



STAFF REPORT

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

Project: Waldo Comprehensive Plan Amendment
File number: CPA-14564
Date: August 9, 2007
To: City of Bainbridge Island Planning Commission
From: Department of Planning and Community Development
Project Manager: Jennifer Sutton

I. INTRODUCTION

Applicant: John Waldo, et al.
151 Finch Place SW, #C
Bainbridge Island, WA 98110

Request: Mr. Waldo has submitted a Comprehensive Plan Amendment application on behalf of himself and three other citizens. The application requests policy amendments to the Land Use and Housing Elements in order to facilitate the development of affordable housing. The Amendment would establish a new program called *Qualified Affordable Housing Projects*. The program would give flexibility and incentives to such projects by exempting the project from many of the development standards required under zoning regulations.

Location: This policy amendment would apply Island-wide.

Zoning Designation: Not Applicable, as this policy amendment would apply Island-wide.

Comprehensive Plan Designation: Not Applicable, as this policy amendment would apply Island-wide.

Environmental

Review: A Preliminary State Environmental Policy Act (SEPA) Checklist is attached (Attachment A).

Staff Analysis

II. FINDINGS

A. Background and Discussion

The Housing Element of the Comprehensive Plan establishes goals and policies to encourage the availability of affordable housing and promote a variety of densities and housing types. In 1997, the City Council passed Ordinance 97-15, creating Bainbridge Island Municipal Code (BIMC) Chapter 18.90, *Affordable Housing*, establishing an affordable housing program that incorporated both required and optional components. The program did not work as it was intended to, and the City determined that the required affordable housing provisions should be repealed while a new program was developed. Those requirements were repealed in 2005 (Ord. 2005-08). The optional affordable housing provisions are still in place.

The Community Housing Coalition (CHC) is working to revise the program, including conducting outreach workshops and presentations to the City Council and Planning Commission. As advised by legal counsel, the City has retained a consultant to complete a residential nexus study to analyze the development market on Bainbridge Island and its impact on housing affordability. A draft ordinance will be developed after the nexus analysis is complete, and will likely contain the elements of required affordable housing with a density bonus provision, and incentive provisions such as expedited review or defined development standard flexibility. The existing Comprehensive Plan policies regarding affordable housing are broad in their language supporting innovative programs and incentives, and at this time, it appears that the future Affordable Housing ordinance would not require a Comprehensive Plan Amendment (CPA). An initial review of this proposed CPA concludes that the policy amendments are likely to be entirely distinct from the future Affordable Housing ordinance. However, the *Qualified Affordable Housing Projects* described in this proposed CPA could be a component of the City's overall affordable housing program.

The CPA proposed by Mr. Waldo (Attachment C), et al, would create policies directing the City to develop regulations to define, process, and approve *Qualified Affordable Housing Projects*; an overall goal would be a program to invigorate private development of affordable housing. If this CPA were approved and such polices adopted, then implementation of the CPA would require an ordinance that amends BIMC Title 18 *Zoning*, to establish criteria for identifying and processing *Qualified Affordable Housing Projects*.

As proposed, a development determined to be a *Qualified Affordable Housing Project*, could exceed zoning development standards such as density, setbacks, lot coverage, or height. The proposed CPA also allows for *Qualified Affordable Housing Projects* located near existing sewer lines to connect to the lines at the applicants' expense.

The proposed *Qualified Affordable Housing Project* is modeled after the State *Housing Cooperation Law* [RCW 35.83.030(4), Attachment D], which allows the City Council to authorize exceptions to building and zoning regulations for projects undertaken by Housing Authorities. Such Housing Authorities have to be created under the State Housing Authorities Law (RCW 35.82). For instance, the City Council approved Resolutions 99-38 and 2000-29 authorizing exceptions to such regulations to the Kitsap County Consolidated Housing Authority for the development of the Fort Ward Parade Grounds subdivision.

Staff would like to discuss the broad implications of this proposed amendment with the Planning Commission. Given the de facto variances that a *Qualified Affordable Housing Project* (as proposed) could incorporate into its design, adjacent property owners and neighborhood character could be significantly impacted.

The proposed amendment incorporates issues that should be considered during the Comprehensive Plan Amendment process. The topics identified by the Staff are:

1. *Legality*: Staff advises that the Planning Commission should consider the CPA's possible conflict within the Comprehensive Plan. There are policies throughout the Comprehensive Plan that state the importance of neighborhood character and that it should be considered in decision making (e.g. Housing Element policy H 1.5). As proposed, this CPA does not require *Qualified Affordable Housing Projects* to be evaluated for neighborhood compatibility.
2. *Definition of level of affordability* Typically, affordable housing programs specify which household income groups are targeted to benefit from the program. The previous Affordable Housing Program, repealed by Ordinance 2005-08, had varying requirements for constructing "extremely low", "very low", "low", "moderate", and "middle income" units that depended on the size of the development. "Affordable housing" and those differentiated levels of affordable housing are based upon median household income and are currently defined in Bainbridge Island Municipal Code (BIMC) Section 18.06.565 *Definitions* (Attachment E). The "Median Household Income" is calculated from the US Department of Housing and Urban Development statistics for the Seattle metropolitan area. The proposed CPA does not indicate what level of affordability would be required for a *Qualified Affordable Housing Project*.
3. *Number of required affordable units*. The City's previous affordable housing program was explicit in the number of additional units (or in the Mixed-Use Town Center, bonus residential FAR) that could be achieved through the affordable housing requirement. The future program will likely incorporate a variation of that

requirement. As written in this CPA, a *Qualified Affordable Housing Project* could exceed the density of the underlying zone. The only limiting factor would be Kitsap County Health District regulations regarding on-site septic, sewer and water.

In the R-2, R-1, and R-0.4 zones, this CPA could result in a dramatic density increase. For instance, in the R-1 zone, the density is one unit per 40,000 square feet. A 200,000 square foot lot could yield 5 residences. Staff understands the proposed CPA would utilize the minimum lot size per residence required by the Kitsap County Health District for lots utilizing on-site septic-- 12,500 square feet. Using that limit, a *Qualified Affordable Housing Project* on the same 200,000 square foot lot could yield 16 residences. The parameters for how many of those units would have to be affordable in order to be deemed as a *Qualified Affordable Housing Project* could be considered at this time, however, if this CPA policy is approved, such criteria for identifying and processing a *Qualified Affordable Housing Project* would be the subject of an ordinance to implement the policy through the zoning regulations of the BIMC.

4. *Duration of ownership/ property transfer requirements.* The issue of affordability after the initial income-qualified homebuyer sells has challenged affordable housing agencies and advocates nationwide. It is difficult to strike a balance between encouraging pride of ownership and equity building, while maintaining a property's affordability over time. The proposed CPA does not identify how the relevant properties would remain affordable over time.

B. History of Comprehensive Plan Amendment Request (CPA-14564)

A Comprehensive Plan amendment request application was submitted to the Department of Planning and Community Development on February 28, 2007.

C. Comprehensive Plan Amendment Review Criteria [BIMC 18.117.050]

1. Each amendment must meet the following criteria:

- A. Regulatory Changes: Amendments to the Comprehensive Plan shall comply with the Growth Management Act and other state and federal laws.

Staff Response

The proposed CPA enables the City Council to grant the same development flexibility to private entities that the law permits the City Council to grant to the Housing Authorities under the Washington State Housing Cooperation Law (RCW Chapter 35.83, Attachment D). Staff recommends that additional legal research is needed to determine Council's general authority to waive zoning regulations.

- B. Resources:

1. The City must have the resources, including staff and budget, necessary to implement the proposal.

Staff Response

If this Comprehensive Plan Amendment is passed as proposed, the City Council would have to incorporate the development of an implementing ordinance into the annual work plan and budget process.

2. The amendment will not result in development that has significant adverse effects on community resources, including but not limited to: water resources, utilities, transportation, parks or schools.

Staff Response

As proposed, this CPA could have an effect on community resources, if services such as sewer, water, or transportation infrastructure did not keep pace with the residential growth resulting from Qualified Affordable Housing Projects. Such effects would be attributed to the fact that the proposed Qualified Affordable Housing Projects would fall outside the parameters of the Land Use Map of the Comprehensive Plan, and the extensive analysis of density and infrastructure that is a part of developing the Land Use Map of the Comprehensive Plan.

3. The amendment must not adversely affect the City's ability to provide the full range of public facilities and services at the planned level of service, or consume public resources otherwise needed to support comprehensive plan implementation strategies.

Staff Response

As mentioned above, the proposed CPA could make it more difficult for the City to provide facilities and services at the planned level of service. With the creation of Qualified Affordable Housing Projects, the maximum densities as indicated on the Land Use Map of the Comprehensive Plan could not accurately be used to forecast needed level of services through both the Capital Facilities Plan or the Comprehensive Plan update.

C. Internal Consistency: Amendments shall be consistent with the comprehensive plan including:

1. Land uses and growth projections that are the basis of the comprehensive plan;

Staff Response

The proposed CPA is inconsistent with the land use growth strategy incorporated in the City's Comprehensive Plan Land Use Map (Map) because the proposed Qualified Affordable Housing Projects would fall outside the parameters of the Map, and the extensive analysis of density and infrastructure that is a part of developing the Map.

2. The overall intent of the comprehensive plan, including the community vision, overriding principles, and overall goals that guide the plan.

Staff Response

Although inconsistent with the Land Use Map of the Comprehensive Plan, the proposed CPA is somewhat consistent with the overriding principles and goals that guide the plan, specifically principles and goals that promote affordable housing, and a diversity of Island residents and housing choices. The proposed amendment is potentially incompatible with existing Comprehensive Plan policies addressing compatibility and neighborhood character.

- D. Cumulative Effect. All amendments must be considered concurrently in order to evaluate their cumulative effect on the comprehensive plan text and map, development regulations, capital facilities program, adopted environmental policies and other relevant implementation measures.

Staff Response

The Planning Commission is considering this proposal along with other amendments. This application is not in conflict with other proposed amendment requests. However, if this CPA is approved, then future Capital Facilities Planning would have to consider the potential for Qualified Affordable Housing Projects, and the ordinance to implement the CPA would have to incorporate current environmental policies and Health District requirements.

- E. Land Use Impact. Amendments shall not adversely affect public health, safety or welfare. An amendment must be compatible with neighboring land uses and surrounding neighborhoods, if appropriate. In addition, applications should be reviewed for their cumulative land use impacts.

Staff Response

As proposed, this CPA could result in projects that would be incompatible with neighboring land uses and surrounding neighborhoods. By incorporating recommended staff edits, as shown in the attached Ordinance, to the proposed CPA, the Qualified Affordable Housing Projects would be evaluated by staff and the Council on a case-by-case basis for compatibility with neighboring land uses and surrounding neighborhoods. It would be difficult to evaluate the Comprehensive Plan Amendment for its cumulative land use impact.

III. CONCLUSIONS

The proposed amendment is partially consistent with the Comprehensive Plan goals and policies and meets the review criteria for an amendment to the Comprehensive Plan. Staff recommends considering the request, with careful evaluation of its environmental, aesthetic, and social impacts. A draft ordinance which amends the Comprehensive Plan to implement the proposed amendment is attached (Attachment B). If the Planning Commission and City Council decide to move forward with this CPA request, Staff recommends some changes to the policy language proposed in this CPA in order clarify the proposal, and remove language that is not appropriate for a Comprehensive Plan policy. Staff does not recommend the proposed amendments to Housing policies H1.5 and H1.6 because of the aforementioned neighborhood character issue, and clarity. The attached ordinance reflects changes proposed by Staff to the submitted CPA. Please see the attached CPA application (Attachment C) to reference the original proposed CPA language for comparison to the ordinance language proposed by staff.

IV. ATTACHMENTS

- A. Preliminary SEPA Checklist
- B. Ordinance 2007-28 (Draft)
- C. Application
- D. Revised Code of Washington (RCW) Chapter 35.83 *Housing Cooperation Law*
- E. BIMC Section 18.06.565, *Definition of Affordable Housing*

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One Preliminary Draft SEPA Checklist has been prepared for all of the Comprehensive Plan Amendments, and is included as the last document in this packet.

ORDINANCE NO. 2007-28

AN ORDINANCE of the City of Bainbridge Island, Washington, pertaining to affordable housing, amending the Land Use Element of the Comprehensive Plan.

WHEREAS, the City adopted a Comprehensive Plan on September 1, 1994, subsequently amended, which contains a Housing Element that establishes goals and policies to encourage the availability of affordable housing to all economic segments, promote a variety of densities and housing types, and encourage preservation of existing housing stock; and

WHEREAS, the City Council adopted Ordinance 97-15 on June 5, 1997, establishing BIMC Chapter 18.90, *Affordable Housing*, which required that new residential developments include a percentage of affordable housing; and adopted Ordinance 99-17 on September 8, 1999, which amended BIMC Sections 18.40.040 and 18.40.050 to create affordable housing requirements specific to the Mixed Use Town Center and High School Road Zones; and

WHEREAS, BIMC Chapter 18.90 and BIMC Section 18.40.050 also provide for an optional affordable housing program; and

WHEREAS, the City had sufficient time and experience to assess the affordable housing requirements contained in BIMC Chapter 18.90 and BIMC Section 18.40.040, and determined that the program was not working as originally intended; and

WHEREAS, in September 2003 the Mayor appointed the Ninety-Day Affordable Housing Task Force, charged with reviewing the City's housing program; and the Task Force recommended a number of revisions to the City's housing program, as well as new housing initiatives to be added to the City's 2005 work program; and

WHEREAS, the City passed Ordinance 2005-08 repealing the affordable housing requirements contained in BIMC 18.40 and 18.90, but retaining the optional affordable housing program while the Community Housing Coalition worked with stakeholders to develop a new affordable housing program; and

WHEREAS, the City has received a Comprehensive Plan Amendment during the 2007 amendment cycle that proposes a new affordable housing program, *Qualified Affordable Housing Projects*; the proposed amendment would establish the new program through the creation of new Land Use Element policies; and

WHEREAS, the Planning Commission conducted a study session on the proposed amendment on August 9, 2007; and a public hearing on September 13, 2007, and recommended revisions to the proposed amendment; now therefore,

THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DO ORDAIN, AS FOLLOWS:

Section 1. Goal 5 and subsequent policies related to the “Diversity of Housing Options” are added to the General Land Use section of the Land Use element of the City of Bainbridge Island Comprehensive Plan as follows:

Diversity of Housing Options

Goal 5

Develop regulations to define, process and approve Qualified Affordable Housing Projects. The projects shall provide an incentive to build affordable housing on Bainbridge Island by allowing such projects to be exempt from the development standards applied to the underlying zone in which the project is sited.

Discussion: This policy should work in conjunction with the City Affordable Housing Program. Projects that are subject to the City Affordable Housing Program may be determined to constitute a Qualified Affordable Housing Ordinance.

The lower density zoning and strong regional real estate market have made the housing supply on Bainbridge Island more expensive. Consequently, it has become more difficult for first-time home buyers and lower-wage workers to participate in the housing market on the Island. Such market forces have resulted in Island workers buying homes elsewhere and commuting to work.

L.U. 5.1. Qualified Affordable Housing Projects may exceed the density assigned through zoning requirements. Density shall not exceed the number of units permitted by the Kitsap County Health District regulations for minimum lot size given on-site septic or sewer availability.

L.U. 5.2. Qualified Affordable Housing Projects may be exempted from the development standards of the BIMC Title 17 Subdivision and Title 18 Zoning, including density, lot coverage, permitting requirements for a specific type of housing-(e.g.,-Multifamily development is a conditional use in the Open Space, Semi-Urban and Urban Residential zones), building-to-building setbacks, building height, on-site parking requirements, tree-clearing requirements and required open space. Critical areas and transportation concurrency regulations still apply to such projects.

L.U. 5.3 To facilitate the building of Qualified Affordable Housing Projects, the City shall review the procedures for expanding sewer service boundaries in order to simplify the addition of properties in the vicinity to the sewer service area.

Section 2. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

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

PASSED by the City Council this ___ day of _____, 2007.

APPROVED by the Mayor this ___ day of _____, 2007.

Darlene Kordonowy, Mayor

ATTEST/AUTHENTICATE:

Rosalind R. Lassoff, City Clerk

APPROVED AS TO FORM:

Paul McMurray, City Attorney

**FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE No.: 2007-28**



APPLICATION Page 1

RECEIVED
C.O.D.

Project Name: WALDO CPA
 Date Received: 2/28/2007
 Project Number: PRJ-0014564
 Case Number: CPA14564
 Primary Parcel Number: NOTAXLOT
 Site address: Not a parcel
 Case Description: 2/28/2007, Kathy Cook, no parcel. Comp plan amendment for text changes for Land Use and Housing elements.

FEB 28 2007

DEPT. OF PLANNING &
COMMUNITY DEVELOPMENT

People associated with case:
 03.Owner
 JOHN WALDO
 151 FINCH PLACE SW #C
 BAINBRIDGE ISLAND WA 98110
 PHONE: 206-842-4106
 07.City Planner
 KATHY COOK
 09.Bill Paying Party
 SAME AS OWNER

Parcel Numbers:

Tax Parcel Owner(s):
 NOTAXLOT
 JOHN WALDO
 151 FINCH PLACE SW #C
 BAINBRIDGE ISLAND, WA 98110

Fee History for Case:				
Case No.	Description	Amount	Receipt No.	Due
CPA14564				
	Comp Plan Amd No Site Phase 1	\$ 265.00	141718	\$ 0.00
		<u>\$265.00</u>		<u>\$0.00</u>

Project payment history:			
Description	Amount	Receipt No.	Due

CITY OF BAINBRIDGE ISLAND

COMPREHENSIVE PLAN AMENDMENT APPLICATION

FORM MUST BE COMPLETED IN INK, PREFERABLY BLUE.

PENCIL WILL NOT BE ACCEPTED.



<p>DATE STAMP FOR CITY USE ONLY</p>	<p>TO BE FILLED OUT BY APPLICANT</p>
	<p>PROJECT NAME: <u>Policy -- Affordable Housing</u></p> <p>TAX ASSESSOR'S NUMBER: <u>NA</u></p> <hr/> <p>PROJECT STREET ADDRESS OR ACCESS STREET: <u>NA</u></p>
	<p>FOR CITY USE ONLY</p>
	<p>FILE NUMBER: <u>LPA 14564</u></p> <p>PROJECT NUMBER: <u>PRJ-0014564</u></p> <p>DATE RECEIVED: <u>2-28-2007</u></p> <p>APPLICATION FEE: <u>\$265.00</u></p> <p>TREASURER'S RECEIPT NUMBER: <u>141718</u></p>

SUBMITTAL REQUIREMENTS

APPLICATION	<i>One original (which must contain an original signature) and three copies</i> must be provided. Whenever possible, originals must be signed in blue . Please identify the original document.
SUPPORTING DOCUMENTS	<i>One original (which must contain an original signature)</i> , where applicable, and <i>three copies</i> (if an original is not applicable, <i>four copies</i> must be provided).
DRAWINGS	Drawings <i>must be folded and 18" x 24"</i> in size. <i>No construction drawings or other sized drawings</i> will be accepted unless specifically requested. <i>Two copies</i> of the vicinity maps or other applicable drawings reduced to 11" x 17" may be provided.
SUBMITTING APPLICATIONS	Applications <i>must be submitted in person</i> by either the owner or the owner's designated agent. Should an agent submit the application, a notarized Owner/Agent Agreement must accompany the application.
FEES	Please call the Department of Planning & Community Development for submittal fee information.
ATTACHED SUBMITTAL CHECKLIST	Please refer to attached Submittal Checklist for further information. NOTE: when submitting this application, please do not copy or include the Submittal Checklist sheets attached to the back of this application.

APPLICATIONS WILL NOT BE ACCEPTED
unless these basic requirements are met and the submittal packet is deemed counter complete.

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
280 MADISON AVENUE NORTH • BAINBRIDGE ISLAND, WA • 98110-1812
PHONE: (206) 842-2552 • FAX: (206) 780-0955 • EMAIL: pcd@ci.bainbridge-isl.wa.us
www.ci.bainbridge-isl.wa.us

CITY OF BAINBRIDGE ISLAND

COMPREHENSIVE PLAN AMENDMENT APPLICATION

FORM MUST BE COMPLETED IN INK, PREFERABLY BLUE.

PENCIL WILL NOT BE ACCEPTED.



A. GENERAL INFORMATION

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

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

2. Authorized agent: NA
 Address: _____
 Phone: _____ Fax: _____
 E-mail: _____
 3. Project contact: John F. Waldo, Davigut Sutton, Ed Kusner, Sean Parker
 Address: 151 Finch Pl. SW #C, Bainbridge Island WA 98110
 Phone: 206-842-4106 Fax: 206-842-4891
 E-mail: johnfwaldo@hotmail.com
 4. Person responsible for payment: John F. Waldo
 Address: 151 Finch Pl. SW #C, Bainbridge Island WA 98110
 Phone: 206-842-4106 Fax: 206-842-4891
 E-mail: johnfwaldo@hotmail.com
 5. Planning department personnel familiar with site: _____

6. Does the amendment request concern a specific property (or properties)? YES NO

CITY OF BAINBRIDGE ISLAND

COMPREHENSIVE PLAN AMENDMENT APPLICATION

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PENCIL WILL NOT BE ACCEPTED.



7. Does the request relate to a specific area of the island? YES NO (If yes, provide a description of the area or a map indicating the area.)

8. Provide a reference to the element(s) of the Comprehensive Plan that is proposed for amendment and pages of the plan, if applicable.

Land use element, add Goal 5 to General Land Use section, (p.12), amend H1.5 and 1.6 of Housing Element, (p.5).

9. Provide proposed amendatory language.

See attached sheets.

10. Explain the reasons behind this amendment proposal.

See attached sheets.

B. In order to assist the Planning Commission and the City Council in their selection of comprehensive plan amendments, please describe how your proposed amendment meets the selection criteria.

1. Consideration of the previous record, if the amendment was reviewed and denied during previous comprehensive plan review:

N/A

CITY OF BAINBRIDGE ISLAND

COMPREHENSIVE PLAN AMENDMENT APPLICATION

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PENCIL WILL NOT BE ACCEPTED.



2. The proposed amendment advances goals and policies of the Comprehensive Plan (please cite the goal or policy that supports the amendment):

See attached sheet

3. The proposed amendment is consistent with the goals and regulations of the Growth Management Act:

See attached sheet

4. The relationship of the proposed amendment to other City codes and regulations:

See attached sheet

5. The cumulative effects of all requests for plan amendments:

Unknown

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

John F. Waldo
*Signature of owner or authorized agent

2/27/07
Date

Please print name

*Signature of owner or authorized agent

Date

Please print name

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

REQUESTED COMPREHENSIVE PLAN AMENDMENT

POLICY – AFFORDABLE HOUSING

INTRODUCTION AND GENERAL EXPLANATION

The Comprehensive Plan recognizes our obligation to provide housing opportunities for all economic segments of our community, and encourages innovative planning. But the escalation of land prices and our large-lot zoning have, as a practical matter, severely limited the available opportunities.

Some Island landowners have expressed an interest in projects with a significant or even total component of affordable housing, but those projects will not work at the low underlying density of the affected lands.

The proposed amendment will state explicitly that under criteria and regulations approved by the City Council, affordable-housing projects may be located in otherwise suitable areas even if those areas are zoned at a lower density than the proposed project.

State law gives properly designated housing authorities the power to override local zoning laws. This amendment gives the City Council the power to override other zoning restrictions and implement affordable-housing projects proposed by sponsors other than designated housing authorities.

The purpose is to enlist the creativity and resources of sponsors other than designated housing authorities in an effort to address the affordability problem. While the amendment is not specific, that lack of specificity is intentional in that we do not want to restrict the range of possible alternatives to those that the sponsors of this amendment can envision.

The City Council is already empowered to make zoning changes, and must follow certain procedures to do so. The proposed amendment requires the City Council to determine what constitutes a Qualified Affordable Housing Project. Passing such an implementing ordinance will require that the public be given the same rights to notice, comment and other procedural safeguards that the public would enjoy with respect to any other zoning ordinance or proposed zoning change.

The amendment will not, in and of itself, result in any project going forward other than those that present zoning would permit. What the amendment will do is trigger a process to define and regulate such projects, then allow those projects to be implemented without the need for individualized, site-specific Comprehensive Plan amendments. Because of the time and cost required for site-specific Comprehensive Plan amendments, and because the passage of time increases the financing costs of a project, reducing the number of steps and total time required for project approval will, in and of itself, help make the homes more affordable.

PROPOSED AMENDMENTS

These are the proposals:

1. **Add** a new Goal 5 to the General Land Use section of the Land Use Element of the Comprehensive Plan, as follows:

Diversity of Housing Options

Goal 5

The City will develop regulations to define, process and approve Qualified Affordable Housing Projects, which, in part or in whole, serve the housing needs of population segments that cannot find homes they can afford on Bainbridge Island. Subject to the limitations in L.U. 5.5, such Qualified Affordable Housing Projects may be located anywhere on Bainbridge Island. If added density is needed for the project beyond that which is already allowed by regulations for on-site sewage disposal systems, these projects may be located within existing sewer service areas or in areas that can be connected to an existing sewer at the expense of the project proponent. Such Qualified Affordable Housing Projects may be implemented even if they do not correspond to the density, lot coverage, height or setback requirements applied to the underlying zone in which the project is sited.

L.U. 5.1. Because of large-lot zoning and high land costs, the Bainbridge Island marketplace is increasingly serving only the affluent. Two populations being priced out of the housing market are service workers and other low-wage workers, and first-time buyers who want to get into the housing market to build equity, but who cannot afford a home on Bainbridge Island and therefore choose to live elsewhere. Many such would-be residents work on the Island but can't afford to live here are young families, and their financial exclusion from the Bainbridge housing market has a number of serious adverse consequences, including adverse financial impacts on the Bainbridge Island School District.

L.U. 5.2. The City is working towards an ordinance that would require a certain portion of the residences built in some projects to be affordable in perpetuity, and proposes to give the builder or developer extra density to build one or more market-rate homes than the underlying density allows, the profit on which is intended to offset the cost of building the required affordable unit(s). This policy explicitly permits the density increases called for in any such ordinance that may be adopted and determined to constitute a Qualified Affordable Housing Ordinance.

L.U. 5.3. Several landowners either within the Winslow sewer service element delineated in the Water Element or so closely adjacent thereto that their property could economically be connected have expressed interest in developing below-market-

rate housing on their property. Other landowners may also be interested, as could owners of land near the sewer system operated by Kitsap County Sewer District 7. This policy urges the City to adopt implementing regulations that include a process for reviewing such projects, then permits projects approved under that policy to be sited in the specified area without the need for a further Comprehensive Plan amendment.

L.U. 5.4. One way to create below-market-rate housing that is either permanently affordable or that is affordable to a first-time homebuyer is to permit private landowners and developers to build mixed-income projects in which the profit from market-rate units would offset the costs of the other units. If the City determines that the benefit from such projects exceeds the social and environmental costs imposed by the additional density, and develops and adopts regulations defining such projects and creating a process for reviewing them, projects approved under those regulations, termed Qualified Affordable Housing Projects, may be built as approved without the need for a further Comprehensive Plan amendment.

L.U. 5.5. The zoning restrictions that can be overridden by a Qualified Affordable Housing Project include density of dwelling units, lot coverage, requirements for a specific type of housing (e.g., single-family homes), building-to-building setbacks, building height, on-site parking requirements, tree-clearing requirements and required open space. Requirements related to on-street parking on public streets external to the project, transportation concurrency and critical areas are not overridden by such a project.

2. **Amend** Policy H 1.5 of the Housing Element to read as follows:

The City shall encourage innovative residential development types and zoning regulations that increase the variety of housing choices suitable to a range of household sizes and incomes in a way that is compatible with the character of existing neighborhoods. Examples of innovative approaches are cottage housing development, cluster housing development and accessory dwelling units. The provision relating to compatibility with the character of existing neighborhoods does not apply to Qualified Affordable Housing Projects referred to in Goal 5 of the Land Use Element.

3. **Amend** Policy H 1.6 of the Housing Element to read as follows:

The City should develop provisions to encourage development and preservation of small to mid-size single-family housing units. These provisions may include a framework to permit small-unit housing development known as cottage housing, with increased density in the residential zones included in the Winslow Mater Plan study area (R-4.3, R-3.5, R-2.9 and the Neighborhood Service Centers. Standards shall be developed for cottage housing development that include, but may not be limited to, maximum allowable size and density and covenants to limit size in perpetuity. These provisions do not limit the provisions related to Qualified Affordable Housing Projects found in Goal 5 of the Land Use Element.

DESCRIPTIONS OF HOW PROPOSED AMENDMENTS MEET CRITERIA

B. In order to assist the Planning Commission and the City Council in their selection of Comprehensive Plan amendments, please describe how your proposed amendment meets the selection criteria.

2. The proposed amendment advances goals and policies of the Comprehensive Plan (please cite the goal or policy that supports the amendment):

The proposed amendment is consistent with and supports:

Goals 1, 3, 4, 5, 6 and 7 of the Housing Element, all of which encourage affordable housing and different possible methods of providing it, but which do not address the obstacles to affordability posed by the Island's zoning code,

Goal 6 of the Economic Element, which calls for on-Island housing for all participants in the Island's economy,

Overriding Principle No. 3, which calls for fostering the diversity of Island residents.

3. The proposed amendment is consistent with the goals and regulations of the Growth Management Act:

The proposed amendment is consistent with:

GMA Planning Goal 4, RCW 36.70A.020(4), which sets as a statewide policy goal providing housing to all economic segments of each community,

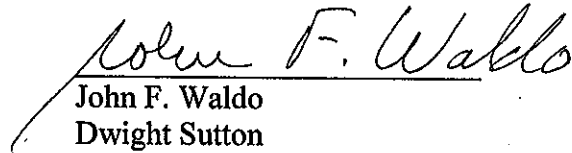
Mandatory Comprehensive Plan element 2 (c) and (c), RCW 36.70A.070(2)(c) and (d), which states that Comprehensive Plans must identify adequate land for housing, including government-assisted housing and housing for low-income families, and that the plan must make "adequate provisions for existing and prospective needs of all economic segments of the community,"

The requirement that Urban Growth Areas, including all cities, shall encourage growth at urban densities. 36.70A.110(1).

4. The relationship of the proposed amendment to other City codes and regulations:

The amendment calls for the City Council to define Qualified Affordable Housing Programs, and explicitly states that developments approved under those regulations may be sited anywhere on Bainbridge Island irrespective of certain contrary provisions in the city's zoning code. The principle effect of the amendments will be to allow approved projects to proceed without the need for a site-specific Comprehensive Plan amendment.

SUBMITTED this 28th day of February, 2007.

A handwritten signature in cursive script that reads "John F. Waldo". The signature is written in dark ink and is positioned above a horizontal line.

John F. Waldo
Dwight Sutton
Ed Kushner
Sean Parker

Chapter 35.83 RCW
Housing cooperation law
Chapter Listing

RCW Sections

- [35.83.005](#) Short title.
- [35.83.010](#) Finding and declaration of necessity.
- [35.83.020](#) Definitions.
- [35.83.030](#) Cooperation in undertaking housing projects.
- [35.83.040](#) Agreements as to payments by housing authority.
- [35.83.050](#) Advances to housing authority.
- [35.83.060](#) Procedure for exercising powers.
- [35.83.070](#) Supplemental nature of chapter.

Notes:

Housing authorities law: Chapter 35.82 RCW.

35.83.005
Short title.

This act may be referred to as the "Housing Cooperation Law."

[1965 c 7 § [35.83.005](#). Prior: 1939 c 24 § 1; RRS § 6889-31.]

35.83.010
Finding and declaration of necessity.

It has been found and declared in the housing authorities law that there exist in the state unsafe and insanitary housing conditions and a shortage of safe and sanitary dwelling accommodations for persons of low income; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities; and that the public interest requires the remedying of these conditions. It is hereby found and declared that the assistance herein provided for the remedying of the conditions set forth in the housing authorities law constitutes a public use and purpose and an essential governmental function for which public moneys may be spent, and other aid given; that it is a proper public purpose for any state public body to aid any housing authority operating within its boundaries or jurisdiction or any housing project located therein, as the state public body derives immediate benefits and advantages from such an authority or project; and that the provisions hereinafter enacted are necessary in the public interest.

[1965 c 7 § [35.83.010](#). Prior: 1939 c 24 § 2; RRS § 6889-32. Formerly RCW 74.28.010.]

35.83.020
Definitions.

The following terms, whenever used or referred to in this chapter shall have the following respective meanings, unless a different meaning clearly appears from the context:

- (1) "Housing authority" shall mean any housing authority created pursuant to the housing authorities law of this state.
- (2) "Housing project" shall mean any work or undertaking of a housing authority pursuant to the housing authorities law or any similar work or undertaking of the federal government.
- (3) "State public body" shall mean the state of Washington and any city, town, county, municipal corporation, commission, district, authority, other subdivision or public body of the state.
- (4) "Governing body" shall mean the council, the commission, board of county commissioners or other body having charge of the fiscal affairs of the state public body.
- (5) "Federal government" shall include the United States of America, the United States housing authority, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

[1991 c 167 § 4; 1965 c 7 § 35.83.020. Prior: 1939 c 24 § 3; RRS § 6889-33. Formerly RCW 74.28.020.]

35.83.030

Cooperation in undertaking housing projects.

For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any state public body may upon such terms, with or without consideration, as it may determine:

- (1) Dedicate, sell, grant, convey, or lease any of its interest in any property, or grant easements, licenses or any other rights or privileges therein to a housing authority or the federal government;
- (2) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;
- (3) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake;
- (4) Plan or replan, zone or rezone any part of such state public body; make exceptions from building regulations and ordinances; any city or town also may change its map;
- (5) Cause services to be furnished to the housing authority of the character which such state public body is otherwise empowered to furnish;
- (6) Enter into agreements with respect to the exercise by such state public body of its powers relating to the repair, elimination or closing of unsafe, insanitary or unfit dwellings;
- (7) Employ (notwithstanding the provisions of any other law) any funds belonging to or within the control of such state public body, including funds derived from the sale or furnishing of property or facilities to a housing authority, in the purchase of the bonds or other obligations of a housing authority; and exercise all the rights of any holder of such bonds or other obligations;
- (8) Do any and all things, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of such housing projects;
- (9) Incur the entire expense of any public improvements made by such state public body in exercising the powers granted in this chapter;
- (10) Enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary), with a housing authority respecting action to be taken by such state public body pursuant to any of the powers granted by this chapter. Any law or statute to the contrary notwithstanding, any sale, conveyance, lease or agreement provided for in this section may be made by a state public body without appraisal, advertisement or public bidding: PROVIDED, There must be five days public notice given either by posting in three public places or publishing in the official county newspaper of the county wherein the property is located; and
- (11) With respect to any housing project which a housing authority has acquired or taken over from the federal

government and which the housing authority by resolution has found and declared to have been constructed in a manner that will promote the public interest and afford necessary safety, sanitation and other protection, no state public body shall require any changes to be made in the housing project or the manner of its construction or take any other action relating to such construction.

[1991 c 167 § 5; 1965 c 7 § 35.83.030. Prior: 1939 c 24 § 4; RRS § 6889-34. Formerly RCW 74.28.030.]

35.83.040

Agreements as to payments by housing authority.

In connection with any housing project located wholly or partly within the area in which it is authorized to act, any state public body may agree with a housing authority or the federal government that a certain sum (in no event to exceed the amount last levied as the annual tax of such state public body upon the property included in said project prior to the time of its acquisition by the housing authority) or that no sum, shall be paid by the authority in lieu of taxes for any year or period of years.

[1965 c 7 § 35.83.040. Prior: 1939 c 24 § 5; RRS § 6889-35. Formerly RCW 74.28.040.]

35.83.050

Advances to housing authority.

Any city, town, or county located in whole or in part within the area of operation of a housing authority shall have the power from time to time to lend or donate money to such authority or to agree to take such action. Such housing authority, when it has money available therefor, shall make reimbursements for all such loans made to it.

[1965 c 7 § 35.83.050. Prior: 1939 c 24 § 6; RRS § 6889-36. Formerly RCW 74.28.050.]

35.83.060

Procedure for exercising powers.

The exercise by a state public body of the powers herein granted may be authorized by resolution of the governing body of such state public body adopted by a majority of the members of its governing body present at a meeting of said governing body, which resolution may be adopted at the meeting at which such resolution is introduced. Such a resolution or resolutions shall take effect immediately and need not be laid over or published or posted.

[1965 c 7 § 35.83.060. Prior: 1939 c 24 § 7; RRS § 6889-37. Formerly RCW 74.28.060.]

35.83.070

Supplemental nature of chapter.

The powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law.

[1965 c 7 § 35.83.070. Prior: 1939 c 24 § 8; RRS § 6889-39. Formerly RCW 74.28.070.]

18.06.460 Hazardous substance handling.

“Hazardous substance handling” means the use, storage, manufacture, production, or other land use activity involving hazardous substances; except for individually packaged household consumer products or quantities of hazardous substances of less than five gallons in volume per container. (Ord. 92-08 § 2, 1992)

18.06.470 Hazardous waste.

“Hazardous waste” means and includes all dangerous and extremely hazardous waste as specified in RCW 70.105.010. (Ord. 92-08 § 2, 1992)

18.06.480 Hazardous waste storage.

“Hazardous waste storage” means the holding of dangerous waste for a temporary period. Accumulation of dangerous waste is not storage as long as the accumulation is in compliance with applicable requirements of WAC 173-303-200 and 173-303-201. (Ord. 92-08 § 2, 1992)

18.06.490 Hazardous waste treatment.

“Hazardous waste treatment” means the physical, chemical, or biological processing of dangerous waste to make such wastes nondangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage or reduced in volume. (Ord. 92-08 § 2, 1992)

18.06.500 Hazardous waste treatment and storage, off-site.

“Off-site hazardous waste treatment and storage” means hazardous waste treatment and storage facilities that treat and store waste generated on properties other than those on which the off-site facilities are located. (Ord. 92-08 § 2, 1992)

18.06.510 Hazardous waste treatment and storage, on-site.

“On-site hazardous waste treatment and storage” means storing or treating hazardous wastes on the lot on which the wastes are generated. (Ord. 92-08 § 2, 1992)

18.06.520 Health care facility.

“Health care facility” means a building or

buildings used for human or animal health care. (Ord. 92-08 § 2, 1992)

18.06.530 Heavy equipment.

“Heavy equipment” means self-powered, self-propelled or towed mechanical devices, equipment and vehicles of the nature customarily used for commercial purposes such as tandem axle trucks, graders, backhoes, tractor trailers, cranes and lifts but excluding automobiles, recreational vehicles and boats and their trailers. (Ord. 92-08 § 2, 1992)

18.06.540 Heavy equipment storage area.

“Heavy equipment storage area” means a place where two or more items of heavy equipment are stored. (Ord. 92-08 § 2, 1992)

18.06.550 Home occupation.

“Home occupation” means an accessory use of a dwelling unit for gainful employment involving the manufacture, provision, or sale of goods and/or services.

A. Home Occupation, Minor. “Minor home occupations” are compatible with the neighborhoods in which they are located and cause no impact greater than that generally associated with a single residence. Bed and breakfast establishments that contain no more than two rooms shall be considered a minor home occupation.

B. Home Occupation, Major. “Major home occupations” cause some effect greater than that generally associated with a single residence and require some action or conditions to reduce those effects. (Ord. 92-08 § 2, 1992)

18.06.560 Hotel/motel.

“Hotel/motel” means a building or group of buildings containing guest rooms, where, for compensation, lodging is provided for transient visitors. A hotel or motel may contain one or more restaurants. A hotel or motel is not a bed-and-breakfast lodging as defined and regulated elsewhere in this title. (Ord. 92-08 § 2, 1992)

18.06.565 Affordable housing.

“Affordable housing” or “affordable dwelling unit” (formerly “HUD-defined affordable housing”) means a dwelling unit for

18.06.570

use as primary residence by a household in any of the income groups described below, which may be rented or purchased without spending more than 30 percent of monthly household income including utilities other than telephone and cable TV. The department of planning and community development shall calculate and publish annually the maximum purchase prices and maximum rents applicable to each of the following income groups:

Extremely low income	< 30% of median household income
Very low income	31% – 50% of median household income
Low income	51% – 80% of median household income
Moderate income	81% – 95% of median household income
Middle income	96% – 120% of median household income

“Median household income” means the amount calculated and published by the United States Department of Housing and Urban Development (“HUD”) each year for the Seattle Metropolitan Statistical Area (MSA) as the median household or family income, adjusted by HUD for household size. (Ord. 99-14 § 1, 1999; Ord. 97-15 § 1, 1997; Ord. 96-08 § 3, 1996)

18.06.570 Junkyard.

“Junkyard” means a place where odds and ends, waste, or discarded or salvaged materials are bought, sold, exchanged, handled, or stored. The term includes automobile and building wrecking yards. It does not include establishments dealing with used furniture or household fixtures, used cars or machinery in operable condition or recycling centers. (Ord. 92-08 § 2, 1992)

18.06.580 Kennel.

“Kennel” means a place where three or more adult domestic animals are kept commercially. A commercial kennel is considered a professional service under this title and is maintained to board, breed or treat the animals

for profit and shall exclude pet shops and agriculture. (Ord. 92-08 § 2, 1992)

18.06.590 Kit home.

Repealed by Ord. 95-07. (Ord. 92-08 § 2, 1992)

18.06.600 Landscaping.

“Landscaping” means the placement, preservation, and the replacement of trees, shrubs, plants and other vegetative materials in accordance with an approved landscaping plan meeting the requirements set forth in Chapter 18.84, open space and planting requirements. (Ord. 92-08 § 2, 1992)

18.06.610 Livestock.

“Livestock” means horses, camelids, bovine animals, sheep, goats, swine, reindeer, donkeys, mules and any hoofed animal. (Ord. 92-08 § 2, 1992)

18.06.620 Lot.

“Lot” means a platted or unplatted parcel or tract of land. (Ord. 92-08 § 2, 1992)

18.06.630 Lot area.

“Lot area” means the total horizontal area within the lot lines, excluding any area seaward of the line of the ordinary high water mark, and excluding private streets and lot area in panhandles or flag lots narrower than 30 feet. (Ord. 92-08 § 2, 1992)

18.06.640 Lot, corner.

“Corner lot” means a lot bounded on adjacent sides by streets. (Ord. 92-08 § 2, 1992)

18.06.650 Lot coverage.

“Lot coverage” means that portion of the total lot area covered by buildings, excluding up to 24 inches of eaves on each side of the building, and other minor building features identified in BIMC 18.78.020.B. (Ord. 2004-12 § 5, 2004; Ord. 92-08 § 2, 1992)

18.06.660 Lot line, front.

“Front lot line” means the lot line separating the lot from any street. (Ord. 92-08 § 2, 1992)