

**DECISION OF THE HEARING EXAMINER
CITY OF BAINBRIDGE ISLAND**

In the Matter of the Application of

David Mount, Mahlum Architects

CUP/SPR 16315

For Approval of a Conditional Use Permit
And Site Plan and Design Review

Introduction

David Mount, Mahlum Architects, on behalf of the Bainbridge Island School District, applied for a conditional use permit and site plan and design review for a new Capt. Wilkes Elementary School.

An open record public hearing was held on January 14, 2011. Mr. Mount represented the school district and the Department of Planning and Community Development was represented by Jennifer Sutton, AICP. Witnesses, in addition to the representatives, were: John Davies, Cascade Design Collaborative, Tamela Van Winkle, Bainbridge Island School District, Matt Randall, 2020 Engineering, Doug Rauh, Mary Grant, Nick Rekecich, and Melinda Calaham.

All references to sections in this decision are to the Bainbridge Island Municipal Code, unless otherwise indicated.

After due consideration of all the evidence in the record, the following shall constitute the findings, conclusions, and decision of the Hearing Examiner on this application.

Findings

1. The Bainbridge Island School District (“District”) proposes to completely replace the buildings making up the Captain Wilkes Elementary School at 12781 Madison Avenue NE. The multiple buildings totaling 41,000 square feet in area would be removed following construction of a new single story structure with approximately 64,000 square feet with capacity for 450 students. Existing school had 429 students in 2008-2009. The school would continue functioning while the new facilities were being constructed.

2. The current school site is on 9.33 acres. The District is purchasing property belonging to Bainbridge Island Fire District 02 to the west on Day Road, adding .39 acres to the site. Planning staff recommends a condition of approval requiring that a Boundary Line Adjustment to aggregate the property be completed prior to issuance of a building permit.

3. The eastern half of the property is flat, having been filled at any earlier time, with a slight slope toward the southeast corner of the property. A marked slope bisects the site so that the western third of the property is 14-20 feet higher in elevation.
4. The site is in the R-1, One Unit per Acre, Zone and the Comprehensive Plan designation is for Open Space Residential (OSR)-1. Land to the north, west and south is zoned and developed Single-family, R-1 and land to the east is Single-family, R-0.4. Educational facilities are permitted in the R-1 zone as conditional uses. Section 18.33.030.
5. The existing school, its parking lots with 48 spaces, and pickup-drop off/bus loading area are all on the eastern part of the site with the higher western half used for play fields and drainfield. Currently, all access is from Madison Avenue and there are 5-6 ft. wide sidewalks or pedestrian paths along Madison Avenue and Day Road.
6. The design for the new school, with the building on the western plateau, would have the pick-up/drop-off area, parking lot, and large playfield east of the building with a separate kindergarten play area to the west of the building and a covered play area on the lower level under the library. The bars of classrooms, lined up horizontally at the higher level would enclose courtyards to maximize connection to the outdoors and be designed to maximize natural light. The floor plan provides for the more public spaces, such as the commons, gym and music area, to be connected to the lower level of the site.
7. The new school would have one-way bus access from Day Road to a separate bus loading area. Visitor and staff access would be from Madison Avenue to a pick up/drop off loop and parking. The intention is to eliminate the conflict between busses and cars and move all pick up and drop off activity on-site and close to the school. The 20 ft. width needed for fire access would allow for left and right turn lanes to Madison Avenue. There would be a separate service driveway from Madison Avenue near the south end of the property leading to a loading area and additional parking. Ten-foot wide multiuse paths are proposed along the two street frontages, along with other on-site trails. The two streets are classified as Secondary Arterials on the Bainbridge Island Functional Road Classification Map. Most of the driveways and parking areas are proposed to be topped with pervious surfaces.
8. A Transportation Impact Analysis (TIP) prepared for the proposal, Exhibit 8, assumed some growth due to the increased school capacity and determined that the new school would add fewer than 50 vehicle trips per day. Therefore, the proposal would be exempt from concurrency requirements. The TIP did review the Day Road and Madison Avenue intersection and operation at the proposed driveways. The study showed that level of service at the street intersection is expected to continue to be LOS A and at the proposed driveways LOS A or B, all acceptable.
9. The TIP also reviewed sight distance at the bus entrance and exit driveways in light of the narrow, rolling road, and community concern expressed about Day Road access. Acquisition of the fire station property allowed the bus entrance to be moved to the top of the hill for better visibility. The stopping sight distance, that necessary to allow a driver to stop to avoid a bus pulling out or turning in, would be adequate, even without considering the lower school zone speed limit. The intersection sight distance, that available to allow a vehicle to enter a roadway without impeding traffic flow, is adequate at the west driveway for the 30 mph speed limit and at the east driveway for the reduced school zone speed limit. Given the small number of buses exiting the site, the affect on traffic flow would not be significant.

10. The school property is shown in the School Overlay Zone on Map D of the Non-motorized Transportation Plan, a part of the Comprehensive Plan. The separated 10-ft. wide multiuse paths along Day Road and Madison Avenue are consistent with Goal NM 3.5. Goal NM 4.3, to encourage the use of non-motorized travel modes, would be supported by including sheltered bike parking spaces.

11. The minimum lot area in the R-1 zone is 40,000 square feet. Section 18.33.040. The combined area of the school and fire district sites is over 400,000 square feet. The site also meets the minimum of 80 feet for lot width and depth established by Section 18.33.080.

12. The maximum lot coverage permitted is 15 percent of the property area, Section 18.33.050, so would be 63,462 square feet for both properties. The proposed coverage is 63,076 square feet. Any additional coverage for bicycle storage would be limited to the difference.

13. Section 18.33.060 requires a front setback of 25 feet. The project has two fronts, along Day Road and Madison Avenue, so side setbacks of at least 10 feet with a combined side yard requirement of 25 feet are required on the west and south sides. The plans show front setbacks of more than 120 and 270 feet and a 60 –70 ft. setback on the west side and more than 80 ft. on the south. Exhibit 30.

14. The maximum height in the R-1 zone is 30 feet measured to the midpoint of the highest gable from average existing grade. Section 18.33.070. The design takes advantage of the topography by building into the hillside on the western portion of the property. With a nearly flat roof, the maximum height of the proposed building is 15 ft.

15. Section 18.81.030 establishes parking and access requirements for elementary educational facilities of one space for each employee and one space for every 50 students. The requirement for the proposed school with 51 employees and a capacity of 450 students would be 60 spaces. As the result of public concern with backups and overflow parking and a parking study, the District proposed 66 spaces. The Code requires approval by the Planning Commission for parking beyond what is required. The Planning Commission considered the request and voted to approve the additional six parking spaces. Pictures were provided showing heavy use of Madison Avenue for parking and/or drop-off on Halloween. The proposed parking would not be sufficient to accommodate all vehicles for large events but the City's policy is not to encourage vast amounts of surface parking. Testimony of Sutton. The District indicated that the bus areas could be used for parking for large events and Mr. Rauh suggested the possibility of using the playfield for parking on such occasions.

16. One bicycle space for each five vehicular parking spaces is required by Section 18.81.140. Applicant proposes the required 13 bike spaces. Staff recommends a condition of approval requiring that the bicycle parking be sheltered as encouraged by the Non-motorized Transportation Plan as a way to promote biking to school. Some or all of the bike parking could be located under building overhangs.

17. Section 18.85.060 requires retention of either 15 percent of all significant trees or 30 percent of the significant tree canopy and all significant trees within the perimeter landscape buffers. Section 18.85.070 requires a 25 foot wide full screen perimeter landscape to buffer the residential development to the west and south, and a 25 foot partial screen landscape buffer along the Madison Avenue and Day Road frontages that may be reduced to 15 feet if landscaping is

clustered to screen parking. The proposal shows clustered trees to further screen parking areas and to allow the integration of rain gardens along Madison Avenue. Trees in the perimeter buffer along Day Road would be clustered but sight lines would have to be maintained. The section also requires landscaping for the parking lot adjacent to the rights-of-way of a minimum of one tree per four parking spaces and landscaping at the ends of the parking aisles and spaces. The conceptual landscape plan in Exhibit 44 shows that the project would protect almost all significant trees, provide a 25 ft. full screen perimeter landscape buffer to the west and south, provide a 15 ft. partial screen landscape buffer to each right-of-way, and provide parking lot landscaping, as required by Section 18.85.070.

18. Section 15.34.050 requires that all exterior lighting be directed downward and shielded so that light does not trespass on other property. Because an outdoor lighting plan has not been provided for review, staff recommends a condition requiring that a lighting plan be filed for review and approval prior to the issuance of a building permit.

19. The wetland analysis report, Exhibit 11, identified a Category II wetland immediately south of the property line in a depression ending at the edge of the school property. Section 16.20.160D.4 requires a 100 foot water quality buffer that extends onto school property, now occupied by grass, part of a parking lot, driveway, and a sidewalk. The wetland is saturated with occasional standing water, according to the report. Extensive standing water was described by witnesses in the wetland and along Madison Avenue within three feet of the walkway edges, caused in part according to witnesses from damming created by fill on the school site and the street that prevents the water from flowing to the north and east. Testimony of Rauh, Grant, and Calaham. The District's plan is to restore the playfield and wetland buffer area with better soils that will be more absorbent and plantings beyond those required for the perimeter buffer. Trails within the wetland are proposed. Staff recommends a condition to ensure restoration, protection during construction, and that any work or activity within the buffer meet the Code's requirements.

20. There is concern about the hazard to the elementary school children of the standing water in the wetland and along the walkways. Fencing along the right-of-way and connecting to the school's fencing would improve public safety, along with fencing along the school's southern boundary, but the requirement for split rail fencing does raise concern about any actual deterrent to children. Testimony of Grant.

21. Water service is currently provided to the school by the Kitsap Public Utility District.

22. The existing septic system which has failed on several occasions is proposed to be decommissioned and a new system to be installed meeting the current, much more stringent requirements for treatment. The new tertiary system would have the treatment system located near the gym and the playfield and the plan at this time is to have the drainfield where the best soil is believed to be in the northwest corner. Because the site is to be served by a Large On-site Septic System, the Washington State Department of Health has jurisdiction to review and approve septic design and oversee installation of the system. A neighboring property owner expressed concern about the location and operation of reserve drain fields adjacent to his treed property. Testimony of Rekecich. It appears that the State requires at least a five foot setback from the outside of a drainfield which might not be enough to protect the trees during construction of the drainfield. If the reserve field were to be used the site would still have to meet the requirement for a 25 ft. full

screen buffer. Testimony of Sutton. The design is still evolving and ultimately, the reserve area may be outside the 25 ft. buffer. Testimony of Mount.

23. The drainage system plan uses Low Impact Development techniques and is designed to mimic historic conditions, that is conditions prior to the existing school's development. The design includes mostly porous pavements, some detention in rock reservoirs under the pavement, rain gardens, and a gravel trench. Roof runoff would go into the good soils on the upper terrace for infiltration and recharge. Exhibit 48 and Testimony of Randall. The result would be higher runoff into the wetland than historic levels but lower than the existing levels. The storm water drainage plan for the site was reviewed by the Public Works Department which conditionally approved it recommending a series of conditions to ensure that the system is properly installed and maintained.

24. The proponents are exploring the use of geothermal energy as a heat source for the buildings with a geothermal bore field under the playfield and the building infrastructure is designed to be "solar-ready." Testimony of Mount.

25. The Bainbridge Island Fire Department reviewed the proposal and found the access and hydrant locations acceptable. It recommended conditions requiring compliance with the Fire Code, requiring signage for fire lanes, and advising that fire sprinkler and fire alarms systems are likely required. Exhibit 38.

26. An environmental noise analysis provided by the District showed that the project would not exceed the maximum noise levels in Chapter 16.16. Exhibit 13.

27. The Design Review Board (DRB) met several times during the pre-application phase and after application was made to review the proposed project for compliance with the design guidelines. Decision criterion C of the criteria for conditional use approval, Section 18.108.040, requires that educational facilities in residential zones meet the light manufacturing design guidelines of Section 18.41.070 but the DRB found, and staff agreed, that many of those guidelines are not appropriate for an elementary school. At each meeting the DRB made suggestions for improvements to the design, e.g., a more prominent entryway, design of the vehicular circulation, amount of parking, pedestrian connections such as a ramp at the front entrance because of the change in elevation, etc. The District responded with revisions throughout the process. The design of the commons/gym entry was changed by pulling it forward to make it more prominent and adding an overhang and changing the material concrete to wood, for instance. At its November 15, 2010, meeting the DRB voted to approve the building façade. Exhibit 28. While the DRB was disappointed that some of their suggestions were not followed, on December 6, 2010, it voted to conditionally approve the site plan with a request that further work be done to integrate diagonal parking spaces and more clearly define the entrance to the parking lot as one way in and one way out. The DRB encouraged inclusion of a handicap ramp for access from the parking area. Exhibit 72. The recommendation to accept the design recognized that the proposed fencing around the playfield, addressed below, was not consistent with the guidelines but necessary for safety of the students. Following the DRB's recommended approvals, the District submitted further site plan revisions to implement the suggested ramp from the parking lot, and reconfiguring the entrance to the parking lot to divide the entry and exit lanes and allow for separate right and left turn lanes for exiting. Exhibits 30 and 44. It was unable to accommodate angled parking in the design.

28. The proposal includes chain link fences around the playfield, though the Light Manufacturing guidelines prohibit chain link fences visible from roads and neighboring properties. The site is currently fenced on all four sides with aluminum chain link fencing from 4-8 feet in height and other chain link fencing is used within the site. All fences will be removed. Minimum safety requirements for sports fields will be followed which require, at a minimum, a 4-foot chain link fence along the north, south and east edges of the playfield. Black coating would be less visible than uncoated wire or other coating colors. The fencing would be 210 ft. from Day Road on the north side of the playfield, 130 ft. from the south property line, and 45 ft. from Madison Avenue on the east. The perimeter buffer would screen views from Madison. Exhibit 15. Fencing at the south property line would be replaced and continue along that line and the entire west side is proposed to be fenced. The District is working with neighbors on the exact location fencing and is currently considering two options, one at the property lines and the second, five feet from the property line so part of the perimeter landscape screen could screen the fence. A blend of wood and wire is proposed and the fence can jog to avoid significant trees. Testimony of Mount, Van Winkle. Planning staff recommends a condition requiring that a final fencing plan be submitted with the building permit application.

29. The District, as lead agency, issued a Determination of Non-significance (DNS) for the proposal on November 16, 2010.

30. The Planning Commission held a public meeting December 16, 2010, to consider the proposed development as part of the regular site plan review process. The Planning Commission heard concerns from the public about the safety of bus access on Day Road, effect on the wetland, and safety issues for children from standing water in the wetland and along Madison Avenue. The Planning Commission approved the six additional parking spaces and recommended approval of the application asking that the city reexamine runoff from the south wetland and do further exploration of fencing and safety issues on the south side. Exhibit 51.

31. The basis for site plan and design review for the Planning Commission's recommendation and the Hearing Examiner's decision is the list of criteria in Section 18.105.060. Criteria relevant to the proposal are:

A. The site plan and design is in conformance with applicable code provisions and development standards of the applicable zoning district;

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C. The locations of the buildings and structures, open spaces, landscaping, pedestrian, bicycle and vehicular circulation systems are adequate, safe, efficient and in conformance with the nonmotorized transportation plan;

D. The proposal will be served by adequate public facilities including roads, transit, water, fire protection, sewage disposal facilities and storm drainage facilities;

E. The site plan and design is consistent with the design guidelines of Chapter 18.41 BIMC, or other applicable design guidelines of the zoning district;

F. No harmful or unhealthful conditions are likely to result from the proposed site plan;

G. The site plan and design is in conformance with the comprehensive plan and other applicable adopted community plans; and

H. Property subject to site plan and design review which contains a critical area, as defined in Chapter 16.20 BIMC, conforms to all requirements of that chapter.

32. The site plan and design does conform to the applicable code provisions and development standards.

33. The locations of the building and landscaping, utilizing existing topography and vegetation while allowing the existing school to continue functioning during construction, and components of the circulation system that separate bus and car access and loading and unloading, have been designed to be adequate, safe and efficient, as recognized by the DRB and Planning Commission recommendations, by the staff recommendation, and Public Works Department review.

34. The proposal, with conditions recommended, would assure that the school would be served by adequate public facilities. The additional vehicle trips that may be generated by the larger capacity would be minor and the access and parking would be improved and adequate, though not sized for large events. The Public Works Department is requiring that 10 feet be dedicated along the northern property line to accommodate a 30 ft. half width right-of-way for Day Road. The Fire Department's review showed that the development can meet standards. Water service is available and adequate. The new septic system will be reviewed by the state agency and would greatly improve treatment. The storm drainage system, with conditions recommended by the Public Works Department, would improve the existing condition reducing pressure on the wetland to handle runoff from the site.

35. The site plan and design does not conform to all of the Light Manufacturing guidelines that apply to educational facilities in SF zones, but the DRB and planning staff recognized that some of those would be inappropriate for a school. The design does meet the intent of the applicable guidelines, except for the prohibition on chain link fences, but the safety of children playing on the playfield requires deviation from that prohibition.

36. The criterion addressing scale of the building in relation to neighboring is satisfied to the extent it can be by a large public school located in a single-family area. The change in elevation of the site has allowed a design that assures that the structure would be low and the significant setbacks, landscaping and screening would help to reduce the effect of the disparity in scale with surrounding structures.

37. The proposal may not cause any harmful or unhealthful conditions and the record shows that it would not cause any such conditions. Additional fencing along the right-of-way would help protect from existing hazards.

38. Two goals of the Land Use Element of the Comprehensive Plan have been identified as relevant to the proposal: OS 1.1 to protect open space and critical areas; and OS 1.4 to retain existing vegetated buffers to preserve the Island's character. The proposal is designed to protect and enhance the wetland buffer critical area on the property and to add a vegetated buffer between the school and the rights-of-way and to plant additional trees on the other sides to achieve a full screen. The site plan design is in conformance with the comprehensive plan.

39. The criteria for conditional use approval are as follows:

1. The conditional use is harmonious and appropriate in design, character and appearance with the existing or intended character and quality of development in the immediate vicinity of the subject property and with the physical characteristics of the subject property;
2. The conditional use will be served by adequate public facilities including roads, water, fire protection, sewer disposal facilities and storm drainage facilities;
3. The conditional use will not be materially detrimental to uses or property in the immediate vicinity of the subject property;
4. The conditional use is in accord with the comprehensive plan and other applicable adopted community plans, including the nonmotorized transportation plan;
5. The conditional use complies with all other provisions of this code;
6. The conditional use will not adversely affect the area or alter the area's predominantly residential nature; and
7. All necessary measures have been taken to eliminate the impacts that the proposed use may have on the surrounding area.

Section 18.108.040A.

40. Educational facilities in residential zones must meet these additional criteria:
 - a. Applicants are required to submit a traffic report, showing the effects on level of service on affected roads. Proposed mitigations for degradation of the LOS must be submitted as part of the application.
 - b. All sites must front on roads classified as residential suburban or above on the Bainbridge Island Functional Road Classification Map.
 - c. Noise levels shall be in compliance with BIMC 16.16.020 and 16.16.040A.
 - d. The appropriate approvals of sewer and water supply must be submitted at the time of application.
 - e. A fencing plan or alternative methods to protect the public health, safety and welfare must be submitted at the time of application.
 - f. The applicant shall provide perimeter buffers of vegetation either retaining existing or planting a new one in compliance with BIMC 218.85.070D.4....
 - g. These conditional uses are limited in lot coverage to only 50 percent of the allowable lot coverage in the zone in which they are located.
 - i. Except that public schools...shall be allowed the lot coverage established in the underlying zoning district in which it is located unless conditions are required to limit the lot coverage to mitigate impacts of the use in accordance with this chapter.

h. Vehicular, pedestrian and bicycle access and site circulation must be submitted at the time of application and approved by the city....

i. The applicant shall submit a site and building design proposal that meets the design principles and guidelines found in BIMC 18.41.070, Light manufacturing design guidelines, and incorporates conditions deemed applicable by the director in accordance with this chapter. Each proposal will be evaluated for adequate vegetated roadside views, landscaping buffers for parking and service areas, scale of proposed construction including bulk and height and harmonious architectural design features compatible with the surrounding neighborhood.

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Section 18.108.040C.1.

41. The design, character and appearance of the site and building respond appropriately to the site and its surroundings.

42. As addressed above, with the conditions recommended, the school would be served by adequate public facilities.

43. The school use is not to be materially detrimental to the uses or property in the immediate vicinity. While the building and site design would be new, the site is currently in school use. The designs would offer several improvements that should benefit the surrounding property.

44. The proposal would be in accord with the comprehensive plan including the Non-motorized Transportation Plan.

45. The proposal complies or, with the recommended conditions, would comply with the provisions of the Code.

46. The school has been a part of this residential area since the 1950's so the replacement school would not negatively affect or alter the character of the area.

47. Conditions have been recommended to eliminate all adverse impacts consistent with City policy that can reasonably be eliminated.

48. Regarding the additional criteria specific to educational facilities in residential zones: a) A TIA was submitted showing that the LOS would not be degraded; b) the two frontages are on roads are listed as secondary arterials; c) the environmental noise analysis showed that the maximum noise levels of the Code would not be exceeded; d) approval of water supply was submitted and the septic system is subject to State review and approval; e) a fencing plan was submitted and a condition is recommended to require further review; f) perimeter buffers meeting the Code requirements have been shown conceptually and a recommended condition would require a detailed plan meeting the requirements and installation of the plantings or a bond posted prior to final occupancy; g) the design would not exceed the 15 percent lot coverage allowed under the exception for a public school; h) after review of the circulation system, and storm water design, the Department of Public Works conditionally approved the project for traffic and stormwater; and i) the site and design proposal conforms to the design principles and guidelines the DRB deemed applicable except for fencing that would be necessary to guard students' safety.

49. Notice of Public Hearing for the January 14, 2011, hearing was mailed December 20, 2010, published on December 24, 2010, and posted December 28, 2010.

50. The Hearing Examiner is authorized to hear and decide applications for conditional use permits and conduct site plan and design review by Sections 2.16.150, 18.105.010 and 18.108.020.

Conclusions

1. The Hearing Examiner has jurisdiction to hear and decide this matter.
2. The notice of application and of public hearing complied with the requirements of the code for notice.
3. The findings above, and the recommended conditions of approval, show that the site plan and design will be in conformance with the applicable code provisions, Design Guidelines, except where deviation is necessary, and development standards; the building location, open spaces, landscaping and circulation will be adequate, safe and efficient; it will be served by adequate public facilities; no harmful or unhealthful conditions should result; and the site plan design is in accordance with the Comprehensive Plan. While the proposed building will be of a different scale and design than the neighboring residences, a larger building is needed to house a school but the topography, building design, setbacks, and landscaping reduce the impact of the difference. The Design Review Board's careful review resulted in design improvements and the DRB's and Planning Commission's recommendations are given great weight. The site plan review shows that the plans are consistent with the criteria and the site plan and design should be approved subject to the proposed conditions.
4. The findings above also demonstrate that, with the recommended conditions, which are appropriate, the general criteria for conditional use permit approval are met by the proposal in that it would be in harmony with the immediate vicinity in design, character, and appearance; it would be served by adequate public facilities; it would not be materially detrimental to other uses and property; it would be consistent with the comprehensive plan; it would comply with all other Code provisions; it would not alter the residential nature of the area; conditions would address impacts and the proposal would also meet the additional criteria specific to education facilities, so, subject to the conditions of approval recommended, the conditional use permit should be granted.

Decision

The application for a conditional use permit for the new school facility and site plan and design review approval are GRANTED subject to the following conditions:

1. All graded materials removed from the subject property shall be hauled to and deposited at City approved locations. The applicant shall submit the deposit location and haul route for approval with the building permit application.
2. 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.

3. To mitigate the possible impact on adjacent properties from light and glare, all exterior lighting shall be hooded and shielded so that the bulb is not visible from adjacent properties. All landscape lighting shall be downcast and lighting within surface parking lots shall be no higher than 14 feet above grade. All exterior lighting shall comply with BIMC Chapter 15.34. An exterior lighting plan or detail shall be submitted with any building permit for this project.
4. The site shall be developed in substantial conformance with the site plan and landscape plans received December 10, 2010 (Exhibit 44), and the building elevations, and floor plans date stamped November 11, 2010 (Exhibits 4 and 2, respectively). The building permit site plan shall clearly show all zoning setbacks, landscape perimeter and wetland buffer, and 15 foot buffer building setback.
5. The applicant shall obtain an approved building and/or grading permit from the Department of Planning and Community Development, prior to any construction activities on the site.
6. The demolition of structures that require a permit to construct, require a demolition permit from the City. All debris shall be properly disposed of at approved locations.
7. Prior to the issuance of any building permits a Boundary Line Adjustment shall be submitted, approved, and recorded with the Kitsap County Auditor to aggregate the two properties.
8. Prior to building permit issuance, the applicant shall satisfy the concerns listed in Bainbridge Island Fire Department Memo of November 30, 2010 (Exhibit 38). Specifically the following comments shall be addressed to the Fire Marshall's satisfaction:
 - a. Project shall comply with all applicable provisions of the adopted Fire Code.
 - b. Anticipate fire sprinkler and fire alarm systems for the new buildings.
 - c. 'No Parking – Fire Lane' signage will be required.
 - d. The proposed fire hydrant locations and access appear acceptable.
9. All the conditions and recommendations of the Public Works Department shall be satisfied prior to the issuance of any construction permits (Exhibit 46). Specifically the following conditions shall apply:
 - a. **General**
 1. Civil construction plans for all roads, storm drainage facilities, sanitary sewer and water facilities, and appurtenances shall be prepared by a civil engineer licensed in the State of Washington and shall be submitted to COBI for review and approval. No building permits shall be issued and no construction shall be started prior to plan approval.
 - b. **Stormwater**
 1. A Storm Water Pollution Prevention Plan (SWPPP) is required prior to construction activities. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington.
 2. Provide civil plan design and supporting drainage report for all proposed storm water facilities. The design must successfully demonstrate that the project meets the design requirements per BIMC Chapter 15.20.
 3. The owner shall be responsible for maintenance of the storm drainage facilities for this development following construction. Before issuance of occupancy permits 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 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 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 do the work, the owner will be billed the maximum amount allowed by law.

4. The site is greater than one acre in size, therefore prior to construction activities, the applicant shall apply for a Construction Stormwater General Permit through the Washington State Department of Ecology.

c. **Transportation**

1. It is recommended the mitigation measures as outlined in the Transportation Impact Analysis prepared by CDC, dated October 8, 2010 (Exhibit 8) related to the development of parking management strategies to accommodate peak pick-up and drop-off times, be implemented.
 2. Madison Avenue NE is classified as a Secondary Arterial-Urban requiring a 60-foot right-of-way. Per the COBI Design and Construction Standards, half street improvements include one 10' thru lane, one 5' bike lane, curb/gutter/planter and 5' sidewalk (per Dwg. No. 7-010). The applicant proposes a 10-foot wide multi-use path instead of the separate bike lane and sidewalk. This 10-foot wide multi-use path is approved for this location, and shall be constructed to the satisfaction of the City Engineer prior to final inspection. The portion of the multi-use path that is within the wetland buffer shall be constructed of pervious material, such as pervious concrete.
 3. Day Road NE is classified as a Secondary Arterial-Urban requiring a 60-foot right-of-way. Per the COBI Design and Construction Standards, half street improvements include one 10' thru lane, one 5' bike lane, curb/gutter/planter and 5' sidewalk (per Dwg. No. 7-010). The applicant proposes widening the existing sidewalk to create a 10-foot wide multi-use path. This 10-foot wide multi-use path is approved for this location, and shall be constructed to the satisfaction of the City Engineer prior to final inspection. The applicant shall dedicate an additional 10 feet along the north property line adjacent to Day Rd NE to accommodate a 30-foot half width right-of-way.
 4. 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.
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10. The primary walkways throughout the development shall meet accessibility requirements and shall be surfaced with nonskid hard surfaces and provide a minimum of five feet of unobstructed width. Where the driving aisle for the proposed development intersects the walkways, the walkway shall be constructed of a contrasting material or appropriately striped to designate the walking path.
 11. Parking shall be improved in substantial conformance with the approved site plan date stamped December 10, 2010 (Exhibit 44). Parking area shall be paved, all stalls shall be striped to their full dimensions and appropriate signage shall be placed at each handicap stall(s). Parking

spaces must meet the minimum dimensional requirements of BIMC Section 18.81.070. No more than 30 percent of total parking spaces may be compact spaces.

12. The building permit site plan shall clearly identify the location and quantity of bicycle parking spaces. A minimum of 13 spaces is required. The bike racks shall be sheltered from inclement weather. The bicycle racks shall be installed prior to occupancy of the building.
13. The applicant shall submit a landscaping plan meeting the requirements of BIMC Section 18.85.040 with the building permit application. The plan submitted with the building permit shall be in substantial conformance with the plan date stamped December 10, 2010 (Exhibit 44), except to comply with these conditions of approval. The plan shall show existing trees, and indicate whether or not they will be removed. The plan must verify that the significant tree retention requirements of BIMC Section 18.85.060.
14. The landscape perimeter buffer requirements pursuant to BIMC 18.85.070.D.4 are as follows:
 - A 15-foot partial landscaping screen is required adjacent to the Day Road (north) and Madison Avenue (east) right-of-ways.
 - A 25-foot full landscaping screen is required along the western and southern property lines. Any additional perimeter planting coinciding with the wetland buffer area shall meet the standards outlined in BIMC 16.20.160.D.3 for enhancing the buffer to improve its functional attributes.
 - Landscape plantings including those in rain gardens, shall be limited in height to maintain adequate sight distances at all driveway entrances.
15. The landscaping around the staff and visitor parking lot shall meet the requirements outlined in BIMC Section 18.85.070.E.1 for parking lots located adjacent to a public right-of-way. Landscaped areas are required at the end of each parking aisle shall be at least 100 square feet in area, as outlined in BIMC Section 18.85.070.E.1.c. The landscaping areas shall be defined from the drive aisle and parking area by raised curbs at least six inches high. Enough vegetation shall be planted immediately south of the 5 service area parking spaces to achieve a full screen to the south.
16. All landscaping shall be installed or a performance assurance device shall be submitted and approved, prior to final inspection of the building. The installation of landscaping shall be verified by the Landscape Professional and the landscaping declaration contained in BIMC Chapter 18.85 shall be signed.
17. Prior to temporary occupancy of the building, a landscaping maintenance assurance device for the required landscaping shall be provided to the City for a period of three years, as required under BIMC Section 18.85.090.D.
18. The 100-foot water quality buffer to the Category II wetland shall be regulated as outlined in BIMC 16.20.160. Any proposed uses or structures within the buffer shall meet the requirements of BIMC Section 16.20.160.E (Table 8). Trails and educational activities are allowed uses in wetlands and wetland buffers; however the additional standards of Section 16.20.160.F apply. Trails within the wetland buffer shall be pervious, unless otherwise approved by the Director. Educational interpretive signs must be installed near the trail within the buffer prior to occupancy of the building. The applicant shall indicate the location of interpretive signs on the building permit site plan, landscaping plan, or wetland restoration plan.
19. Highly visible temporary construction fencing or flagging and erosion control shall be installed at the edge of the wetland buffer prior to commencing construction. The temporary

fencing and erosion control shall be removed after the site work has been completed and the site is fully stabilized per city approval, prior to occupancy of the building.

20. Normal and routine maintenance of landscaping within the wetland buffer is allowed without any additional permitting under BIMC Section 16.20.040. The wetland buffer is required to be restored using native plants, and integrating both an upper and middle story plantings of trees and shrubs. The restoration plan must be developed by a licensed vegetation management professional. If the plan is developed by a non-wetland specialist, such as a Landscape Architect, a wetland specialist shall be consulted. Any proposed vegetation removal, or restoration/ buffer enhancement planting must meet the requirements of BIMC Section 16.20.160, and must be reviewed as part of the building permit or a subsequent clearing permit.
21. Prior to building permit issuance, the applicant shall record a Critical Areas Notice to Title, pursuant to BIMC 16.20.190. The Department of Planning and Community Development shall provide the Notice to the applicant.
22. The applicant shall show planned fencing on the building permit site plan. The fencing plan shall be in substantial conformance with the fencing shown on the landscaping and fencing plans date stamped December 10, 2010 (Exhibit 44), and designed to protect public health, safety and welfare, pursuant to BIMC 18.108.040.C
23. Exterior trash receptacles/recycling facilities shall be fully screened with solid walls and gates. The screening enclosures shall be architecturally consistent with the adjacent structures. The building permit site plan and elevations shall clearly show the trash and recycling areas.
24. All mechanical equipment shall be concealed within the building or behind an enclosure or landscaping to screen mechanical equipment from the right-of-way, adjacent residences, and the onsite vehicular and pedestrian access. The building permit site plan and elevations shall clearly show mechanical equipment areas.

Entered this 7th day of February 2011.

/s/ Margaret Klockars

Margaret Klockars
City of Bainbridge Island
Hearing Examiner *pro tem*

Concerning Further Review

NOTE: It is the responsibility of a person seeking review of a Hearing Examiner decision to consult applicable Code sections and other appropriate sources, including State law, to determine his/her rights and responsibilities relative to appeal.

The decision of the Hearing Examiner is the final decision of the City in this matter. A person with standing may make appeal of this decision to the Kitsap County Superior Court. To be timely, a petition for review must be filed within the 21-day appeal period [see RCW Ch. 36.70].