



Department of Planning and community development

Staff Recommendation

Project: Madison Grove Preliminary Subdivision
File No: PLN 50667 SUB
Date: April 12, 2018
To: The City of Bainbridge Island Hearing Examiner
Project Manager: Kelly Tayara, Associate Planner

Applicant:	DeNova Northwest LLC	Owner:	Gary and Susan Ohrt
	6830 S. 220 th Street		PO Box 98019
	Kent, WA 98383		Des Moines, WA 98198

Request: Preliminary plat approval to subdivide three lots into eight lots

Location: 997 Madison Avenue

Summary of Recommendation: Approval subject to conditions

Part 1 - Background

1. Developer Agreements (Exhibits 5 – 8)

This project is part of a group of developments subject of four agreements between the City and two developers. Aside from Madison Grove, the agreements involve Wallace Cottages, Madison Place, The Reserve at Winslow, and Winslow Grove (all subdivisions), and Madison Landing (a multi-family project). A map and developer information are provided in Exhibit 9.

Duane Lane is adjacent to the north boundary of Madison Landing. The City asserted that Duane Lane was public right-of-way, and the developer disagreed. The disagreement was resolved by vacating the Duane Lane right-of-way in exchange for a trail connecting The Reserve at Winslow and Winslow Grove, in addition to right-of-way dedication along the south boundary of the Madison Landing project.

Part II: General Information and Site Characteristics

1. Tax Assessor Information:

- a. Tax Lot Numbers: 272502-1-126-2001; 272502-1-140-2003; 272502-1-141-2002
- b. Owner of record: Susan and Gary Ohrt
- c. Lot size: Two acres
- d. Land use: Single-family Residential

2. Zoning and Comprehensive Plan Designation:

The site is zoned Residential-4.3 (R-4.3). Properties to the east are zoned Mixed Use Town Center – Madison Overlay District (MUTC-MAD) and the Comprehensive Plan Designation MUC-MAD. The remaining surrounding properties are zoned R-4.3 and the Comprehensive Plan Designation is R-4.3.

3. Existing Development:

One single-family residence and several outbuildings, along with associated infrastructure, are located on the properties. The proposed development includes demolition of the existing buildings.

4. Access:

Access from Madison Avenue via new right-of-way dedication is proposed. Duane Lane runs through the middle of the property. The City asserted that Duane Lane was public right-of-way, and the developer disagreed. The disagreement was resolved by vacating the Duane Lane right-of-way in exchange for off-site public trail construction and right-of-way dedication. New right-of-way dedication over the vacated area is proposed.

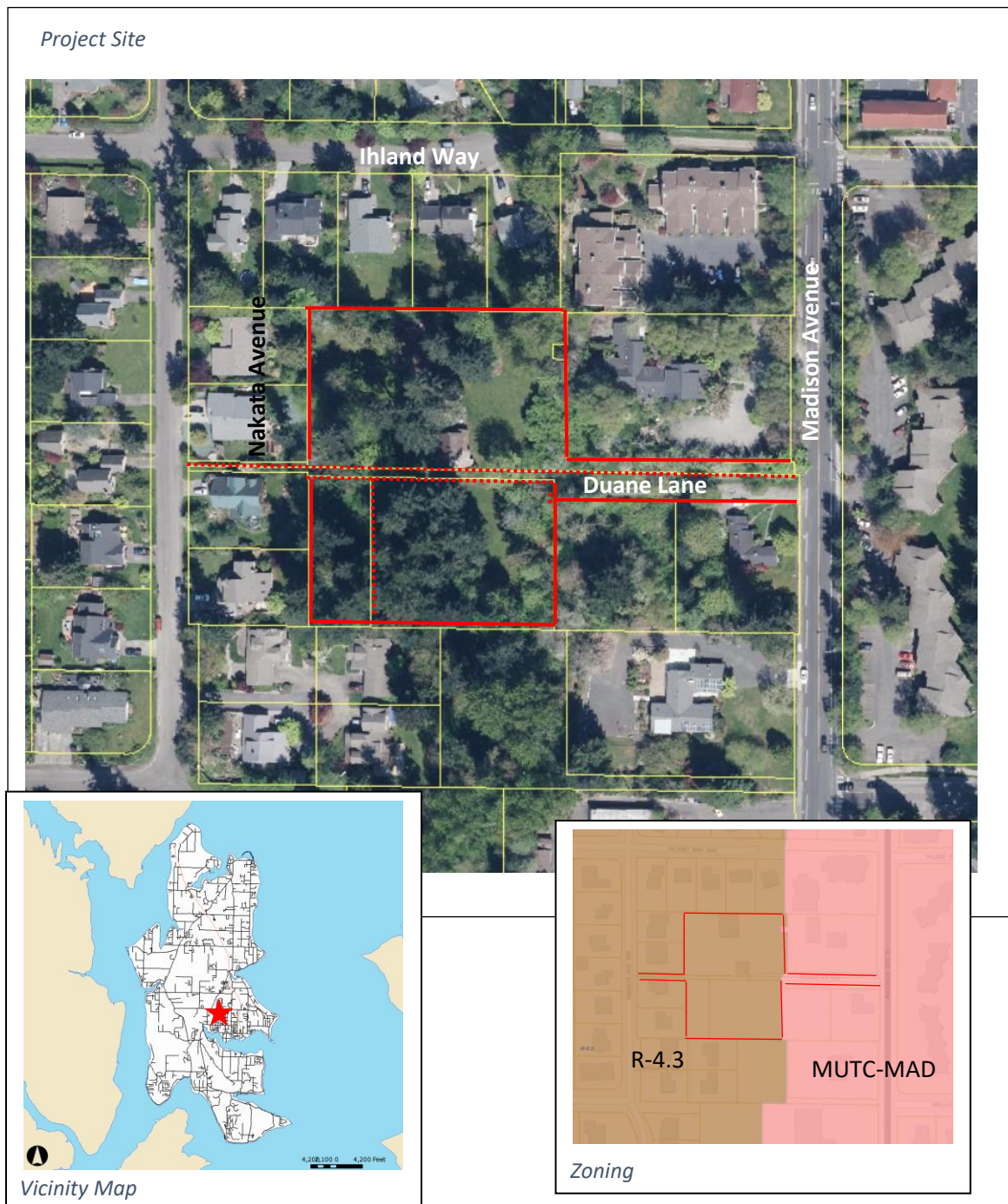
5. Soils and Terrain:

Property soils consist of Kapowsin gravelly ashy loam. The building area slopes gently from the northwest down to the southeast with an average slope of four percent. A small nonregulated wetland is located in the western portion of the property.

6. Public Services and Utilities:

- a. Police: City of Bainbridge Island Police Department
- b. Fire: Bainbridge Island Fire District
- c. Schools: Bainbridge Island School District
- d. Water: City of Bainbridge Island
- e. Sewer: City of Bainbridge Island
- f. Storm drainage: Bio-retention and detention or public facility with upsized capacity

Project Vicinity Information



Part III: Comprehensive Plan Goals and Policies

*Comprehensive Plan text is presented in normal font, and **staff discussion in bold font.***

1. Land Use Element

The properties are within the Secondary Study Area of the Winslow Master Plan Area; the Comprehensive Plan focuses growth within Winslow, the urban core of the Island, and other designated centers.

- a. Goal LU-5: Focus urban development in designated centers. Encourage development in areas where public facilities and services can be provided and provide choice of housing location and lifestyle. Encourage residential uses in a variety of forms and densities as part of the use mix in Winslow.

The project is served by public water and sewer and is proximate to public services, including bus lines and the ferry terminal.

- b. Goal LU-6: Ensure a development pattern that reduces the conversion of undeveloped land into sprawling development. Promote dense residential development and encourage human activity within Winslow in order to create a vibrant City center, direct growth where infrastructure exists, reduce reliance on the automobile, and absorb growth that would otherwise be scattered in outlying areas. Plan for adequate parking in Winslow to accommodate residents and visitors.

The project reduces reliance on automobiles because of the proximity to the Winslow commercial districts. The project provides two vehicle parking spaces per lot, at a minimum.

2. Cultural Element

- a. Goal CUL-3: Preserve places where the Island's history can be experienced, interpreted and shared with the general public in order to deepen an understanding of our heritage and the relationship of the past to our present and future. Recognize the probability of discovering new Native American cultural resources throughout the Island.

The project is conditioned to stop work and notify the City and Washington State Office of Archeology and Historic Preservation should any historical or archaeological artifacts be uncovered during excavation or construction.

Part IV: Agency Review and Public Comment

1. Environmental Review / Public Notice

Preliminary subdivision application was submitted on November 16, 2016. The application was deemed complete on December 15, 2016. The project is subject to State Environmental Policy Act (SEPA) review as provided in Washington Administrative Code (WAC 197-11-800). Utilizing the **optional DNS process** provided in WAC 197-11-355, the City issued a combined Notice of Application/SEPA comment period on December 23, 2016. The 14-day comment period ended on January 6, 2017; public comment received, along with agency comment, is discussed in Section I.C of this report. The City, acting as lead agency, issued a Mitigated Determination of Nonsignificance for this proposal on March 22, 2018; the appeal period expired on April 5, 2018 and no appeal of the SEPA determination was received.

2. Agency Comment

The Kitsap Public Health District approved the preliminary plat. The Bainbridge Island Fire District approved the project subject to several conditions which are incorporated into the recommended conditions. Final subdivision is subject to the approval of both agencies.

The Department of Natural Resources commented that the project requires a Forest Practices permit, and the project is conditioned as such.

3. Public Comment

One public comment was received. The commenter stated that the homes located north of the site have had problems with water in lower levels and crawl spaces and asked what the City would require to deal with excessive water on the north side of the subject site.

The City relies on the individual contractor / homeowner to follow the International Residential Code to properly design homes and, more specifically, footing drains.

Part V: Land Use Code Analysis

1. BIMC 16.20.130 Critical Areas - Wetlands

Wetlands less than 1,000 square feet in size are nonregulated wetlands if the wetland is not associated with a riparian corridor or is not part of a wetland mosaic.

One small wetland 494 square feet in size is located in the west portion of the property. Vegetation within the wetland is primarily consists of invasive species (buttercup and ivy), and wetland perimeter vegetation includes cedar and alder trees and Himalayan blackberry and Indian plum. The wetland is an isolated shallow topographic depression, and the subject properties are surrounded by homes constructed primarily quarter-acre lots. Based on the wetland size and the fact that it is not associated with a larger wetland mosaic or riparian corridor, the wetland is nonregulated.

2. BIMC 17.12 Subdivision Design Standards

All single family residential subdivisions shall be designed in accordance with the City's adopted Flexible Lot design requirements, outlined in BIMC Titles 17 and 18. Applicants for shall comply with the Title 17 standards applicable to either Cluster or Open Space design.

This application is subject to Homesite Clustering Standards (BIMC 17.12.030), General Residential Subdivision Standards (BIMC 17.12.040) and Flexible Lot Dimensional Standards (BIMC Table 18.12.020-1).

3. BIMC 17.12.030 Subdivision Homesite Clustering Standards

Homesites shall be located in cluster groupings and the efficient location of infrastructure shall be used to maximize the undeveloped area. Two or more homesites shall constitute a cluster grouping in a short subdivision. All homesites in a cluster grouping shall adjoin or be located a maximum of 25 feet apart from another homesite. The homesite area is for development of the primary residential dwelling and accessory buildings for each lot within the subdivision. In the R-4.3 zoning districts, a homesite area with a maximum homesite area of 7,600 square feet shall be provided for each lot and shall be depicted on the face of the plat.

Proposed homesite areas are less than 25 feet apart and under 7,600 square feet in size. Recommended project conditions require that homesite areas be depicted on the final plat.

4. BIMC 17.12.040 General Residential Subdivision Standards

a. Compliance with BIMC Title 16, BIMC Title 18 and RCW Title 58

Lot areas, dimensions and other characteristics shall comply with the requirements of Title 18, including landscaping and/or vegetated buffers. In addition, each subdivision shall comply with all applicable provisions of RCW Title 58 or its successors. Subdivisions including sensitive areas or their required buffers shall also comply with the provisions of BIMC 17.12.060, Special Requirements for Sensitive Areas.

As conditioned, the project complies with Title 18: The plat meets density and lot area requirements, and recommended conditions include requirements to note setback, lot coverage and homesite area standards on the face of the plat. The recommended conditions include a requirement to maintain the perimeter landscape buffer in conformance with standards. Subject to conditions, the subdivision provides adequately for the public health, safety and welfare, and for the public use and interest.

b. Roads and Pedestrian Access

- i. Roads and access complying with the "City of Bainbridge Island Design and Construction Standards and Specifications" and all applicable requirements of the municipal code, shall be provided to all proposed lots consistent with the standards contained within this subsection.

The City Engineer recommends approval of the project as conditioned, and asserts that the project, as conditioned, provides roads and access in compliance with City standards.

- ii. Existing roadway character shall be maintained where practical. To minimize impervious surfaces, public right-of-ways, access easements and roadways shall not be greater than the minimum required to meet standards unless the City Engineer agrees that the additional size is justified.

The City Engineer recommends approval as conditioned. The standard road width is modified to reduce impervious surface.

- iii. Pedestrian and bicycle circulation and access within a subdivision and onto the site shall be provided through walkways, paths, sidewalks, or trails and shall be consistent with the Non-motorized Transportation Plan (NMTP).

The project provides sidewalk facilities connecting to Madison Avenue and is consistent with the NMTP.

5. BIMC Table 18.12.020-1 Flexible Lot Dimensional Standards

a. Minimum Lot Size Requirements

Minimum lot size is 5,000 square feet for lots served by public sewer, subject to the approval of the Health District.

The lots are served by public sewer, and each resultant lot is over 5,000 square feet in size and therefore meet lot size requirements. The Health District approved the preliminary subdivision; final plat approval is also subject to Health District final approval (BIMC 2.16.070.I.4).

b. Density

The maximum number of lots permitted is calculated by dividing the total lot area (prior to any right-of-way dedication) by the minimum lot area for standard lots in the district.

The site is 88,567 square feet in size and is zoned R-4.3. Base density in the district is 10,000 square feet per lot. The plat creates eight lots, and therefore meets density requirements.

c. Maximum Lot Coverage

Lot coverage is the portion of the lot area that may be covered by buildings (BIMC 18.12.050.K). Maximum lot coverage for lots in the R-4.3 district is 25 percent.

Total available lot coverage is 25 percent of the total lot area (.25 x 88,567) or 22,142 square feet. Lot coverage is allocated equally between the lots to provide 2,768 square feet per lot. The recommended conditions require that lot coverage be noted on the face of the plat.

d. Minimum Setbacks

Building to building (on-site)	Minimum 10 feet
Building to exterior subdivision boundary line	Minimum 15 feet
Building to right-of-way (Madison Avenue)	Minimum 40 feet
Building to other streets (Internal right-of-way)	Minimum 15 feet

Recommended conditions include a requirement that setbacks be noted on the plat.

6. BIMC 18.15.010 Landscaping, Screening, and Tree Retention, Protection, Replacement

a. Perimeter Tree Retention Requirements.

Trees and tree stands located in the perimeter areas required to be landscaped shall be retained and protected unless an applicant can demonstrate during the land use permit review process that the existing trees and vegetation will be compromised after the development is complete and would likely become hazardous.

The landscape plan demonstrates that the proposed plat retains all trees within the perimeter buffer and provides a planting plan to amend the buffer.

b. Perimeter Buffering and Screening

When the cluster development option is selected pursuant to BIMC 17.12.030.B for property with a gross area of one acre or more and that is located in the R-4.3 district, a 10-foot-wide, edge planting standard landscape perimeter shall be required along the subdivision boundary. In order to buffer the visual impact of the proposed subdivision and protect off-site views, additional landscaping shall be planted within landscape perimeter buffers where mature trees and shrubs cannot provide such screening, pursuant to subsection D.4 of this section.

The edge planting standard is: Trees spaced no more than 30 feet on center with a minimum caliper of two inches at time of planting; Evergreen shrubs spaced no more than three feet on center with a minimum height of 21 inches at time of planting and planted to provide a continuous hedge achieving a height of six feet at maturity; Living ground cover spaced and planted to achieve total coverage within five years.

The preliminary plat depicts the required buffer. Recommended conditions include a requirement to plant the buffer and maintain plantings in perpetuity.

7. BIMC 2.16.125.H Preliminary Long Subdivision – Decision criteria

- a. The Hearing Examiner’s decision shall include findings of fact that the application meets all the following requirements. The preliminary long subdivision may be approved or approved with modification if:

- b. The applicable subdivision development standards of BIMC Titles 17 and 18 are satisfied.

As conditioned, the subdivision complies with applicable standards.

- c. The preliminary plat makes appropriate provisions for the public health, safety and general and public use and interest, including those items listed in RCW 58.17.110.

Adequate provision is made for the public health, safety and welfare, and public use and interest, including required items in 58.17.110 RCW such as streets and public ways. The project is conditioned to ensure adequate access, including emergency services access, water, sewer and stormwater facilities prior to final plat approval.

- d. The preliminary plat has been prepared consistent with the requirements of the flexible lot design process.

The proposed plat reflects required setbacks and meets cluster subdivision requirements and landscape buffer requirements consistent with the flexible lot design process and standards.

- e. Any portion of a plat which contains a critical area, as defined in BIMC 16.20, conforms to all requirements of that chapter.

As conditioned, the project complies with BIMC 16.20. The site contains an unregulated wetland.

- f. Any portion of a plat within shoreline jurisdiction, as defined in BIMC 16.12, conforms to all requirements of that chapter.

The property is not within shoreline jurisdiction.

- g. The City Engineer's recommendation contains determinations that all of the following decision criteria for long subdivision are met and such determinations are supported by substantial evidence within the record: The plat conforms to drainage regulations in BIMC 15.20 and 15.21; the plat will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use and enjoyment of properties downstream; the streets and pedestrian ways as proposed align with and are otherwise coordinated with streets serving adjacent properties; the streets and pedestrian ways as proposed are adequate to accommodate anticipated traffic; there is capacity in the public water system to serve the plat, and the applicable service can be made available at the site; the plat conforms to the "City of Bainbridge Island Engineering Design and Development Standards Manual," unless the City Engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of BIMC Title 17. The subdivision conforms to the requirements of this chapter and the standards in the "City of Bainbridge Island Design and Construction Standards and Specifications," unless the City Engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of BIMC Title 17.

As conditioned, the City Engineer recommends approval of the preliminary plat. The City Engineer finds that, as conditioned, the preliminary subdivision: Conforms to surface and stormwater requirements; will not cause undue burden on the drainage basin, and will not unreasonably interfere with the use and enjoyment of properties downstream; the streets and pedestrian ways are coordinated with streets serving adjacent properties and are adequate to accommodate anticipated traffic; the water system has sufficient capacity to serve the plat and water service can be made available at the site; the preliminary plat conforms to the road standards contained in the "City of Bainbridge Island Design and Construction Standards and Specifications" manual; as provided in the allowable waivers, the standard road width is modified to reduce impervious surface.

- h. The proposal complies with all applicable provisions of this code, Chapters 36.70A and 58.17 RCW, and all other applicable provisions of state and federal laws and regulations.

As conditioned, the plat complies with all local, state and federal regulations.

- i. The proposal is in accord with the Comprehensive Plan.

The proposal is in accord with the Comprehensive Plan. The project provides for growth proximate to public facilities and services. Recommended project conditions require appropriate notification in the event cultural resources are uncovered.

- j. A proposed subdivision shall not be approved unless written findings are made that the public use and interest will be served by the platting of such subdivision.

The project is consistent with the goals Comprehensive Plan as codified in City regulations and as such, demonstrates that the public interest is served.

Part VI: Conclusions

As conditioned, the proposed development is consistent with the Comprehensive Plan and applicable subdivision standards.

Approval of the preliminary subdivision shall constitute authorization for the applicant to develop the facilities and improvements in strict accordance with standards established within the municipal code and recommended conditions. As provided in RCW 58.17.140, complete application for final subdivision shall be filed within five years of the date of preliminary subdivision approval. If the application is not filed within the five year period, the approval shall expire and shall be void.

Appropriate notice of application was made and comments were considered. The application is properly before the Hearing Examiner for decision.

Recommended Conditions of Approval

SEPA CONDITION

1. Any non-exempt tree harvesting shall require the appropriate Forest Practices Permit from the Washington State Department of Natural Resources. The subdivision project conditions shall become conditions of the Forest Practices Permit.

PROJECT CONDITIONS

2. Prior to any construction activities, the applicant shall obtain the appropriate permits from the City of Bainbridge Island, including but not limited to clearing, grading, and/or building permits.
3. If any historical or archaeological artifacts are uncovered during excavation or construction, work shall immediately stop and the Department of Planning and Community Development and the Washington State Office of Archaeology and Historic Preservation shall be immediately notified. Construction shall only continue thereafter in compliance with the applicable provisions of law.
4. Homesite areas not greater than 7,600 square feet per lot shall be depicted on the final plat.
5. Lot coverage of 25 percent shall be allocated as proposed and noted on the face of the plat.
6. The following setbacks shall be noted and depicted on the final plat:

Building to building (on-site)	Minimum 10 feet
Building to exterior subdivision boundary line	Minimum 15 feet
Building to right-of-way (Madison Avenue)	Minimum 50 feet
Building to other streets (Internal right-of-way)	Minimum 15 feet

7. A ten foot width perimeter landscape buffer shall be maintained for the life of the project. Prior to final plat approval, the buffer shall be planted to edge planting standard (BIMC 18.15.010.D.4) or planting assured as provided in BIMC 18.15.010.H.
8. The final plat shall comply with the following conditions of the Fire Marshal:
 - A. The proposed project shall comply with all provisions of the adopted Fire Code.
 - B. The proposed location of the fire hydrant appears acceptable at this time.
 - C. A fire flow test will be required prior to the issuance of any building permits. The flow test shall be conducted during a period of ordinary demand. Contact the Fire Marshal's office at 206-451-2033 for scheduling.
9. The applicant shall comply with the following conditions to the satisfaction of the City Survey Program Manager:
 - A. Duane Lane final order of vacation will need to be recorded before final subdivision.
 - B. Madison Grove boundary line adjustment will need to be recorded before final subdivision.

10. The applicant shall comply with the following conditions to the satisfaction of the City Engineer:

A. General

- 1) Survey monumentation shall be provided consistent with the Standards, Section 8-03.
- 2) Civil improvement plans ready for construction shall be submitted with an application for a plat utility permit to the City for review and approval to construct all necessary infrastructure serving the divided lots and the offsite improvements proposed.
- 3) Separate clearing and/or grading permits shall be required concurrently with the plat utility permit issuance to clear and grade the site.
- 4) As-built civil construction plans stamped by a civil engineer shall be provided by the applicant prior to final plat. The plans shall show constructed curb and gutter lines, sidewalk, paved roadway and entrance aprons, as well as all utilities and surface stormwater facilities.

B. Facilities Extension

- 1) The Developer Extension Agreement shall be executed at the plat utilities permitting application phase for the construction of roads and utilities to be inspected and accepted by the City.
- 2) The plat shall be served by a publicly dedicated road providing a 40-foot right-of-way (ROW) to be dedicated to the City as required by a residential urban local access road. The dedicated ROW may include areas previously dedicated.
- 3) ROW dedication along the full Madison Avenue North frontage shall be consistent with the City's survey program manager requirements of half the standard ROW for a secondary arterial roadway (30 feet) from the described centerline and may include areas previously dedicated.
- 4) The plat road shall meet the standards of a residential urban roadway per the City of Bainbridge Island (COBI) standard DWG. 7-050. The applicant may request a deviation to those standards with the civil improvement plan review to incorporate roadside Low Impact Development (LID) facilities, vegetation preservation, traffic calming measures and hard surface reduction, where it is shown to the satisfaction of the Public Works Department that road functionality, safety, and maintainability are not compromised.

C. Utilities

- 1) The proposed 8-inch water main extension from Madison Avenue shall be located to allow both a minimum 10 feet of separation of the water main from existing and proposed sewer mains and provide adequate setback from the easement boundary lines to allow for construction, maintenance, and servicing of the new mains. If additional ROW or easement is required, it shall be provided.
- 2) Utilities not falling within the boundaries of existing or proposed ROW dedication areas will require a separate utility easement on the City's standard easement form to be recorded prior to or concurrently with approval of civil improvement plans.

D. Stormwater

- 1) A Stormwater Pollution Prevention Plan (SWPPP) prepared by a civil engineer licensed in the State of Washington is required prior to construction activities including clearing or grading or civil improvements for all phases of the project that complies with BIMC 15.20.

- 2) Disturbed project area totals approximately 2 acres. A sediment trap(s) per Department of Ecology BMP C240 shall be required where the total of on- and offsite contributing drainage area is less than 3 acres. Due to the constrained downstream storm drain system, a higher level of flow control protection is warranted. The sediment trap shall be designed with a storage capacity based on the 10-year peak flow of the developed site. The on-site permanent detention storage system may double as the sediment trap. Chemical treatment or filtration for purposes of temporary sediment control shall be required downstream of the sediment trap.
- 3) A final stormwater report shall be submitted detailing compliance with all applicable minimum requirements as required by BIMC 15.20, prepared by a civil engineer licensed in the State of Washington.
- 4) On-site Best Management Practices for soil management and Low Impact Development shall be employed consistent with the Stormwater Management Manual for Western Washington (SWMMWW) BMP T5.13 for surfaces not converted to hard surfaces after construction.
- 5) Prior to final plat submittal, the applicant shall submit an operation and maintenance plan for the on-going maintenance of the storm drainage system.
- 6) Any on-site stormwater facilities shall remain privately owned and maintained. The owner(s) shall be responsible for maintenance of the storm drainage facilities for this development following construction. Annual inspection and maintenance reports shall be provided to the City. A Declaration of Covenant for stormwater system operation and maintenance will be required to be recorded before final plat submittal. The approved language for the Declaration of Covenant is found in BIMC Chapter 15.21, Exhibit A.
- 7) The project shall mitigate stormwater on-site to match the existing 100-year storm flows leaving the site, or, the applicant shall prepare a hydrologic and hydraulic analysis to demonstrate that the future build-out conditions from the site combined with the existing offsite drainage tributary to the storm drain system will not exceed the capacity of the existing system in Madison Avenue North.

E. Permitting

- 1) In addition to a clearing and/or grade and fill permit, a right-of-way (ROW) construction permit will be required prior to any construction activities within the existing right-of-way. The ROW permit will be subject to separate conditions and bonding requirements.
- 2) Application for a final plat shall require binding water and sewer availability letters from the City.
- 3) Installation of improvements and creation of as-built engineered plans must be completed prior to approval of final plat. In lieu of completion of those improvements and as-builts consistent with the conditions of a preliminary plat approval, the City engineer may accept an assurance device, in an amount and in a form determined by the City, but not to exceed 125 percent of the established cost of completing the infrastructure that secures and provides for the actual construction and installation of the improvements or the performance of the conditions within one year, or such additional time as the city engineer determines is appropriate after final plat approval.

- 4) The proposed action(s), phased or concurrent, in their totality would result in more than one (1) acre of earth disturbance on the site and drain to waters of the State. A Construction Stormwater General Permit shall be obtained from the Washington State Department of Ecology and the site shall be monitored for discharge of pollutants and sediment to the wetlands and stream for the duration of the project. No land clearing or construction permits shall be issued prior to obtaining the State permit.
11. The following conditions shall be listed on the final plat: Conditions 1 – 7; applicable portion of 8 and 10.