



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT

Date: July 10, 2018
To: Gary R. Christensen, AICP
Planning Director
From: Ellen Fairleigh
Planner
Project: Stahl/St. Louis- Vegetation Management
Location: 10509 Falk Road N.E., Parcel # 142502-1-056-2000
File Number: PLN51027 VEG

Summary of Proposal

Vegetation Management permit for clearing of approximately 38,865 square feet to prepare for a three-lot short plat and construction of two additional single-family homes.

Background

1. On December 28, 2017, the applicant submitted a vegetation management application.
2. On January 25, 2018, the application was deemed complete and a Notice of Complete Application was sent to the applicant.
3. On February 2, 2018, the Notice of Application and SEPA comment period was published; two public comments and several e-mailed questions were received during the 14-day comment period.
4. Concurrently, on January 4, 2018, the applicant submitted a preliminary short subdivision application. This application is currently under review by City staff. Additionally, the property owners directly to the north submitted a preliminary short subdivision application on June 29, 2017 which is also currently under review by City staff. This review is for the vegetation management application only.

Environmental Review

This project was subject to review under the State Environmental Policy Act (SEPA), as stipulated in the Washington Administrative Code (WAC 197-11-800) and the Bainbridge Island Municipal Code (BIMC 16.22.050.B.2). Using the optional DNS process provided in WAC 197-11-355, the City issued a combined Notice of Application/SEPA comment period on February 2, 2018. Two public comments and several e-mailed questions were received during the comment period. In conjunction with the Notice of

Decision for this application, the City (acting as lead agency) will issue a threshold determination for this proposal.

Recommendation

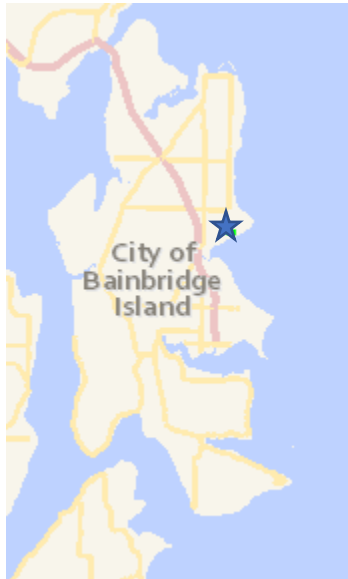
Staff is recommending approval of the request subject to the following project conditions:

1. This approval extends to the vegetation clearing proposed as part of a conversion harvest action only and allows the clearing not to exceed 38,865 sq. ft. and as depicted on the plan set dated December 28, 2017.
2. Areas retained under these standards for vegetation management are not necessarily protected vegetative areas in perpetuity—rather, they are retained as a part of this approval to provide for future development retention requirements. Prior to approval of any future land use permitting for the site, no additional clearing (beyond what is authorized under this approval) of non-hazardous vegetation is allowed. If any retained trees do become hazardous during or after the construction of a single-family residence and need to be removed, as determined by an ISA- certified arborist, replanting in the vicinity of the removal to meet the City’s standards in effect at the time is required.
3. Any non-approved clearing activities in the areas of retained vegetation on this site is subject to the penalties in BIMC 18.15.010.C.3
4. A class IV forest practices permit from the Washington State Department of Natural Resources is required prior to beginning the work authorized by this permit. The applicant shall provide copies of this approval to the Planning and Community Development (PCD) department prior to commencing work.
5. Landowners are responsible for their own compliance with the Bald Eagle Protection Act and may apply for a permit from WDFW if necessary. Information regarding permit requirements can be found at http://www.fws.gov/pacific/eagle/permit_types/do_i_need_a_permit.html.
6. A preconstruction meeting with a Public Works Department representative shall be conducted at the site prior to any construction or earth disturbance activities.
7. Pursuant to BIMC 15.21 a Declaration of Covenant for Private Stormwater Facilities shall be recorded with the County auditor for continued maintenance of the rain garden facilities. Upon completion of the facilities’ construction an as-built diagram of the rain gardens and diversion swales shall be submitted to the City. The City will prepare the covenant document for the property owner’s signature.
8. A maintenance and operation manual (O+M) for the private stormwater facilities on-site shall be provided at project completion as an attachment to the maintenance covenant informing private owners of the maintenance means and methods.
9. Parking or staging of vehicles and/or equipment is prohibited within the access easement.

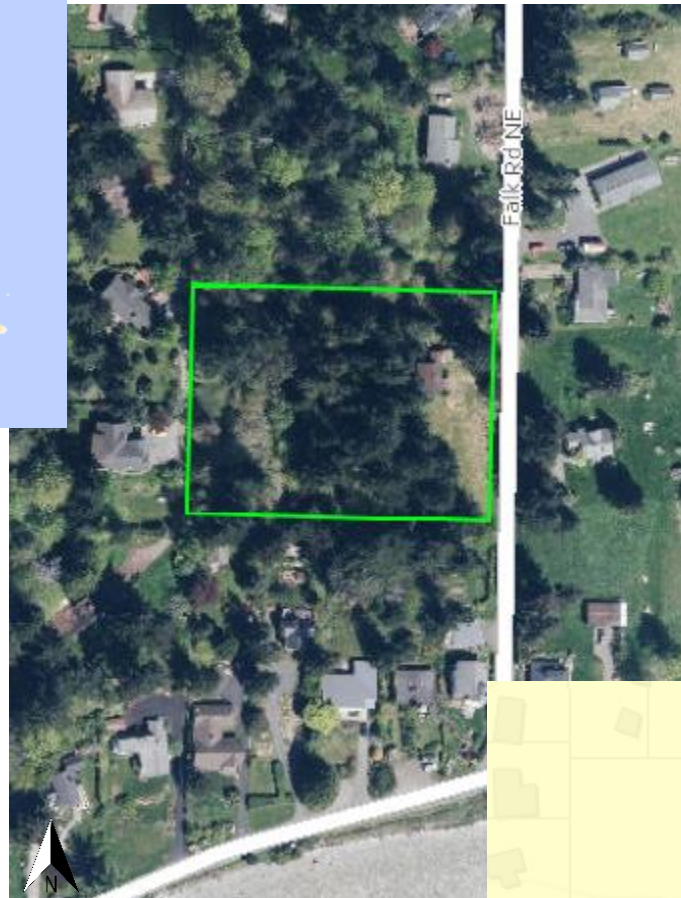
10. The work authorized under this approval shall follow the guidelines in Bainbridge Island Municipal Code (BIMC) Section 16.16.025 which limits the hours of construction activities in residential zones.

SEPA Conditions:

11. To mitigate impacts on air quality during earth moving activities, contractors should conform to Puget Sound Air Pollution Control Agency Regulations which insure that reasonable precautions are taken to avoid dust emissions.
12. To mitigate potential impacts on air quality, cleared vegetation shall be removed from the site, processed by chipper or processed using other methods of disposal that does not require burning.
13. The limits of clearing and grading shall be clearly fenced in the field and inspected by the City of Bainbridge Island prior to beginning any clearing or grading on site.



Vicinity Map



Project Site



Zoning

Staff Analyses

I. Findings of Fact

A. Site Characteristics

1. Tax Assessor Information

- a. Owner of record: J.D. Stahl and Darsi St. Louis
- b. Tax Lot Number: 142502-1-056-2000
- c. Township/Section/Range: Section 14, Township 25 North, Range 2 East
- d. Lot size: 75,440 square feet

2. Terrain

The site slopes gently toward the west third of the site and to the south.

3. Soils

The soils on the property are Harstine gravelly ashy sandy loam.

4. Access

The property is currently accessed via Falk Road. Proposed access for new or rebuilt residences under short plat PLN51027 SPT is from the easement along the northern border of the parcel. Access for vegetation management activities is proposed via a rock construction entrance on the eastern end of the access easement.

5. Utilities

- a. Water/Sewer: KPUD/onsite septic system
- b. Stormwater: On-site Stormwater Management Facilities
The Development Engineer has determined that the project meets the requirement of the Bainbridge Island Municipal Code (BIMC) 15.20, Surface Water and Stormwater Management. The erosion control plan submitted adequately addresses temporary construction impacts to stormwater pollution.

6. Public Services

- a. Police: Bainbridge Island Police Department
- b. Fire: Bainbridge Island Fire Department
- c. Schools: Bainbridge Island School District

7. Existing Use

The site is currently developed with a single-family residence on the east side of the parcel.

8. Zoning and Comprehensive Plan Designation

The subject parcel and surrounding parcels are in residential districts. The subject property is zoned R-2, and the Comprehensive Plan Designation is Residential- 2.

9. Surrounding Uses

The subject parcel is surrounded on all sides by residential development and associated accessory uses.

10. Surrounding Zoning

The subject parcel is surrounded on all sides by other parcels zoned R-2.

B. History

The eastern one-third of the subject parcel is currently vegetated with grass and other landscaping. There is a single-family residence in the northeast corner of the parcel. The remainder of the site is undeveloped and vegetated with mature forest.

There is a pending preliminary short plat application currently under review with the City of Bainbridge Island Planning and Community Development department (PLN51027 SPT) on the parcel. The short plat application proposes to divide the parcel into a total of three lots.

This application was submitted on December 28, 2017 and deemed complete on January 25, 2018, and the associated short subdivision on this property (PLN51027 SPT) was submitted on January 4, 2018 and deemed complete on February 1, 2018. Under BIMC 2.16.070.D, a proposed short subdivision shall be reviewed under all applicable city ordinances in effect at the time of complete application. This application is considered vested in association with the proposed short subdivision application (PLN51027 SPT). Therefore, these applications are not subject to the moratorium, which was effective on January 9, 2018 under Ordinance 2018-02, the repeal of vegetation management under Ordinance 2018-11 effective May 2, 2018, or the Landmark Tree Preservation Ordinance 2018-25 effective June 26, 2018.

C. Public/Agency Comment

1. **Development Engineer:** On March 22, 2018, the Development Engineer recommended approval subject to Conditions 6, 7, 8 & 13.
2. **Public Comments:** Two public comments were received. One of these public comments is a joint submittal signed by eight individual neighbors. The comments focus on issues related to drainage impact on surrounding properties, the submitted SEPA checklist and impact on wildlife, as well as burdening the access easement. The joint public comment letter also raises concern over issues such as noise, joint review of nearby development proposals, the new Critical Areas Ordinance, and the proposed scope of work. A summary of the comments received and how the proposal addresses them is provided below.
 - a. **Drainage:** Both comments raise concern regarding stormwater management and potential impacts on surrounding properties. Also, the commenters are concerned about the potential impacts of increased water flow into "Falk Creek". One commenter requests that the proposal include a drainage plan and that the applicant be given a list of Best Management Practices.

The City's Development Engineer has reviewed and approved the submitted drainage plan for this project. The Development Engineer found that the project meets the requirement of the Bainbridge Island Municipal Code (BIMC) 15.20, Surface Water and Stormwater Management and that the erosion control plan adequately addresses temporary construction impacts to stormwater pollution.

One e-mailed question was received regarding the design and capacity of the proposed rain gardens on site during heavy rainfall events. The proposed rain gardens are designed for 100% infiltration on site based on historical rainfall data from 1948-2009. During a 100-year storm event, of which there is a 1% chance of occurrence in any given year, the rain gardens have been designed to reduce peak flow from .34 cubic feet per second to .22 cubic feet per second.

The submitted proposal does include a drainage plan designed by Brown Wheeler Engineers, Inc. which has been reviewed and approved by the City Development Engineer. A Site

Assessment Review (SAR) has been completed for this parcel as part of the proposed short plat. Through the SAR process, the applicant has received a list of recommendations to achieve Low Impact Development (LID).

City staff conducted two site visits on March 20, 2018 and April 3, 2018 respectively and found no evidence of a stream channel.

b. SEPA checklist and impact on wildlife: One commenter feels that the submitted SEPA checklist is not accurate and should be withdrawn and resubmitted. Both comments raise concern about the loss of wildlife habitat.

The SEPA checklist was reviewed by the City Planning Department and submitted to SEPA agencies for review and comment. City staff made note of additional information and/or corrections on the submitted checklist prior to sending to SEPA agencies. No comments were received from SEPA agencies during the 14-day comment period. The subject parcel is not within any mapped wildlife upland corridors. The subject parcel is partially within a mapped eagle nest buffer. The applicant will be responsible for obtaining any required permits needed for compliance with the Bald Eagle Protection Act. (Condition 5)

c. Easement: The joint comment submittal raises concern regarding burdens being placed on the easement due to the proposed development such as parking of construction vehicles which could impede access as well as concerns regarding rights to the easement.

Access will be maintained throughout the course of the project. The project has been conditioned that no parking or staging of equipment or vehicles is permitted within the access easement. (Condition 9)

The City of Bainbridge Island has researched available records related to easements for access and utilities extending from Falk Road NE over the subject parcel, 142502-1-056-2000, and the property to the north, 142502-1-057-2009. The City's findings include, but are not limited to, the following:

- The underlying fee ownership of the easements is held by the applicant and the property owner to the north, parcel number 142502-1-057-2009.
- The terms and conditions of the easements have changed since the 1957 easement.
- There is a 1976 easement recorded under Auditor's File No. 1142440 which includes "the Public" as a beneficiary of the easement.

d. The joint comment submittal raises concern regarding the burden of increased noise on neighboring properties due to the clearing activities.

The project has been conditioned to comply with the guidelines contained in BIMC Section 16.16.025 which limits the hours of construction activities in residential zones. (Condition 10)

e. The joint comment submittal suggests that all nearby projects should be considered and reviewed concurrently. Specifically, this project, the associated short plat (PLN51027 SPT), and a proposed short plat on the property directly to the north (PLN50803 SPT).

These three projects are being evaluated by the same review bodies within the City. Portions of the two short plats are being considered together, PLN51027SPT and PLN50803 SPT, but the projects are individual proposals which will be separately evaluated based on applicable regulations. These projects must be considered separately in the instance that one of the property owners elects not to proceed with one of the proposed developments.

f. The joint comment submittal suggests that this proposal should be reviewed against the new Critical Areas Ordinance.

This application was submitted in conjunction with an associated short subdivision application (PLN51027 SPT). Under BIMC 2.16.070.D, a proposed short subdivision shall be reviewed under all applicable city ordinances in effect at the time of complete application. The short subdivision was deemed complete on February 1, 2018. The new Critical Areas Ordinance (Ordinance 2018-01) went into effect on April 23, 2018. This application is considered vested along with the proposed short subdivision application (PLN51027 SPT).

g. The joint comment submittal asks for clarification on the proposed scope of work.

The application proposes to clear 38,865 square feet of vegetation within the clearing limits delineated on the submitted site plan. Within this area, the application proposes to remove up to 55 trees and approximately 45,200 board feet of timber. The scope of work is consistent with the clearing allowances permitted under BIMC Chapter 16.22 Vegetation Management.

D. Bainbridge Island Municipal Code

1. Chapter 16.22 Vegetation Management

BIMC 16.22.030 Applicability

This is a forested property that is undergoing conversion harvest to allow for the potential construction of a two additional single-family residences (SFR). The property is 75,440 square feet in the R-2 zoning area (one residence per 20,000 square feet). As such, the property also meets the condition articulated in this section of code as “can be further subdivided.” Based on the features and conditions of the lot, the requirements and provisions of the vegetation management chapter are found to be applicable.

BIMC 16.22.050.A Vegetation Management Permit

Since it is the applicants’ intention to convert this property to a non-forest use and to avoid a six-year moratorium on development, it is required that they submit and receive approval of a vegetation management permit application. They are also required to receive approval of their proposal from the Washington State Department of Natural Resources (DNR).

BIMC 16.22.050.C Decision Criteria

A vegetation management permit application may be approved, denied, or approved with conditions if it meets the following criteria:

1. **Harvesting meets the vegetation management standards of BIMC 16.22.060.**
This proposal does meet these standards. An item by item discussion of the relevant sections of 16.22.060 as they relate to this proposal are included below.
2. **Erosion control measures are included as part of the plan.** An erosion control plan for the clearing was prepared by P.E. Adam E. Wheeler and was approved by the City’s Development Engineer.
3. **All applicable open space and corridor standards are met.** There are currently no designated open space areas on the lot, and the site is not part of a designated upland or riparian corridor according to City data sources. Sufficient area of mature forest is being retained to meet the open space requirements of the proposed short plat (PLN51027 SPT).
4. **Mitigation measures are proposed which reduce adverse impacts on**

surrounding property. The applicants are retaining forested area in the southwest portion of the parcel which will mitigate noise and light emissions to some properties to the south and west of the subject parcel. Stormwater runoff has been designated for treatment on site and the plan was developed by a Professional Engineer and approved by the City's Development Engineer. There are no critical areas on the site that would have mitigation requirements for environmental impacts.

5. **All other provisions of this code are met.** This proposal meets this requirement.

BIMC 16.22.060 Vegetation Management Standards

Properties intended for conversion from forest to non-forest (developed) use under vegetation management shall undergo either a conversion harvest or a selective harvest. This proposal is for a conversion harvest. Under the standards of a conversion harvest, the applicant is limited to a percentage of existing area where vegetation can be cut. This property is zoned R-2 and the associated percentage limit is 60 percent. The lot is roughly 75,440 square feet in size, and the intention is to clear 38,865 square feet of area, or 52% of the total lot area. The proposed clearing is to accommodate the construction of additional single-family homes and driveways.

These areas of retained vegetation are intended to provide vegetative features required for future development. The retention of roughly 40 percent of the trees and vegetative area in the configuration being proposed will provide adequate retention for any vegetation-related provisions required as part of a future development proposal under the current standards of the BIMC. The short plat application submitted for this property is proposing to apply the open space flexible lot subdivision design standards contained in BIMC Chapter 17.12. Under these standards, the applicant will be required to retain 25% of the property in open space which has been identified and is being fully retained in native vegetation under this proposal.

Residual forest areas are clustered to remain wind-firm and designed to align with forest-areas to the north while still retaining a buffer from the surrounding residences to the west and south. There is no cutting proposed or approved in any designated open space, noncut buffers, critical areas, or any other protected vegetative areas. A DNR class IV general forest practices permit is required for this project and is a condition of approval prior to the commencement of clearing activities. (Condition 4)

II. Conclusions

As conditioned, this proposal meets the applicable sections of the Bainbridge Island Municipal Code (BIMC) and meets the decision criteria for approval found in 16.22.050.C.1-5. This application is properly before the Director for approval. Vegetation management determinations are appealable to the Hearing Examiner in accordance with the procedures set forth in BIMC 2.16.020.P.

- III. Submittal Documents:** All submittal documents and other material may be accessed via the City's Website Online Permit Portal – SmartGov. All submittal documents, Development Engineer memorandum, and agency comments can be found in the "Notes" section under this file number: PLN 51027 VEG.