 lots. A Tier I Green Building project requires Leadership in Energy and Environmental Design (LEED) certification. Flexibility in employment of development standards furthers the goals of the HDDP program.

Location: The subject property is located in the 600 block along the west side of Ericksen Avenue: Lots 1 and 4 of the City of Winslow Short Plat recorded under Kitsap County Auditor's File No. 1132486 situate in the SW Quarter of the NW Quarter of Sec 26, Twp 25 N, Range 2 E, W.M. in Kitsap County, Washington.

Environmental Review: The project is subject to State Environmental Policy Act (SEPA) review as provided in Washington Administrative Code (WAC 197-11). Utilizing the optional DNS process provided in WAC 197-11-355, the City issued a combined Notice of Application/SEPA comment period on December 9, 2011. The 14-day comment period ended on December 23, 2011. The City, acting as lead agency, issued a threshold determination for this proposal on February 16, 2012; the appeal period ended March 1, 2012 and no appeal of the SEPA determination was received.

FINDINGS OF FACT

I. Site Characteristics

1. Tax Assessor Information:
    - Tax Lot Numbers: 262502-2-106-2004 and 262502-2-109-2001
    - Owner of Record: Ahn Quach
    - Lot size: Total 1.08 acres (Lot 106 = .46 acre, Lot 109 = .62 acre)
    - Land use: Vacant land

2. Terrain: The site slopes gently to the southwest.

3. Soils: The site contains Kapowsin soils.

4. Site Development: The site contains a 12 inch storm drain and eight inch sanitary sewer line.

5. Access: As conditioned, the access will be a one-way public road with ingress from Knechtel Avenue and egress to Ericksen Avenue.

6. Public Services and Utilities:
    - Police: Bainbridge Island Police Department
    - Fire: Bainbridge Island Fire District
    - Schools: Bainbridge Island School District
    - Water: City of Bainbridge Island
    - Sewer: City of Bainbridge Island (Winslow Sanitary Sewer System)
    - Storm drainage: collected into onsite underground detention vaults and eventually discharged into the City's storm water system

7. Zoning/Comprehensive Plan Designation: The subject property is zoned Mixed Use Town Center – Ericksen Overlay District. The Comprehensive Plan designation is Ericksen Overlay District. The property is located within the Winslow Master Plan Study Area, which the Comprehensive Plan targets to receive 50 percent of the Island's future population growth.

8. Surrounding Zoning / Comprehensive Plan Designation: The surrounding properties are zoned Mixed Use Town Center – Ericksen Overlay District. The Comprehensive Plan designation for the surrounding properties is Ericksen Overlay District.

9. Surrounding Uses:

    a. North (across Knechtel Way): From west to east, the three properties are: The Meridian, a condominium complex; City-owned property containing a parking lot; a house currently used as a commercial office.

    b. East (across Ericksen Avenue): From north to south, the three properties are: undeveloped; The Bainbridge Building, a multi-family apartment building; a commercial office building.

c. South: The property contains a house currently used as a commercial office.

d. West: From south to north, the two properties are: Winslow Mews, a condominium complex; a commercial office building.

II. Procedural History

10. City staff met with the applicant on several occasions regarding the proposed development. A conceptual proposal review in accordance with the Housing Design Demonstration Project (HDDP) program requirements of BIMC 18.38.040, was conducted on October 26, 2010 (City File No. ITW13025HDDP). A public participation meeting, also required in accordance with BIMC 18.38.040, was held January 31, 2011.

11. A pre-application conference to evaluate Ericksen Garden Cottages, a Tier I Housing Diversity HDDP subdivision proposal, was held March 2, 2011 (City File No. PRE13025C). The Design Review Board met on April 4, 2011 and April 18, 2011 to evaluate the proposal and recommend to the Director a score for the HDDP Innovative Site Development category of the proposal. A Housing Diversity project must achieve home sizes not greater than 1600 square feet, with seven points obtained in the Housing Diversity category. The Design Review Board did not recommend approval of the Ericksen Garden Cottages proposal, and the applicant received notification that the proposal did not qualify for inclusion in the program.

12. The applicant subsequently modified the proposal, now known as the Ericksen Urban Cottages, to a Tier I Green Building HDDP subdivision, and a second pre-application conference was held September 27, 2011 (City File No. PRE13025C). This time the Design Review Board did not evaluate the Housing Diversity category for the revised proposal, as Green Building projects are not required to achieve points in this category.

13. The applicant received notification that the revised proposal qualified for inclusion in the HDDP program as a Tier I Green building project on September 30, 2011. Application for subdivision approval was received October 28, 2011. Notices of application and SEPA comment period were published December 9, 2011. The SEPA threshold determination was issued February 16, 2012 and no timely appeal of the SEPA determination was received.

14. The Housing Design Demonstration Project (HDDP) program requires the applicant to participate in a community meeting and to consider public input received within the proposal submitted for the pre-application conference. The public meeting was held on January 31, 2011, prior to pre-application. Verbal comments received during public meetings are summarized in matrices. (Exhibits 1, 14)

    The five public comments received on the application focused on concerns regarding:
    - Traffic and Infrastructure Impacts: added congestion to an existing overburdened area; the inadequacy of existing sidewalk facilities
    - Density: continued population growth on the Island; limiting the number of units proposed; the density of 16 units proposed by this application compared to that of the Ericksen Avenue Cottages (an 11 unit multifamily development built in 2002 located three blocks south of

the subject property) and the possible impacts to open space areas and setbacks as a result of the higher density; concern that relief from regulations allowed through the HDDP program provides "loopholes" that result in denser projects; vacancy rates in the condominium market; impacts on neighborhood property values

- Open Space and Tree Retention Requirements: how the HDDP program affects this subdivision; whether subdivision into 16 lots results in no community open space; open space areas and trees and their value as a buffer between commercial and residential areas in the immediate vicinity; vegetated screening; significant tree retention
- Design Guidelines: application of the Ericksen Avenue Overlay District guidelines

15. The Kitsap County Health District and Bainbridge Island Fire District conditionally approved the preliminary plat; their comments are incorporated into the conditions of approval. (Exhibits 9, 10, 21; Conditions 6, 7)

III. Comprehensive Plan Goals and Policies

16. The subject property is located within Winslow, in the Mixed Use Town Center - Ericksen Avenue Overlay District. Within the Land Use Element the following policies apply:

    a. Winslow Mixed Use and Commercial Districts Goal 1. The Mixed Use Town Center is intended to have a strong residential component to encourage a lively community during the day and at night.

        (1) Ericksen Avenue Overlay District W 2.10. New buildings within the Ericksen Overlay District must be constructed so that the overall character of the street, including traditional building forms, roof shapes, and relationship of building to street, is compatible with that of the historic structures on Ericksen Avenue.

    b. Historic Preservation Goal 3: Archaeological resources found on Bainbridge Island should be identified, preserved, and/or left undisturbed.

    c. Winslow Master Plan

        (1) Overall Land Use Goal WMP 2-1. Strengthen Winslow as a sustainable, affordable, diverse, livable and economically vital community by: encouraging downtown living; promoting the efficient use of land; promoting development that is sustainable and supports community values.

            i. Policy WMP 2-2.3. Minimize driveways and encourage use of joint driveways.

        (2) Overall Land Use Goal WMP 2-3. Maintain and enhance community character in the Mixed Use Town Center.

            i. Policy WMP 2-3.1. Promote architecture that encourages green building.

17. The project provides sustainable development within Winslow; each of the homes will achieve LEED certification (Condition 10). The project is conditioned to comply with applicable design guidelines to ensure compatibility with the neighborhood (Condition 13). The project is conditioned to stop work and notify the Washington State Department of Archaeology and Historic Preservation should any artifacts be found (Condition 1). The parking configuration avoids driveway cuts into Ericksen Avenue or Knechtel Way, relying on a one-way internal roadway to access the lots.

IV. Zoning compliance: Housing Design Demonstration Projects (BIMC Chapter 18.38)

18. On August 12, 2009 the City Council passed Ordinance 2009-06 establishing the Housing Design Demonstration Project (HDDP) as a three year pilot program, applicable within the Winslow Study Area. The program was established to increase the variety of housing choices available to residents of all economic sectors and encourage sustainable development through the use of regulatory incentives. On October 6, 2010, the City Council passed Ordinance 2010-09, an interim zoning measure to encourage innovative housing demonstration projects by allowing subdivisions in the Mixed Use Town Center zoning districts. A single-family residential subdivision is only permitted in such districts if the development qualifies as a HDDP program.

19. HDDP applications are reviewed in accordance with BIMC 18.38.040. The applicant meets with City staff during the conceptual phase to discuss the goals and evaluation parameters of a proposed demonstration project. The applicant is required to participate in one or more community meetings, and to reflect input received from public and staff meetings in the materials submitted for a pre-application conference. An applicant may submit a land use application for a housing design demonstration project after completion of conceptual and pre-application review, once notified by the City the proposal qualifies for the HDDP program. The applicant received preliminary notification that the proposed project qualifies for inclusion in the HDDP program as a Tier I Green Building project in accordance with the provisions of BIMC 18.38.040.

20. The HDDP program utilizes a tiered quantitative evaluation method, linking sustainable building goals to incentives. The program goals are scored in three areas: Housing Diversity, Innovative Site Development, and Innovative Building Design Practices. To achieve Tier 1 Green Building goals, the project must achieve LEED certification in the Innovative Building Design Practices category; the project is not required to achieve scores in any other category. This project is conditioned to require LEED certification. (Condition 10)

21. The applicant may request that the following development standards from BIMC Title 17 Subdivision and Title 18 Zoning be modified as part of an approved innovative housing project: Minimum lot dimensions and size, lot coverage, open space, parking, setbacks, roadside buffers, and building height. The Ericksen Urban Cottages project has requested modification of the standard requirements for minimum lot size, minimum lot width, setbacks, maximum building height and parking space locations.

22. In addition to complying with the decision criteria required for approval of the underlying subdivision land use permit, an application for an innovative housing demonstration project may be granted if the applicable criteria stated in BIMC 18.38.070 also are met. These criteria are rather general and many do not apply specifically to a project based on meeting green construction standards, which construction techniques tend to only affect land use in an indirect way. Green construction primarily supports land use policies based on achieving sustainability.

23. The Ericksen Avenue neighborhood still retains a few older structures that survive mainly as office facilities. It is a mixed-use area with a few large condominium apartment projects, apartments with ground level small businesses and low-profile office buildings. Since review for visual compatibility will not occur until the building permit stage, present review of visual factors can only be *pro forma*. The applicant's preliminary drawings display designs in a *faux* craftsman style that should fit into the neighborhood ambience. The structures of primary visual concern would be the row of 6 cottages planned along the Ericksen Avenue frontage. These will not have driveway cuts into the adjacent right-of-way and will need to be designed to maximize visual variety on the Ericksen Avenue side.

24. Public water and sewer already are available to the site, and the existing downstream storm water system appears to have adequate capacity to accommodate additional flows from the project site after development. The main area where public service levels could be impacted by the new development would appear to be neighborhood parking. The base requirement for the MUTC zone is 2 parking spaces per dwelling unit, and BIMC 18.38.080D specifies that within an HDDP homes having between 800 and 1500 square feet of floor area provide at least 1.5 spaces. But these relatively stringent requirements are trumped by the provisions of BIMC 18.81.040, which allow a 50% reduction of base parking requirements within one-half mile of the ferry terminal so long as the number provided does not fall below 1 space per unit.

25. The evidence suggests that providing a 50% ferry reduction factor for parking requirements may be overly optimistic. Neighborhood testimony was to the effect that parking congestion is already a problem. Stephen Shapiro, an owner of the Garden Plaza commercial development on Knechtel Way just west of the applicant property, stated that his parking lot routinely gets unauthorized use from drivers seeking an open parking spot. It is also instructive that the applicant's own March 13, 2012 traffic impact memorandum justifies using a less generous reduction factor of 25% for site trip generation based on national ITE standards. With guest spaces, the Ericksen Urban Cottages project proposes 1.3 parking spaces per unit. At best this is likely only barely sufficient and should not be further reduced.

26. Zoning code modifications requested for this proposal under HDDP authority include relief from the building height limits and minimum front setback requirements of BIMC 18.40.030 and the mandate of BIMC 18.81.050C that parking areas serving dwelling units "shall be located on the same lot with the building they serve."

27. The bank of 6 small cottage lots along Ericksen Avenue are proposed to be served by easement parking spaces located to their southwest. There is a clear inconvenience associated with this arrangement – owners of lots located in the northeast corner of the plat will be

required to walk as much as 175 feet to reach their assigned parking easements. But there are significant overall design benefits as well. The unpaved common area proposed for the center of the project, arguably its most attractive design feature, becomes infeasible if interior road access to the bank of Ericksen Avenue lots is required. Alternatively, these lots could be forced to be served by individual driveway cuts along Ericksen, an equally unattractive option. Plus, if additionally burdened with an onsite parking requirement, the viability of the small lot sizes would become questionable.

28. The development standards table found at BIMC 18.40.030 sets a height limit of 25 feet, which may be increased to 35 feet if under-building parking is provided. While under-building garages will likely be provided for the larger lots, no garages at all are anticipated for the smaller cottage lots. So the applicant is requesting an unconditional option to build to a 35 foot height on all lots. In the absence of adverse visual impacts in the immediate vicinity, this appears to be a reasonable request. The smaller lots will not be viable without upper stories. In like manner, within the 5 districts of the MUTC zone the base front setbacks range from zero to 15 feet. The determining factor in reviewing a setback reduction proposal should be the presence or absence of an established neighborhood pattern. Reducing the setback here will not compromise an existing neighborhood standard.

V. Subdivision Standards

29. BIMC 17.04.94 provides the decision criteria for reviewing a preliminary subdivision. The preliminary plat approval procedure provides the land use permit framework that underlies the HDDP process. BIMC Chapter 17.04 also has its own set of standards that often duplicate or overlap similar provisions in the zoning code articulated in the development regulations or the HDDP chapter, or sometimes both. The HDDP regulations authorize the waiver of both specified subdivision and zoning code standards.

30. Within the framework of Chapter 17.04 the authorized HDDP modifications mainly affect imposition of the flexible lot standards. BIMC 18.38.080A authorizes modification of "minimum lot dimensions and size, subject to approval by Kitsap County health district." Planning staff reads this provision as meaning that once the Health Department has approved the lot dimensions, no further inquiry is mandated. But it is also possible to view this as meaning that Health Department approval is an essential foundational requirement, but once obtained further design review is still appropriate within the parameters of Chapter 18.38 as a whole. This interpretation could make sense in the context that the Health Department's real interest in the project is probably limited to assuring that sewer and water services will be adequate. In any event, Health Department approval has been duly secured for this proposal.

31. The minimum lot size for sewered lots is 5000 square feet, and the applicant is proposing lot sizes ranging between 1147 square feet (lots 11 through 14) and 2800 square feet (lot 16, in the southwest corner panhandle). The code mandated minimum lot width is 50 feet, but the plat proposes lots between 25 and 39 feet in width. Beyond receiving the Health Department's blessing, the design rationale for approving smaller and narrower lots lies in creating concentrated energy use footprints and modestly priced smaller urban residential lots in an area generally dominated by condominiums. Although this project has not formally qualified for affordable housing or housing diversity status under the HDDP, its design

should nonetheless appeal to retirees and other moderate income smaller households as a housing resource that provides convenient access to urban amenities at a reasonable cost. Mr. Quach also testified to his experience, here and elsewhere, that urban housing designs routinely accommodate successfully to footprints as narrow as 18 feet.

32. Apart from the MUTC zone setbacks elaborated at BIMC 18.40.030, the subdivision regulations impose their own separate menu of setbacks to the flexible lot design process. The biggest difference between the two schemes lies in their treatment of the Ericksen Avenue frontage. As a front setback under the MUTC terminology, the plat's Erickson Avenue frontage would be subject to a 15 to 20 foot setback, while the subdivision setback would rise to 50 feet based on Ericksen Avenue's status as a collector arterial. As authorized by BIMC 18.38.080E and requested by the applicant, the minimum HDDP building setbacks will become zero feet to interior lot lines, 5 feet to exterior boundaries and 10 feet to a road right-of-way. Absent conflicting neighborhood patterns along existing roadways, the HDDP and zoning goals to maximize affordable housing development in existing urban areas support these setback reductions.

VI. Unmodified regulatory standards

33. Due to the presence within the HDDP process of multiple layers of regulation and their sometimes exotic forms of interaction, it may not be intuitively obvious to the uninitiated what regulations are being modified and which are not. The Planning Department staff report does a good job of sorting all this out, but an additional short summary here may also be helpful. For starters, some customary regulatory requirements are simply not applicable to the context of the Ericksen Urban Cottages application. Flexible lot subdivision open space requirements do not apply to HDDP proposals, and flexible lot buffer requirements only apply to cluster subdivisions (which this is not). Also, as noted above, the standard MUTC zone minimum parking requirements are modified within the MUTC regulations themselves based on ferry proximity.

34. In like manner, the base floor area ratio (FAR) is both set and modified by the MUTC zone regulations themselves. No separate HDDP modification is contemplated. BIMC 18.40.030 establishes the FAR for an Ericksen Avenue project at 0.3 and allows it to be expanded to 0.6 via purchase of development rights. The FAR is calculated on the gross area of the site before development and thus includes future roads and common areas as well as the proposed lots themselves. The panhandle at the project's southwest corner is excluded from the FAR calculation because of its narrow width. Thus, for the Ericksen Urban Cottages the gross site area of 47,200 square feet is reduced to 44,400 when the panhandle is subtracted, resulting in a base FAR of 13,320 when a 0.3 factor is applied and expandable to 26,640 with purchase of development rights. For a 16 lot development the average base FAR per lot would be 832.5 square feet, with the potential maximum average rising to 1665 square feet.

35. The proposal does not seek to exceed the 35% maximum lot coverage standard set for Ericksen Avenue development by BIMC 18.40.030. Based on the 44,400 square feet total, this generates a maximum of 15,540 square feet of aggregate lot coverage that can be apportioned among the 16 lots. The preliminary plat map displays a proposed aggregate

footprint total of 14,345 square feet, ranging from 655 square feet each on cottage lots 10 through 15 along Ericksen Avenue to 1235 square feet on lots 5 and 9.

36. The applicant will comply with the significant tree retention requirements of BIMC 18,85.060, which staff has interpreted as mandating the preservation of 5 significant trees equaling 20% of the site total. Public comments emphasized the visual importance to the neighborhood of the row of 20 evergreens presently growing along the southwest property line of the panhandle adjacent to the Winslow Mews condominium complex. The 5 trees conceptually identified for retention are located at the south end of this boundary row. Based on this proposal, after development approximately one third of the existing row would remain.

37. As a small urban development on a flat site unconstrained by critical areas, the proposal raises no consequential issues with respect to availability of urban services or impacts to existing facilities. Public water and sewer are available to the site. As conditioned, the project will conform to the City's regulations governing drainage, not cause an undue burden on the drainage basin or water quality, and not interfere with the use and enjoyment of properties downstream. After review of the application's downstream stormwater conveyance system analysis, the City Engineer concluded that there is adequate capacity to serve the project. Stormwater from pollution- generating sources such as roadways and parking will be treated before discharge into the City stormwater collection system beneath Ericksen Avenue.

38. The proposed streets and pedestrian ways will be designed to coordinate with streets serving adjacent properties. The project proposes a new 18.5 foot wide, one-way public right-of-way with entrance from Knechtel Way and exit onto Ericksen Avenue. The new right-of-way is located such that the property abutting to the west may have future access to the travelled way. The project also provides public improvements to Knechtel Way, including a sidewalk, curb and gutter, and on-street parking.

39. These streets and pedestrian ways will be adequate to accommodate anticipated traffic. The City Engineer reviewed a traffic impact analysis and concluded that the capacity of the transportation facilities affected by the proposed development will be sufficient to maintain the current Level of Service (LOS D) standard after site development. A traffic facility certificate of concurrency has been issued.

CONCLUSIONS

1. The Hearing Examiner has jurisdiction over this proceeding for purposes of making a recommendation to the City Council. Public hearing notice requirements have been met.

2. The provisions of BIMC Chapter 18.38 creating Housing Design Demonstration Projects overlay applicable zoning and subdivision requirements and authorize modification of such requirements to achieve Chapter goals for housing diversity and innovative design. Planning staff has evaluated the Ericksen Urban Cottages proposal and determined that it qualifies for treatment as a Tier I Green Building project under the HDDP.

3. The applicant has requested modification under HDDP authority of zoning and subdivision standards for minimum lot size, lot width and dimensions, setbacks, building height and parking. HDDP approval requires compliance with the applicable general criteria stated at BIMC 18.38.070. These criteria are met by the Ericksen Urban Cottages application. All other applicable zoning and subdivision standards will be met.

4. The relief from specific development standards requested by the applicant will achieve the targeted innovative design and the goals of Chapter 18.38. The efficiencies supported through the modifications requested lower the impact of urban density development and contribute to energy conservation. The design innovations support the provision of a variety of housing choices at a reasonable cost, including increased diversity through offering small single family lots in an area dominated by condominium ownership.

5. Design review to be conducted by Planning Department staff at the time of building permit application for housing construction will assure that the project is harmonious in appearance with existing development in the Ericksen neighborhood. The immediate vicinity is characterized by mixed-use apartment and office development on a similar scale.

6. Adequate urban public services already exist in the neighborhood and possess the capacity to accommodate the proposal without significantly impacting current service levels.

7. The City Engineer has determined that the preliminary subdivision will meet the City's drainage, road and traffic requirements, including applicable design and construction standards. These determinations are supported by the evidence of record. The eventual lot owners will be required to maintain internal public road, drainage, water and sewer facilities, as well as private common areas. At the public hearing the Hearing Examiner suggested that the staff conditions be modified to include mandatory formation of a homeowners' association. The applicant has agreed to this modification.

8. The underlying preliminary subdivision application meets the decision criteria stated at BIMC 17.04.094, as modified pursuant to HDDP approval. As conditioned, the preliminary subdivision makes appropriate provision for the public health and safety and serves the public use and interest. The dedications and easements required as a condition of plat approval are necessary to meet applicable subdivision and zoning code standards and the goals and policies of the comprehensive plan.

RECOMMENDED DECISION

The Hearing Examiner recommends that the Bainbridge Island City Council APPROVE the Ericksen Urban Cottages Housing Design Demonstration Project and its underlying preliminary subdivision application (file no. SUB 13025), subject to the following conditions of final plat approval:

SEPA Condition

1. To avoid impacts to archaeological resources, a contractor is required to stop work and immediately notify the Department of Planning and Community Development and the Washington State Office of Archaeology and Historic Preservation if any historical or archaeological artifacts are uncovered during excavation or construction.

Project Conditions

2. Except for modifications reflecting compliance with these conditions of approval, the completed development shall substantially conform to the preliminary subdivision and civil drawings received February 24, 2012. At final plat submittal the applicant shall submit subdivision and civil drawings that reflect these conditions of approval.

3, Prior to any construction activities, appropriate permits, including but not limited to right-of-way permits and license agreements, road approach permits, clearing, grading, and building permits, shall be obtained from the City.

4. If a school impact fee is in effect at the time of building permit issuance, it shall be the responsibility of an applicant constructing the residential unit to pay the school impact fee (BIMC 15.28).

5. At time of building permit application, the applicant shall submit outdoor lighting plans that demonstrate compliance with BIMC 15.34. Freestanding lighting shall have a maximum height of 14 feet including the base and casing.

6. The project is subject to the following conditions of approval as determined by the satisfaction of the City Engineer:

    a. Civil construction plans prepared by a civil engineer licensed in the State of Washington will be required prior to final plat application. Civil construction plans shall contain design for all roads, storm drainage facilities, sanitary sewer and water facilities and appurtenances for each project stage, prepared by the developer's engineer. No building construction shall be commenced until civil construction is completed or an assurance device is accepted.

    b. As-built civil construction plans are required to be submitted and approved to the satisfaction of the City Engineer prior to the issuance of a certificate of occupancy.

    c. BIMC 17.04.119 provides: In lieu of completion of improvements with conditions of a preliminary plat approval, the City Council may accept an assurance device, other than a bond, in an amount and in a form determined by the City Council, which secures and provides for the construction and installation of improvements or the performance of conditions within one year, or such additional time as the City Council determines is appropriate after final plat approval. In addition, the City Council shall require an assurance device, including a bond, securing the successful operation of improvements for one year after the City's acceptance of the improvements; provided, that the City

Council may, upon recommendation of the City Engineer or the Director, extend the term of the assurance device for up to two years for improvements that will not demonstrate compliance with construction or installation requirements within one year. In the event an assurance device is provided in lieu of completion of improvements, a prominent note on the face of the final subdivision shall state: *"The lots created by this subdivision are subject to conditions of an assurance device held by the City for the completion of certain necessary facilities. Building permits may not be issued and/or occupancy may not be allowed until such necessary facilities are completed and approved by the City of Bainbridge Island. All purchasers shall satisfy themselves as to the status of completion of the necessary facilities."*

d. A Stormwater Pollution Prevention Plan (SWPPP) is required to be submitted to the City prior to building and civil construction activities. Stormwater quality treatment, erosion and sedimentation control shall be designed in accordance with BIMC15.20. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The SWPPP shall include off-street accommodation for construction vehicle parking.

e. A maintenance plan shall be developed for the on-going maintenance of the storm drainage system upon completion of construction. The applicant will provide the City with a copy of the plan for review upon completion of facilities and approval prior to the issuance of building permits.

f. The owners or the ownership entity shall be responsible for maintenance of the permanent on-site storm drainage facilities for this development following construction. An agreement in the form of a Declaration of Covenant that guarantees the City that the system will be properly maintained will be required prior to the issuance of building permits. 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 would be done only after notifying the owners and giving them reasonable time to do the necessary work. Should City forces be required to perform the work, the owners will be responsible for reimbursement to the City the maximum amount allowed by law.

g. A 20-foot wide right-of-way dedication is required measured from the northern line of applicant's property (as shown on the Adams & Goldsworthy survey, dated 1/7/11) along the entire length of the property's Knechtel Way frontage.

h. Half street improvements are required along the entire length of the property's Knechtel Way frontage, limited to curb, gutter, a 5-foot wide public sidewalk and on-street parking.

i. A handicapped-accessible ramp is required at the southwest corner of the intersection of Knechtel Way and Ericksen Avenue.

j. Vehicular access to the lots shall be limited to a one-way internal roadway with ingress from Knechtel Avenue and egress to Ericksen Avenue.

(1) A right-of-way dedication is required for the internal roadway, and the location shall be in substantial conformance with the preliminary subdivision drawing.

(2) The right-of-way shall be 18.5 feet wide from Knechtel Way south for a length of 265 feet and shall be located immediately adjacent to the west property line.

(3) The westerly 6 inches of the right-of-way will be available to the applicant to locate fencing.

(4) The right-of-way width may be reduced to 18 feet to accommodate the guest parking spaces along the south property boundary.

(5) The right-of-way shall provide a 12 foot wide travel way and shoulder facilities totaling 6 feet in width; provided, no shoulder shall be less than 2 feet in width.

(6) Transportation facilities shall be reviewed and approved by fire officials during the civil construction design. All street facilities within the new right-of-way dedicated to the public will be privately maintained, including stormwater facilities. Maintenance responsibility shall be designated on the face of the final plat.

k. The developer's engineer shall certify that there is adequate sight distance at the site entrances and exits. Such certification shall note the minimum required sight distance, the actual sight distance provided, and a sight distance diagram showing the intersection geometry drawn to scale, topographic and landscaping features, and the sight triangle. The sight distance shall meet the requirements of the COBI Design and Construction Standards.

l. The existing sewer "lateral" that crosses the subject property is currently a private facility. The owner of the subject property shall submit to the City an agreement between that owner and the neighboring parcels that authorizes the new connections to the "lateral" and that identifies the maintenance responsibilities of both parties; and stating that the responsibility for maintenance and repair of the sewer "lateral" is solely the responsibility of the private owner, and indemnifying the City against any future claims for damages if the City is forced to perform maintenance or repair of the existing sewer "lateral"

m. Sewer and water utility plans shall be submitted that are designed per BIMC Title13 and COBI Design Standards, including plan, profiles and details.

n. The owner is responsible for verifying the adequacy of the proposed water main to meet fire flow requirements pursuant to the City of Bainbridge Island Municipal Code 13.10.065. Fire flow requirements to neighboring property must be maintained. Plans and calculations showing how this level of pressure will be maintained will be provided to the city.

o. The owner is responsible for maintenance of the proposed sanitary sewer and water facilities for this development following construction. The owner of the subject property

shall submit to the City an agreement in the form of a Declaration of Covenant intended for the current and future owners of the new lots (or ownership entity i.e. HOA) stating that the responsibility for maintenance and repair of the on-site sewer and water facilities are solely the responsibility of the private owner(s), and indemnifying the City against any future claims for damages if the City is forced to perform maintenance or repair of any of the private water or sewer facilities. 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 would be done only after notifying the owner and giving him a reasonable time to do the necessary work. Should City forces be required to perform the work, the owner will be responsible for reimbursement to the City the maximum amount allowed by law.

p. All private sewer laterals and connections on the property other than those proposed for Lot 16 shall be located on private property and not in the new right-of-way dedicated to the public (along the west and south sides of the subject property) or on any existing public rights-of-way.

q. A binding Water & Sewer Availability Commitment is required prior to final plat application.

r. The owner of the subject property shall indicate the location of and provide documentation for utility and access easements between the future lots as applicable where utilities are proposed to cross lot boundaries.

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

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

u. A plat certificate shall be provided with final plat application.

7. The final plat shall meet the following conditions to the satisfaction of the Fire Marshal:

   a. The internal roadway shall be designed to accommodate the weight of a 65,000 pound fire apparatus. Pervious materials are permitted as long as applicable design specifications are met and the edges of the shoulders are clearly visible.

   b. The roadway and shoulders shall provide a minimum 13'6" overhead clearance.
   c. The entire length of the roadway shall be marked as a fire lane: No parking shall be permitted on the roadway or shoulders.

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

8. Pedestrian walkways shall be provided to assure safe access for Lots 10 – 15 between the parking area and the residences. Walkways shall be surfaced with nonskid hard surfaces.

9. The building setbacks shall be noted on the final subdivision. With the exception of up to 24 inch eaves on Lots 1-15, no portion of the buildings may extend into front setbacks.

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

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

10. The project must substantially conform to the Housing Design Demonstration Project (HDDP) program criteria for innovative building design as demonstrated in the HDDP evaluation scoring and application for the underlying land use permit, except as otherwise conditioned through this approval:

    a. The project must achieve LEED certification for each of the lots/units. Building permit applications, construction and final occupancy shall comply with the certification provisions of BIMC 18.38.040.H.

11. The maximum building height, as defined in BIMC 18.06.130, is 35 feet.

12. The applicant for construction of a residence on each of the lots shall purchase development rights in conformance with BIMC 18.40.040, should the proposed floor area exceed the share of the base floor area depicted on the plat.

13. All buildings shall be subject to the applicable sections of BIMC 18.41.030, Design Guidelines for the Mixed Use Town Center and High School Road Zoning Districts, at time of building permit application.

14. Residential development on Lots 1 – 9 and Lot 16 shall provide at least one parking space / garage on each lot. Parking must meet the dimensional standards of BIMC 18.81.070. A minimum total of 22 onsite parking spaces shall be provided for the project.

15. Prior to final plat application, the applicant shall provide field verification that at least four significant trees to be retained, equaling at least15 percent of the total number of significant trees, are all located on the subject property.

16. Prior to final plat application, the applicant shall provide a statement from a professional arborist that contains recommendations as to whether a buffer of smaller trees shall be retained or planted on the fringe of significant trees designated for preservation. The applicant shall follow the planting recommendations of the arborist. Plantings shall be installed or assured prior to final plat approval.

17. Significant trees designated for preservation and the area designated for significant tree retention shall be depicted on the final plat drawing, and shall include critical root zones and any additional fringe planting area. No significant tree removal shall be allowed on the site until the significant tree retention plan, and a replanting plan if applicable, have been approved by the Department of Planning and Community Development.

18. Construction activities on Lot 16 shall comply with the following conditions:

    a. Prior to any tree removal along the west boundary, the applicant shall provide field verification that the trunk is completely within the subject property or provide agreement of the neighboring property owner for removal.

    b. No building, clearing or grading within the critical root zone of a significant tree designated for preservation shall occur without a report from a consulting arborist indicating how the tree will be preserved.

    c. Prior to any construction activity, construction fencing shall be installed in such a manner as to protect the critical root zone of significant trees designated for retention. Construction activities in the vicinity of the significant tree retention area shall comply with restrictions on grading and prohibition of other activities contained in BIMC 18.85.060.B.c-e.

    d. If any significant trees are determined to be hazardous by a professional arborist, they may be removed after a replanting plan has been approved by the Department of Planning and Community Development. Trees approved for removal shall be replaced at a 3:1 ratio, evergreen, and at least six feet in height at time of planting.

19. Conditions 1, 3 – 5, 7 – 14, 6 and15 if assured, and applicable portions of 16 - 18 shall be listed on the final plat mylar.

20. The applicant shall remain responsible for the maintenance of all public storm drainage, sanitary sewer and water, and street facilities required by these conditions, as well as all private common areas constructed to serve the lots of the plat, until such responsibilities have been transferred to and assumed by an operational homeowners' association comprised of the owners of all the lots within the plat. The homeowners' association agreement and related plat covenants shall be reviewed and approved by the City, and then recorded, prior to final plat approval.

Recommended this 6th day of April, 2012.

Stafford L. Smith, Hearing Examiner
City of Bainbridge Island