

## Carla Lundgren

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**From:** PCD  
**Sent:** Wednesday, January 31, 2018 10:14 AM  
**To:** Carla Lundgren  
**Subject:** FW: Wallace Cottages project  
**Attachments:** FW Crampton comment FW Staff Recommendations to Planning Commission; Kiely v Graves, 173 Wn.2d 926.pdf; Davis Wright Tremaine article - Kiely v Graves.pdf

**Importance:** High

**Follow Up Flag:** Follow up  
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**From:** Hayes Gori [mailto:hayes@hayesthelawyer.com]  
**Sent:** Wednesday, January 31, 2018 7:19 AM  
**To:** Kelly Tayara <ktayara@bainbridgewa.gov>; Peter Corelis <pcorelis@bainbridgewa.gov>; PCD <pcd@bainbridgewa.gov>; Joe Levan <jlevan@bainbridgewa.gov>; Kimberly McCormick Osmond <Kimberly.McCormick.Osmond@cobicommittee.email>; Mack Pearl <mack.pearl@cobicommittee.email>; Don Doman <Don.Doman@cobicommittee.email>; Jon Quitslund <jon.quitslund@cobicommittee.email>; William Chester <william.chester@cobicommittee.email>; Lisa Macchio <lisa.macchio@cobicommittee.email>; Michael Killion <michael.killion@cobicommittee.email>; Sarah Blossom <sblossom@bainbridgewa.gov>  
**Subject:** Wallace Cottages project  
**Importance:** High

City Staff, Planning Commission and City Attorney,

I represent Central Highlands, Inc. and Wallace Cottages, LLC. At the last Planning Commission meeting, my clients' Wallace Cottages project was on the agenda. As you know, a neighboring property owner, Stephen Crampton, has asserted an adverse possession claim against my clients' property. As I have previously explained (in a 1/25/18 e-mail to Kelly Tayara, attached), it is not possible for Mr. Crampton (or anyone else) to adversely possess my clients' property because it is held for a public purpose – that is, COBI has an above- and below-ground right of way easement for sanitary sewer in the property. The applicable statute is RCW 7.28.090. I also attach a Washington case, *Kiely v. Graves*, that interprets and applies this statute, as well as an article by a Seattle law firm discussing the import of *Kiely v. Graves*. Because the sewer easement is a right of way, COBI is legally obligated to protect this important public infrastructure, and accordingly should remove Mr. Crampton's encroachments.

I must point out that COBI has been slow in processing my clients' project – we are way beyond the 90-day decision deadline – and further delay is not acceptable, especially if the cause of delay is a meritless claim by a neighbor. Mr. Crampton's claim – which he reiterated at the recent Planning Commission meeting by making baseless claims of ownership and use rights, and which has resulted in a special exception in my clients' title insurance policy – is a slander against my clients' title, and any resultant delay will only add to my clients' damages. The Planning Commission has all the information it needs to make its advisory decision that will be

considered by the Hearing Examiner, and I implore it to do so as soon as possible. If the Planning Commission does not wish to make a recommendation, then it should submit a "no decision" memo to the Hearing Examiner. The point is that there should be no further delay in the processing of my clients' project en route to the Hearing Examiner.

Finally, below my signature block is a memo from my clients with input on other aspects of the project. As the body charged with upholding the Comprehensive Plan, I submit that the Planning Commission should be championing my clients' project because as pointed out below, the project furthers many of the goals of the Comprehensive Plan.

Sincerely,  
Hayes Gori

COBI COMPREHENSIVE PLAN, WHICH INCORPORATES THE HDDP GOALS WAS THE SUBJECT OF EXTENSIVE PUBLIC HEARINGS AND INPUT FROM THE PLANNING COMMISSION.

1. THE HDDP PLAN HAS BEEN EXTENDED ALMOST YEARLY FOR THE PAST SEVERAL YEARS AND WILL HAVE TO BE EXTENDED AGAIN FOR 2018. THEREFORE, THE PLANNING COMMISSION HAS HAD TO HAVE HAD INPUT AND LIKELY APPROVAL OF HDDP PLAN. THEREFORE, NEITHER THE NEIGHBORS OR THE PC MEMBERS HAVE ANY LEGAL, MORAL OR VALID TRAFFIC DANGER COMPLAINTS WHEN HDDP PROJECTS ARE DEVELOPED IN THE GEOGRAPHICALLY APPROVED AREAS OF BAINBRIDGE (COBI SEWER DISTRICT BOUNDARIES). ALL OF THOSE ISSUES, INCLUDING INCREASED TRAFFIC DUE TO THE INCREASED DENSITY ALLOWED BY HDDP PROJECTS, ARE ALLOWED IN ORDER TO MEET THE GOALS OF THE COMPREHENSIVE PLAN. HOWEVER, MITIGATION EFFORTS SHOULD BE ALLOWED AND ENCOURAGED TO LESSEN THE TRAFFIC AND OTHER IMPACTS RESULTING FROM HIGHER RESIDENTIAL DENSITIES AS I HAVE NOTED BELOW.

NOTE: GROWTH MANAGEMENT GOALS ALONG WITH COMMENTS FROM THE PC MEMBERS THEMSELVES SHOW THEY SUPPORT HIGHER DENSITIES IN THE URBAN CORE BECAUSE: 1. INCREASED RESIDENTIAL DENSITY IN THE CORP ALLOWS WORKING FAMILIES TO WALK TO THE FERRY, WALK TO SHOPPING, WALK TO SCHOOLS, WALK TO CITY HALL AND SO ON, THUS DECREASING THE USE OF CARS REGARDLESS OF HOW MANY PARKING SPACES ARE AVAILABLE PER HOME. WALLACE COTTAGE IS A "POSTER CHILD" PROJECT IN MEETING THESE GOALS. ADDITIONALLY, HDDP PROJECTS HAVE ATTRACTED FAMILIES WITH CHILDREN WHO ARE DESPERATELY NEEDED TO OFFSET THE DECLINING SCHOOL POPULATION AND INCREASING GENTRIFICATION OF BAINBRIDGE.

NAKATA/TAURNIC NEIGHBORHOOD MITIGATION POSSIBILITIES TO REDUCE INCREASED DANGER FROM INCREASED TRAFFIC

1. INSTALL A 4 WAY STOP INTERSECTION AT WALLACE AND NAKATA THAT CURRENTLY HAS ONLY 1 STOP FOR TAURNIC AT WALLACE ALONG WITH INSTALLING A NO RIGHT TURN AS OUR WALLACE INTERSECTS NAKATA, THUS FORCING WALLACE COTTAGES TRAFFIC TO GO ONLY TO GROW AVE. THE NEIGHBORS WHO TESTIFIED SPOKE ONLY OF PROTECTING NAKATA FROM INCREASED TRAFFIC. TAURNIC IS A CULDESAC THUS THERE IS NO REASON FOR OUR TRAFFIC TO ENTER TAURNIC EXCEPT TO VISIT A NEIGHBOR.

2. OR CLOSE NAKATA AVE. WITH AN EMERGENCY ONLY ACCESS "SEATTLE STYLE BERMED EMERGENCY ACCESS PASSTHRU WITHOUT BARRIERS" LEAVING THE ACCESS TO NAKATA ONLY AT THE NORTH END.

3. THE PC MEMBERS AND NEIGHBORS CAN USE OUR SUGGESTED PLAN OF WITHHOLDING A FREE "VACATION" OF DUANE LANE TO THE OHRT GROUP UNLESS THE OHRT GROUP USES OUR 15' FLAG ALONG WITH A DEDICATION OF THEIR PROPERTY TO CREATE AN "EASTERN EXTENSION OF WALLACE RIGHT OF WAY FROM THE WALLACE COTTAGES BOUNDARY TO MADISON AVE. WITH A FREE VACATION OF DUANE AVENUE THE OHRT GROUP GAINS OWNERSHIP OF DUANE LANE EASEMENT AND THE PARALLEL PSE UTILITY EASEMENT AND GAINS A \$400,000 LAND VALUE. THEN THE ACCESS TO WALLACE COTTAGES CAN BE FROM MADISON AVENUE VERSUS THROUGH THE NAKATA/TAURNIC NEIGHBORHOOD.

NOTE: SEATTLE TICKETS DRIVERS WHO USE THESE EMERGENCY PASSTHROUGHS ARE SUBJECT TO TRAFFIC TICKETS.

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