

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

In the Matter of the Application of

Right Medical Building LLC,

CUP14430B & SPR14430B

For Approval of a Site Plan Review
and Conditional Use Permit

Introduction

Right Medical Building LLC applied for a conditional use permit and site plan review for a medical complex to be located at 8812 Casey Street.

An open record public hearing was held on September 26, 2008. The applicant was represented by Rolf Hogger, MJR Constructors, and the Department of Planning and Community Development was represented by Bob Katai, Division Manager. Witnesses, in addition to the representatives were: Jim Morse, John Anisoglu, Jay Webster, Olaf Ribeiro for the Murden Cove Preservation Association, and Vince Mattson.

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. Two applications, one for a 27,700 square foot medical office building and second for a 47,300 square foot, 53-unit assisted living facility building, have been consolidated for Site Plan Review and a conditional use permit approval. The property for the “Island Medical Center” is located at 8812 Casey Street which is at the southeast corner of the intersection of Madison Avenue and Casey Street.

2. The subject site comprises three parcels and is 5.42 acres in size. A single-family residence, barn and several accessory buildings currently occupy the eastern part of the site. A boundary line adjustment is proposed and being processed to create two lots with the medical office building on one and the assisted living facility on the other. The northern portion of the site is relatively flat and then the site slopes down to Category II wetlands on the southern portion and the headwaters of the Winslow Ravine, identified as non-fish bearing, crosses the southwestern portion of the property. The unoccupied part of the site is forested.

3. The subject property is shown as Urban Multi-family Residential, 8-14 units per acre, on the Comprehensive Plan land use map. It is zoned R-8—8 units per acre. The R-8 zoning continues to the south of the site and the closest development on that side is some 700 ft away, a three-story multifamily development, Sakai Village Condominiums. Land to the north is zoned R-2. The nearest development on that side is the Bainbridge First Baptist Church. To the east is State Route 305 and R-2.9 zoning. A single-family house is on the east side of the highway. To the west is Madison Avenue and R-2--2 units per acre and LM-Light Manufacturing zoning developed with a fire station and mini-warehouse.

4. The Comprehensive Plan, Goal 7, indicates that the Urban Multi-family District is intended for moderate to high-density residential development but it may include certain office and governmental uses. The zoning code, adopted to implement this goal, allows health care facilities as conditional uses. Policy W 7.1 is to have residential development within the Urban Multi-family District be served by public facilities and services normally associated with urban area development. Public water and sewer services are available to the site. Policy W 7.3 is to provide landscape buffers between multi-family and existing single-family homes. Single-family residences are located across SR 305 and screening, described below, will be provided. And Policy W 7.4 is to have design standards for building height, bulk, massing and articulation, parking requirements, landscaping, lighting, screening of service areas, open space and pedestrian linkages in order to ensure the compatibility of development with adjacent uses and retain the scale of development in Winslow. Design guidelines have been adopted that are applicable to this proposal.

5. A City Attorney opinion that an assisted living facility is a health care facility was issued in 1998. Health care facilities are permitted in the R-8 zone as conditional uses. Section 18.15.030.

6. Access to the site is proposed to be from Casey Street, an unclassified street to which local suburban street standards would apply, that connects to Madison Avenue and provides access also to the church. The site also fronts on Madison Avenue, classified as a secondary arterial. The application proposes the dedication of 15 ft. of additional right of way for Casey Street.

7. State Route 305 is designated as part of the Scenic and Recreational Highway system pursuant to RCW 47.39.020. Mr. Mattson explained that the intent of the designation is to protect and preserve the scenic resource, which requires managing land use outside of the right of way.

8. The medical office building is to be two stories over an underground garage located on the northeasterly portion of the site. The basement parking garage would provide 36 parking spaces. The assisted living facility would be three stories plus a basement and sited parallel to NE Casey Street in the northwest corner of the site. About 30 ft. of the frontage would be along Madison Avenue. The buildings would be separated by 160 ft. A 96 space surface parking lot would be located to the east of that facility parallel to the street and parallel to SR 305 to the east of the medical office building. Up to 8 additional spaces would be created on Casey Street. In total, the complex would provide 140 parking spaces.

9. An office building is required by Section 18.81.030 to provide four spaces per 1,000 square feet for the office building or 111 for the proposed building. Since parking requirements are not established by the code for assisted living facilities, the Director approved the provision of .5 space per unit for the assisted living facility based on the demand experience at other assisted living centers on Bainbridge Island. The other facilities have found that parking demand is generated by

CUP14430B & SPR14430B

staff and visitors since few residents own or drive cars. The proposal includes sufficient parking to meet the requirements. No parking is proposed within the required 25 ft. setbacks in compliance with Section 18.81.100, and the dimensions proposed satisfy the requirements of Section 18.81.070 but both will be confirmed during building permit review.

10. Parking facilities are required to provide parking for bicycles at a rate of one bicycle space for every five parking spaces. Section 18.81.140. The project would be required to provide 28 spaces. A condition is recommended by planning staff to ensure compliance.

11. Circulation plans for vehicular, pedestrian and bicycles were submitted with the application. While generally only one access point to the public right-of-way is allowed for a lot, the Director may allow more to improve traffic flow if adverse impacts are mitigated. The Director determined that two access points would improve on-site traffic flow where the Casey Street frontage is over 60 ft. long and there are two separate buildings.

12. The service area for the assisted living facility would be within the building. Planning staff recommend that the service area for the medical office building be located away from the assisted living facility and be screened.

13. Though the code requires a fencing plan or other method to protect public health and safety, that requirement was waived pursuant to Section 18.108.040C(2) as it was not necessary or appropriate for a health care facility.

14. The maximum lot coverage permitted in the zone is 25 percent, except that when the use is a health care facility in a residential zone, the maximum permitted is half the standard, or 12.5 percent. Section 18.108.040D(1)(g). The proposed lot coverage would be 11 percent plus canopies. That the maximum is not exceeded by the addition of canopies will be a part of the building permit review.

15. The minimum setback along the three street sides of the site, all front setbacks, is 25 ft. The proposal meets that requirement. However, a structure over two stories requires an increase in the setback for additional stories by four feet so applies to the third story of the assisted living facility. The plans show a 29 ft. setback in conformance with this requirement.

16. The minimum side setback required, the south side in this case, is at least five feet. At its narrowest, the setback from the south property line is over 60 ft.

17. Section 18.15.070 establishes a maximum height in the zone of 35 ft. for buildings unless additional height is approved under the conditional use permit. The application proposes 35 ft. for both buildings after substantial grading. The actual height will be verified during building permit review.

18. A 20 ft. wide partial landscape screen, one that provides a moderately vegetated separation between uses and districts, is required by Section 18.85.070(D) along rights-of-way and roads in Urban Multi-family Districts. Landscaping in a full landscape screen is also required between parking lots and adjoining streets. Section 18.85.070(E). Along SR 305, only a 20 ft. partial landscape screen would be required, but because additional screening is needed to address lighting, privacy and aesthetic concerns, staff proposes that a full landscape screen 25 ft. wide be required. The code requires a 15 ft. filtered landscape screen along the south boundary of the site because of the multi-family development adjoining and the wetlands provide that screening. In

general, the setback requirements exceed the perimeter landscape buffer requirements. The Design Review Board (DRB) recommended that the landscape screen shown in plans submitted at the DRB's September 8, 2008, meeting be installed along the street side of the assisted living facility. With the proposed conditions, the landscaping would meet and exceed the code requirements.

19. At least 30 percent of significant tree canopy or 15 percent of the total number of significant trees on the site must be retained along with all significant trees in the perimeter landscape buffer. Section 18.85.060. A condition is recommended to assure that all trees in the perimeter be retained. With the forested wetlands and buffer, the tree canopy retention requirement will be met.

20. A 50 ft. buffer is required along non-fish bearing streams, Section 16.20.130, and a 100 ft. buffer is required for a Category II wetland that does not have high or moderate levels of function for habitat and will be surrounded by an urban non-residential use. Section 16.20.160. The wetlands analysis report submitted by the applicant notes that the wetlands provide low habitat functions. In addition to the buffer, a 15 ft. setback from the buffer is required for impervious surfaces and buildings. The design observes the appropriate wetland buffer and setback from the buffer, except for a minor intrusion by the patio for the assisted living facility. A condition is recommended to ensure that that portion of the patio be pervious.

21. Jay Webster described utilizing trails and exploring the wetland on the site as a child. The proponents propose to expand and enhance the trails in the wetland buffer for use of both facilities. Trails are permitted within wetland buffers under guidelines in Section 16.20.160. The trail system will provide connection from Madison Avenue to the SR 305 side. A condition of the MDNS requires a public access easement over the trails.

22. A traffic impact analysis (TIA) was performed by Heath & Associates and provided to the City. The TIA predicted that the traffic generated during the peak hours would not reduce the level of service (LOS) at the studied intersections. Mr. Mattson, a retired traffic engineer with considerable experience, questioned the reliability of the data and the conclusions of the TIA. He pointed out that the counts were made in the summer when school traffic would not be affecting the intersection. According to Mr. Heath, the project's traffic consultant, traffic volumes on Bainbridge Island actually may be greater in the summer when the counts were made than in the school year. Even if that were not the case, because the peak hour for the medical facility would not coincide with the school peak hours, data gathered while the school was not operating would be acceptable for this project. Though a 2002 study showed higher volumes at the intersection than the numbers used by Heath for 2006, Heath testified that the counts he utilized were reliable. He opined that a traffic signal at Madison might account for some of the difference in volumes found by Mr. Mattson. Mr. Mattson conducted counts and found a higher volume of traffic than used in the TIA and he did an independent analysis of the traffic impacts. This information and his concerns were presented to the City in writing and in a meeting, but the Department of Public Works, which reviewed the TIA, was satisfied with the methodology and concluded that, with the improvements required by the MDNS, the level of service would not drop below acceptable levels. The information introduced by Mr. Mattson certainly raised questions about reliability of the TIA data in the hearing examiner's mind, however the City's traffic experts who reviewed it found it sufficiently reliable for the purpose so the hearing examiner accepts the City's conclusion. The

new traffic is likely to increase the volume of traffic turning right from Madison onto SR 305, so the MDNS requires the applicant to construct a right turn lane on the south leg of Madison Avenue.

23. The Department of Public Works determined that the transportation facilities affected by the proposed development has capacity equal to or greater than required to maintain the level of service standard and issued a certificate of concurrency for the proposal for 1,096 average daily trips.

24. A non-binding commitment for water and sewer system capacity was issued by the Department of Public Works. Planning staff proposes conditions to ensure binding approvals are obtained prior to building permit issuance.

25. The storm water drainage plan for the site includes a detention facility, storm filter, green roofs, pervious pavers in the parking areas, and rain gardens. Runoff from the roofs is to be stored for watering the roof in the summer if necessary or collected in dispersion trenches and discharged toward their natural discharge location. Runoff from the street will be directed to the City's drain systems. The parking areas are to have pervious surfaces so that storm water can be absorbed into the ground or go to the rain gardens.

26. The proponents are exploring the use of geothermal energy as a heat source for the buildings.

27. The Kitsap County Health District notified the City that the project meets the Kitsap County Health District Code.

28. The Bainbridge Island Fire Department reviewed the proposal and provided comments regarding compliance with the 2006 International Fire Code, sprinklers and alarms for the buildings, modification of fire hydrant locations needed, height of the building overhang, labeling of the fire lanes, clarification of the access point needed, and a requirement that Casey Street be renamed. Conditions of approval are proposed to assure compliance.

29. The Department of Public Works reviewed the application and provided comments and conditions of approval including a storm water pollution prevention plan prior to the start of construction, civil plan design for proposed storm water facilities, the dedication of 15 ft. of property fronting Casey Street for right of way as proposed, street improvements, etc., as detailed in its memorandum dated July 17, 2008, Exhibit 21.

30. The lighting of the buildings and site are required to conform to the standards of Chapter 15.34 that were adopted to preserve and enhance the view of the dark sky, among other purposes. Section 15.34.010. A condition of approval to require compliance was recommended.

31. The Design Review Board (DRB) met several times to review the proposed project for compliance with the design guidelines of Chapter 18.41. The DRB found some of the guidelines inapplicable due to the nature and location of the use and was largely concerned with addressing the scale of the buildings. After requesting various modifications to the design, the DRB recommended approval subject to a condition requiring that the landscaping plans submitted at its September 9, 2008, meeting be implemented.

32. The location is seen as desirable for an assisted living facility given its proximity to emergency facilities and churches and the availability of shuttle service to the town center.

33. Written public comment included concern about traffic, light pollution, and scale of the buildings.

34. The City issued a Mitigated Determination of Non-significance (MDNS) for the proposal on May 1, 2008. The MDNS included a series of twenty conditions to mitigate the impacts of the proposal on the environment. Among the conditions are those requiring improvement of the Casey Street and Madison Avenue frontage with curb, gutter, sidewalk and storm drainage, addition of a right turn lane on the south leg of Madison Avenue at SR 305, development of a trail network within the wetlands and wetland buffer, etc. Those conditions are to be attached to approval of the underlying permits. The MDNS was not appealed.

35. The Planning Commission held a public meeting to consider the proposed development as part of the regular site plan review process. The Planning Commission recommended approval of the applications subject to the conditions proposed by Planning staff and an additional condition to require that all exterior building surfaces be non-reflective materials.

36. Notice of the application and SEPA comment period was initially provided October 6, 2007, and a second notice issued on October 31, 2007. Notice of the amended application to add Phase 2 was issued July 12, 2008. Notice of the public hearing was mailed and posted August 27, 2008, and published September 10, 2008.

37. 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.

38. 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.

39. In addition to the criteria listed above, health care facilities in residential zones must meet these 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.

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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.

Section 18.108.040C.1.

40. 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. With the conditions proposed by the agencies, departments, and board who reviewed the proposal, the site plan and design will be in conformance with the applicable code provisions, Design Guidelines and development standards; the building locations, 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 buildings will be of a different scale and design than neighboring structures, the mix of types and styles of buildings in the immediate neighborhood does not suggest a consistent style. The Design Review Board's careful review resulted in buildings that are designed with modulations and materials and are adequately screened that they should be compatible. The site plan review shows that the plans are consistent with the criteria and the site plan should be approved subject to the proposed conditions.
4. With appropriate conditions, the criteria for conditional uses are met by the proposal. The character of the subject site has been taken into consideration in the site plan design for the uses and the design and appearance of the structures and grounds will be compatible with their surrounding uses. With compliance with the proposed conditions for improvements and approvals, the uses will be served by adequate public facilities. The health care facilities will not be detrimental to uses or properties in the vicinity and though the use is not residential, the area is not predominantly residential and the use will be well separated from any residential use. The proposed use is in accord with the comprehensive plan and with the proposed conditions will comply with all provisions of the code. The mitigation measures in the MDNS, code requirements and proposed conditions will mitigate the impacts of the uses on the environment and surrounding area.
5. As to the additional criteria for a health care facility, the project's traffic analysis shows that the level of service will remain at an acceptable level, the site fronts on roads classified as residential suburban or above, noise levels will be controlled by regulations, conditions will assure

adequate levels of sewer and water supply, conditions will assure appropriate perimeter landscape buffers, lot coverage will be below the maximum allowed, and circulation plans have been submitted, reviewed and conditions proposed.

6. With imposition of conditions proposed, all criteria for approval of the conditional use are met and the conditional use permit should be granted.

Decision

The application for a conditional use permit for the health care facility and site plan approval is GRANTED subject to the following conditions:

SEPA Conditions

1. No clearing, grading or other construction activities shall occur until a building permit or site development permit has been submitted by the applicant and approved by the city.
2. All graded materials removed from the development shall be hauled to and deposited at city-approved locations.
3. To mitigate impacts on air quality during earth moving activities, contractors shall conform to Puget Sound Clean Air Agency Regulations, which ensure that reasonable precautions are taken to avoid dust emissions. (BIMC Section 16.08.040)
4. A Storm Water Pollution Prevention Plan (SWPPP) for the proposed development shall be provided for city review and approval in accordance with BIMC Chapter 15.20. The plans must be approved, the improvements constructed (or a construction bond provided if applicable), and an acceptable final inspection obtained prior to issuance of Certificate of Occupancy. The design submittal shall incorporate all proposed project improvements including complete civil plans, grading and erosion control plans, roadway plans and profiles, and storm drainage facilities and drainage report. These reports shall be prepared by a professional engineer currently licensed in the State of Washington. A Construction Stormwater Permit (NPDES) will be required prior to construction plan approval in accordance with BIMC Section 15.20.030.B (4). More information about this permit can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/> or by calling Charles Gilman at (360) 407-7451, email chgi461@ecy.wa.gov. This permit is required prior to any construction activities.
5. During the construction of the proposed infiltration facilities, the Project Engineer shall provide an inspection to verify that the facilities are installed in accordance with the design documents and that actual soil conditions encountered meet the design assumptions. The Project Engineer shall submit the inspection report properly stamped and sealed with a professional engineer's stamp to Public Works Engineering.

6. An easement to COBI for access and maintenance of the proposed public stormwater facilities will be required prior to issuance of the Certificate of Occupancy.
7. The applicant's engineer shall provide specific erosion and sedimentation control design measures as part of the SWPPP to protect the public stormwater infiltration facilities during construction of the development.
8. To the satisfaction of the Public Works Department, the applicant shall improve the roadway section for Casey Street to provide a minimum 18-foot wide paved driving surface, with appropriate storm drainage facilities per COBI Design Standards. The roadway shall be built to COBI Design standards, including curb, gutter, and sidewalk along the property's north frontage.
9. To the satisfaction of the Public Works Department, the applicant shall improve the property's Madison Avenue frontage with curb, gutter, and sidewalk per COBI Design Standards.
10. To mitigate anticipated traffic impacts, to the satisfaction of the Public Works Department, the applicant shall construct a right turn lane on the south leg of Madison Avenue in accordance with the technical appendix diagram submitted in the Island Medical Traffic Impact Analysis date-stamped received April 1, 2008 by the Department of Planning and Community Development.
11. In order to provide recreation and access to the adjacent open space to the south, a trail network, consisting of four to six foot wide trails, shall be developed within wetlands/wetland buffer in the southern portion of the site. The network shall extend from the Madison Avenue to the east, towards State Route 305, and terminate at the southern property line. A public access easement shall be granted over the trail network.
12. Within the wetlands/wetland buffer, unless approved under a subsequent permit, removal of vegetation shall be limited to development of a trail network. No soil disturbance shall occur outside of the six foot wide trail construction corridor. The trails shall be "field-fit" between or around existing trees, so that significant tree removal shall be avoided. Limbs and branches up to nine feet over the trail and within one foot of the trail edges shall be removed. The four to six foot wide trail shall be constructed with a four inch layer of crushed ¾ inch gravel over a geotextile mat barrier. All pedestrian improvements shall be installed prior to the issuance of the Certificate of Occupancy.
13. Prior to final plat submittal, an Operations and Maintenance Plan and Declaration of Covenant for all constructed stormwater facilities shall be provided for city review and approval in accordance with BIMC Chapter 15.21.
14. A minimum two-year maintenance bond period for the stormwater facilities is required prior to issuance of the Certificate of Occupancy. The maintenance period will begin

after final construction acceptance of the improvements and shall run for a minimum period of two years. Regular maintenance of the stormwater system is required during this period. Documentation of maintenance shall be provided to the city on an annual basis.

15. In accordance with BIMC Chapter 18.85060 (C) and to discourage the removal of wildlife habitat, significant trees that are removed from designated protection areas without prior City approval will be replaced with new trees as follows: New trees measuring 1.5 inches in caliper if deciduous and four to six feet high if evergreen, at a replacement rate of 1.5 inches diameter for every one-inch diameter of the removed significant tree or trees within a tree stand. The replacement rate determines the number of replacement trees. The trees removed shall be replaced with trees of the same type, evergreen or deciduous. The replacement trees shall also be replaced in the same general location as the trees removed.
16. Any non-exempt tree harvesting shall require the appropriate Forest Practices Permit from the Department of Natural Resources. The conditions of the Island Medical Conditional Use Permit, Case No. CUP 14430B, shall become conditions of the Forest Practices Permit.
17. On-site mobile fueling from temporary tanks is prohibited unless the applicant provides and is granted approval for a Permit and Best Management Plan that addresses proposed location, duration, containment, training, vandalism and cleanup. (Reference 1. Uniform Fire Code 7904.5.4.2.7 and 2. Department of Ecology, Stormwater Management Manual, August 2001, see Volume IV "Source Control BMPs for Mobile Fueling of Vehicles and Heavy Equipment".) (Chapter 173-304 WAC)
18. In order to mitigate any noise impacts, all construction activities must comply with BIMC Section 16.16.025 Limitation of Construction Activities.
19. All lighting within the development shall comply with the City's Lighting Ordinance, BIMC Chapter 15.34. Compliance will require exterior lighting to be shielded and directed downward.
20. Contractors are required to stop work and immediately notify the Department of Planning and Community Development and the Washington State Office of Archaeology and Historic Preservation if any historical or archaeological artifacts are uncovered during excavation or construction.

Project Conditions

21. Except as modified by conditions of approval, the project shall be constructed in substantial conformance with the site plans date-stamped June 26, 2008.

22. Prior to submittal of any building permit applications, the applicant shall contact planning staff to schedule a pre-submittal meeting to review the necessary components for a complete building permit application. In addition, with the building permit application submittal, the applicant shall attach a narrative detailing how each condition of approval is addressed by the building plans.
23. To verify that the buildings comply with the 35-foot height limit, the site plans submitted as part of the building permit shall contain existing contours overlain with the building footprints. The submitted material shall include surveyed benchmark information to verify the actual height during construction.
24. Prior to any clearing and/or construction activities, fencing delineating the northern boundary of the wetland buffer shall be installed by the applicant and inspected by planning staff. Upon completion of construction and prior to issuance of the Certificate of Occupancy, the construction fencing shall be replaced with split-rail fencing and signage. The signs shall inform readers of the boundary and its significance. Any disturbed buffer setback area shall be re-planted with native vegetation upon completion of construction and prior to issuance of the building's Certificate of Occupancy.
25. Any required landscaping shall be installed prior to the issuance of a temporary certificate of occupancy for the project. The project's state licensed landscape architect, certified nursery professional, or certified landscaper shall submit a landscaping declaration to the department to verify installation in accordance with approved plans. The time limit for compliance may be extended to allow installation of landscaping during the next appropriate planting season if the director determines that a performance assurance device, for a period of not more than one year, will adequately protect the interests of the city. The performance assurance device shall be for 150 percent of the cost of the work or improvements covered by the assurance device.
26. The landscape plans submitted with the building permit shall depict the items listed in BIMC Chapter 18.85, including partial landscape screens along the site's Madison Avenue and Casey Street frontages with the following exceptions: a) within the 25-foot zoning setback along the parking lot adjoining Casey Street, a more intense screen, as stipulated in BIMC 18.85.070(E)(1)(b) shall be installed and b) within the 29-foot front setbacks along the assisted living facility, landscaping shall substantially conform to the plans date-stamped September 8, 2008. Along the site's highway frontage a full landscaping screen, as defined in BIMC 18.85.070(B)(1), shall be installed in the 25-foot zoning setback. All significant trees, as defined in BIMC 18.85.010 and located within required perimeter landscape buffer areas, shall be retained and incorporated into the required landscape screen. All required landscaping shall be maintained and retained for the life of the project
27. As the code-required Casey Street landscaping screens are located within areas shown as being developed with rain gardens, the applicant must demonstrate that the dual

- purposes, perimeter landscape screening and stormwater treatment facility, are compatible. If not, the rain gardens would need to be relocated. Proof of compatibility or relocation of the stormwater facilities shall be submitted as part of the building permit application.
28. Prior to issuance of the Certificate of Occupancy (final inspection), the applicant shall secure the landscape maintenance assurance required by BIMC Section 18.85.090(D).
 29. The service area, including trash and recycling enclosures, for the medical office facility must be located as far away as possible from the assisted living facility and shall be property screened with fencing.
 30. Prior to issuance of the Certificate of Occupancy, the applicant shall install bicycle racks or hangers supplying parking for at least 28 bicycles.
 31. Civil construction plans for all roads, storm drainage facilities, sanitary sewer and water facilities, and appurtenances shall be prepared by a professional engineer and approved by the Public Works Department prior to issuance of a building permit.
 32. All on-site stormwater facilities shall remain privately owned and maintained. Annual inspection and maintenance reports shall be provided to the City. The owner shall be responsible for maintenance of the storm drainage facilities for this development following construction. Before issuance of the Certificate of Occupancy for this development, the person or persons holding title to the subject property for which the storm drainage facilities are required shall record a Declaration of Covenant that guarantees to the City that the system will be properly maintained. Wording must be included in the covenant that will allow the City to inspect the system and perform the necessary maintenance in the event the system is not performing properly. This will be done only after notifying the owner and giving him a reasonable time to do the necessary work. Should City crews be required to do the work, the owner will be billed the maximum amount allowed by law.
 33. The property owner shall dedicate, as right-of-way, 15 feet of property fronting along Casey Street as shown on the preliminary civil drawings date-stamped June 26, 2008. In addition, a pedestrian easement shall be dedicated for the sidewalk along the proposed on-street parking along Casey Street to make them public thoroughways.
 34. A right-of-way (ROW) construction permit will be required prior to any construction activities within the ROW. The ROW permit will be subject to conditions and bonding requirements.
 35. The water and sanitary sewer facilities shall be designed in conformance with BIMC Title 13 and the City's adopted Design Standards and Specifications. The utilities plans submitted with building permit's civil drawings shall include profiles and details and shall demonstrate compatibility of the facilities with future street improvements

currently proposed by the City. Specifications for water and sewer facilities include the following:

- a. An eight-inch diameter ductile iron class 52 water main shall be installed along the site's Casey Street frontage.
 - b. A 15 foot wide easement for the on-site water main extension shall be provided from the right-of-way to the proposed buildings.
 - c. On-site sanitary sewer facilities shall remain privately owned and maintained.
 - d. An isolation valve shall be provided at the connection to the force main located in Madison Avenue.
36. Binding water and sewer service letters from the city's Public Works Department shall be submitted with the building permit application.
 37. To the satisfaction of the Bainbridge Island Fire Department, the project shall meet all applicable requirements of the 2006 International Fire Code.
 38. To the satisfaction of the Bainbridge Island Fire Department, fire sprinkler and fire alarm systems shall be installed throughout the buildings.
 39. To the satisfaction of the Bainbridge Island Fire Department, the proposed hydrant in front of the assisted living facility shall be relocated to the west parking lot entrance, a fire hydrant must be installed at the east parking lot entrance, and the proposed hydrant in front of the medical office building shall be relocated to the entrance of the parking garage.
 40. Building overhangs covering the main entrances shall provide at least 13' 6" of clearance.
 41. The driving lanes within the project are considered fire lanes and shall be labeled as such to the satisfaction of the Bainbridge Island Fire Department.
 42. The applicant shall file the necessary paperwork to rename Casey Street. The Bainbridge Island Fire Department reviews street names for conformance with established county-wide standards.
 43. To the satisfaction of the Kitsap County Health District, the applicant shall:
 - a) abandon the site's existing septic tank per that agency's code
 - b) have the site's existing well decommissioned by a certified well driller
 - c) apply for a sewer building clearance accompanied by a water and sewer availability letter from the water purveyor.
 44. To the satisfaction of planning staff, all exterior building surfaces shall be sided with non-reflective materials.

45. To the satisfaction of the Washington Department of Transportation (WSDOT), the following provisions must be followed:
- a) WSDOT will only accept stormwater runoff from the project site that currently enters the State Route 305 right-of-way. Any proposal by the applicant to discharge stormwater runoff to the right-of-way either during construction or upon completion will require appropriate stormwater treatment in accordance with the WSDOT Highway Runoff Manual found at <http://www.wsdot.wa.gov/eesc/design/hydraulics/>. If such discharge is proposed, a drainage plan must be reviewed and approved by WSDOT prior to any earth disturbance.
 - b) No excavation, grading, filling, landscaping or any other activity associated with the proposal may occur within state right-of-way without prior review and approval by WSDOT.
 - c) No lighting from the site may be directed towards the state highway and no glare from the completed project shall impact the state highway.
 - d) No signs may be placed in the highway right-of-way.
46. As most of the dining terrace is located within the building setback associated with the wetland buffer, it must be constructed with a pervious surface (wood decking, pavers, permeable concrete, etc.) to the satisfaction of planning staff.

Entered this 14th day of October 2008.

/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].

CUP14430B & SPR14430B

Page 15 of 15