

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF BAINBRIDGE ISLAND**

In the Matter of an Application for a)	
Conditional Use Permit, Site Plan and)	PLN 18970B SPR/CUP
Design Review for)	
)	FINDINGS OF FACT,
MADRONA SCHOOL)	CONCLUSIONS OF LAW.
)	ORDER AND PARTIAL REMAND
For Construction of a New PK-8 Private)	
School at 11478 N. Madison Avenue NE)	
_____)	

SUMMARY

Applicant:	Madrona School 219 Madison Avenue S. Bainbridge Island, WA 98110
Project Location;	11478 North Madison Avenue NE
Zoning:	R-1
Summary of Proposal:	To build and operate a new PK-8 private Waldorf school, able to accommodate up to 200 students, consisting of three buildings erected in three phases. Vehicular access will be from N. Madison Avenue NE via separate in and out driveways.
SEPA Compliance:	Mitigated Determination of Non-Significance (MDNS) issued February 27, 2017. No appeals.
Public Hearing:	May 4, 2017. Testimony by staff, applicant, and consultants. Public comment from 25 persons.
Decision:	Phases I and II and approved. Phase III is remanded to the City for further consideration..

PROCEDURE

The applicant engaged in a pre-application conference with the City on October 8, 2013. A public participation meeting was held on July 18, 2016. A second pre-application conference was held on July 19, 2016. Applications for Site Plan Review and Conditional Use Permit were received on August 2, 2016.

A combined Notice of Application and SEPA comment period was issued on October 14, 2016. The City issued a Mitigated Determination of Non-Significance (MDNS) on February 27, 2017. The MDNS was not appealed.

The Design Review Board recommended approval of the project on December 19, 2016.

The proposal was discussed before the Planning Commission on March 9, March 23, and April 13, 2017. The Planning Commission recommended approval with additional conditions.

Between receipt of the application and the Hearing Examiner hearing, the City received an extraordinary outpouring of public comment, enough to fill an oversized three-ring binder. The Examiner visited the site and environs.

The Hearing Examiner hearing was held on May 4, 2017. The City was represented by Josh Machen, Planning Manager. Missy Goss, school headmistress, and John Kennedy, architect, represented the applicant. Testimony was also presented by Jeff Hee, PE, of Transportation Solutions Inc. Twenty-four citizens and Bryan Telegin, counsel for the property owners in the Windsong development testified.

FINDINGS OF FACT

1. Factual matters in the foregoing Summary and Procedure are hereby adopted as findings.
2. Madrona School seeks to relocate from downtown Winslow to a 4.79-acre site at 11478 N. Madison Avenue NE within a more lightly settled area of residences, farms and woods. The proposal is to create a new facility, eventually consisting of three buildings, parking and drop off areas, and playfields.
3. The site is zoned R-1 single family residential and is surrounded by such zoning. To the west of the site across North Madison is the Windsong residential development. To the immediate south is a residence owned by Dana and Pam Halvorsen. Within the R-1 zone schools are allowed as a Conditional Use. There is no zone specifically for schools.
4. The plan is to build in three phases. Phase One will be an 11,000 square foot building on two levels, to consist of nine classrooms for grades 1 through 8 and four administrative

offices. Phase Two will involve the construction of a separate 5,000 square foot building, also on two levels, containing four classrooms for early childhood activities. Phase Three will involve a third building -- a two-level 10,000 square foot gymnasium/auditorium with three classrooms, a kitchen and an apartment. On completion of the project, the total square footage in buildings will be 26,000. The footprint of these buildings will take up slightly less than 7.5% of the total area.

5. The closest classroom building to adjacent property will be 28 feet from the north property line. The proposed gymnasium/auditorium will be 32 feet from the south property line.

6. Eventually, the school will be able to accommodate 200 students and 27 teachers and staff. Two people will reside on the property, initially in the existing residence and ultimately in a two bedroom apartment, if and when the auditorium building in Phase Three is built.

7. The proposed new school site is the former Lowery Farm property located on the east side of North Madison between NE Roberts Road and NE Valley Road. In the 1960's and 1970's this property housed a riding club and the owner gave horseback riding lessons.

8. The site is currently developed with a house and associated outbuildings. The central portion is mowed grass and a large vegetable garden. The southeast, east, north and northwest portions of the site have mature stands of forest. Most of the new site development will occur in areas already cleared. The existing house and outbuildings are proposed to be demolished with the construction of Phase Three.

9. The tallest height of the proposed structures will be 30 feet to the top of sloped roofs. The buildings are designed to settle in to the landscape. Because of this and because of vegetation around the property edges, the buildings will scarcely be visible from off-site. A dense buffer of existing trees and shrubs along N. Madison Avenue will screen most of the property from the views of those driving by.

10. Existing trees will also largely screen the site from neighboring properties, except to the southwest. There the plan is to plant a full-screen landscape buffer to separate the school from the Halvorsen property. This buffer will be 15 feet wide at the entry drive and 25 feet wide beyond that. A six-foot high solid wood fence will be erected on the school side of the tree strip.

11. The buildings will be finished in natural tones that blend with the surroundings. The Examiner finds that that the project will not constitute an incompatible visual intrusion. It will be aesthetically harmonious with its setting.

12. The property is generally flat in the middle with a gradual slope to the southwest and southeast. The project will capture storm water on the site and convey it to a stormwater detention pond. It will be released at no more than the pre-project flow rate. Released stormwater will be dispersed through a dispersion tee located within 25 feet of the north-eastern property line. A stormwater management plan was prepared by a licensed professional engineer. The City Engineer has found that the project conforms to stormwater requirements.

13. Potable water to the developed facilities will be provided by an on-site well. Sewage treatment will be provided by an on-site septic system. The Kitsap Public Health District has determined that the proposed site has sufficient area, soil, topographic and drainage characteristics to permit such a system.

14. Other usual public services and utilities such as electricity, police and fire protection, will be provided and are adequate to meet the impacts of this development.

15. The R-1 zoning of the property could support up to five single-family homes, each with an accessory dwelling unit and associated outbuildings. The lot coverage allowed for the proposed school is half the amount that would be allowed if single-family home and accessory structures were proposed.

16. The nearest existing neighbor's house is over 100 feet away from any play area at the school. During recess periods, the noise of children at play may be audible off site. It is unlikely that such noise will be significantly intrusive, but in any event, sound made by unamplified human voices is exempt from adopted noise limits. WAC 173-60-050(4)(k).

17. The applicant submitted a lighting plan with proposed fixtures. Only a few low bollard lights are proposed around the parking area and along pedestrian paths. Some entry sconces will be attached to the buildings. The proposed fixtures are all shielded. No high field lights will be allowed. As the project is proposed, light intrusion from the school will not occur.

18. The existing house on the site is a historic home, eligible for the local register. However, it is not in a condition to be preserved. To ensure historic and cultural resource preservation, a completed Washington State Historic Property Inventory Field Form is to be recorded with the State Department of Archaeology and Historic Preservation prior to demolition.

19. A Boundary Line Adjustment combining the present lots on-site will be required prior to building permit issuance.

20. Buffer averaging will reduce buffer widths along the northwest and southwest from 25 to 15 feet in three locations. Buffer widths are increased along the northeast and southeast portions of the property, providing a 35-53 foot width boundary. This will preserve existing mature trees. A Tree Retention Plan calls for retaining 640 tree units. Landscaping will add trees within the parking areas and buffers.

21. The project, as conditioned, provides for multiple pedestrian walkways from the parking lot to the school buildings. The drop off/pick up spaces will allow students to exit directly onto a sidewalk avoiding interaction between students and vehicles. Appropriate curbs, walkway dimensions and surfacing will be provided. The City Engineer has determined that the internal streets and pedestrians ways are well-defined, safe and efficient.

22. The site is unencumbered by critical areas or their buffers. The property is not within shoreline jurisdiction.

23. The overriding concern of the neighbors of the new school is its impact on traffic. North Madison Avenue NE is classified as a secondary arterial, appropriate for the location of a school under the City Code. The road is oriented north-south at the school site and includes one lane in each direction. At the school site, the road includes a two-foot wide paved shoulder on both sides. On the west side this widens to about 20 feet in the vicinity of Windsong Loop NE, just south of the school site. There are bus stops in the vicinity of the Windsong Loop entry.

24. Cars will enter the school property at the site of the current driveway near the southern boundary. Traffic will then be routed to drop off and parking areas, eventually exiting at an “out only” driveway near the north boundary. Initially traffic will be allowed to turn both ways from this exit, although a right-turn only regime during busy hours may be imposed if experience requires it.

25. The design provides for a curbside drop off area along the driveway on the west side of the school. The drop off area is intended to be large enough to accommodate the anticipated queue of cars at the start of the school day and at its close. There will on site queueing space for 27 cars. Backups on North Madison, if they occur, should be minimal and short-lived. To reduce the possibility that such backups might occur, the school has agreed to a carpooling/rideshare program to limit traffic and has also agreed to staggered start times.

26. On-site parking space will be provided for 39 vehicles, with five additional parking spaces located in the curbside drop off area. No parking will be allowed in these five spaces during the drop off and pick up periods. Two handicapped accessible parking spaces and a minimum of nine bicycle spaces will be provided. Parking for events, such as open houses will be accommodated by overflow parking within the playfield.

27. No drop-off, pick-up or parking will be allowed on North Madison Avenue or anywhere within the Windsong Loop neighborhood. Assuming that significant queues do not develop along Madison, congestion caused in the immediate vicinity of the site should be minimal.

28. The Police Department will be asked to reduce the speed limit on North Madison in the school’s vicinity to reflect a school zone.

29. However, traffic concerns are not limited to the road alongside the school. Area residents emphasized that during the morning rush, traffic at the major intersection to the south—the SR 305 and Sportsman Club Road and Madison Avenue South intersection—there is a problem even now. A video taken at rush hour by a neighbor demonstrates that presently cars have to wait several cycles to get through the light there. The implication is that the school will make the situation worse.

30. Responsive to this concern, Transportation Solutions, Inc. performed a study which showed that with the school in operation in 2018, traffic at this intersection will satisfy relevant

level of service standards. But, their analysis also showed that, with or without the school, traffic at the SR 305 intersection will soon be at Level of Service F – below acceptable. Clearly the school will contribute to this. Yet, the overall picture is one of ongoing general traffic growth that will occur even if the school is not built.

31. The Examiner finds that the traffic impacts of the new school during normal operating hours have been adequately analyzed and that the design and the conditions of operation imposed herein appropriately accommodate the high-use periods of the day. The City Engineer issued a Certificate of Concurrency in relation to this proposal.

32. However, there is a significant blank in the traffic analysis presented. It did not address potential after-hours traffic impacts stemming from the operation of the proposed auditorium to be completed in Phase Three. Both the accommodation of cars on-site and their effect on roadway conditions before and after auditorium events need to be analyzed.

33. The school will not be allowed to rent out its facilities to commercial businesses, but non-profit clubs and religious groups may be allowed to use it during off hours. And the school itself may wish to schedule events in the evening or on weekends. All functions on the property must end by 9 p.m. But up to that time, the record contains no information on the traffic impacts of use of the site when school is not in session, and of the auditorium in particular.

34. The Hearing Examiner takes notice that schools are more often than not located in residential areas. The plans presented go to considerable length to assure that during normal hours the new school will fit in.

35. The proposed school development is part of an overall pattern of growth. In the larger development picture, the school actually represents the retention of open space, as compared with standard residential development. 92.5% of the property will remain open. This applicant, a Waldorf School, is particularly sensitive to concerns for preservation of natural conditions because nature plays an important role in its instructional program.

36. Looking at the record as a whole, the Examiner finds that the proposed use in Phases I and II is harmonious and compatible in design, character and appearance with the intended character and quality of development in the vicinity and with the physical characteristics of the site. With respect to these phases, measures have been taken to eliminate or reduce to the greatest extent possible the impacts that the proposed use may have on the immediate vicinity.

37. However, the Examiner has no basis for concluding that the operation of the auditorium facility will not be materially detrimental to uses or property in the immediate vicinity. Analysis is needed on traffic impacts from uses made of the auditorium.

38. Also, the record contains no analysis of the effects of glare from headlights in homes adjacent to the site. Given the invention of curtains, this is not a make it or break it issue for the school. However, it is a matter that should be addressed in analyzing Phase Three traffic.

39. Any conclusion herein which may be deemed a finding is hereby adopted as suc

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over these proceedings.
2. The City staff analyzed the application in light of goals and policies of the Comprehensive Plan and found it to be consistent with them. The Examiner concurs.
3. Education facilities are allowed as conditional uses in the R-1 District. BIMC 18.09.020.
4. The project, as conditioned, will meet relevant land use provisions of the Bainbridge Island Municipal Code (BIMC).
 - a) The combined lots meet the minimum lot size requirement. The proposal will meet the maximum lot coverage limit, and the buildings will be within the maximum building height limit. All proposed buildings will meet minimum building setbacks. BIMC 18.12.020.
 - b) The development will meet the Code requirements for landscaping, screening and tree care. BIMC 18.15.010.
 - c) Adequate parking will be provided for the non-auditorium operations. BIMC 18.15.020
 - d) The design meets requirement for pedestrian circulation and walkways for non-residential development, as well as requirements for bicycle facilities. BIMC 18.15.030.
 - e) Proposed downward directed outdoor lighting meets applicable regulations. BIMC 18.15.040.
5. As indicated by the approval of the Design Review Board, the project meets applicable Design Guidelines. Chapter 18.18 BIMC.
6. The project is consistent with decision criteria for Site Plan and Design Review. BIMC 2.16.04(E)
7. Phase I and II of the project, as conditioned, meet the decision criteria for a Conditional Use Permit. BIMC 2.16.050(D).
8. The proposal for Phase III should be remanded to the City for review of the traffic impacts associated with use of the auditorium proposed for construction during that phase. Conditional Use approval for Phase III is, therefore, withheld pending results of the remand.
9. Any finding herein which may be deemed a conclusion is hereby adopted as such.

PHASE I AND II CONDITIONS OF APPROVAL

SEPA Conditions (from MDNS issued February 27, 2017).

1. To avoid impacts to vegetation, no construction activity shall occur in landscape buffers or within the critical root zone of significant trees within landscape buffers, including staging, storage, materials laydown, parking, construction vehicle turn around, or equipment.
2. Prior to clearing permit or construction permit issuance, fencing shall be erected and posted with signage to protect areas of prohibited disturbance. Signs shall be affixed to the fence every 50 feet indicating the protected area. Fencing shall remain in place until construction is complete, and removal shall be subject to approval of the Planning Division. No construction activities, including grading and/or vegetation removal, shall occur prior to 'area of disturbance' plan approval and inspection and approval of the fencing installation, by the Planning Division.
3. A temporary chain link fence, a minimum five feet in height with tubular steel poles or "T" posts, shall delineate the area of prohibited disturbance in the following locations:
 - a. At the edge of the drip line of trees proposed to be preserved between N. Madison Avenue and the proposed access drive. Special care shall be taken to protect the significant trees, vegetation, and rain garden area adjacent to the driveway.
 - b. Along the buffer adjacent to the north property line.
4. Orange plastic fencing shall delineate the perimeter buffer where chain link fencing is not required and where existing vegetation is being preserved to meet the buffer requirement.
5. All graded materials removed from the subject property shall be hauled to and deposited at City approved locations. (Note: local regulations require that a grade/fill permit is obtained for any grading or filling of 50 cubic yards of material or more if the grading or filling occurs on sites that have not been previously approved for such activities. A SEPA Threshold Determination is required for any fill over 100 cubic yards on sites that have not previously received a SEPA determination.)
6. Contractor is required to stop work if any historical or archaeological artifacts are uncovered during excavation or construction and immediately notify the City Department of Planning and Community Development and the Washington State Office of Archaeology and Historic Preservation.
7. To mitigate possible impact on adjacent properties from light and glare, all exterior lighting shall be hooded and shielded so that the bulb is not visible from adjacent properties. All landscape lighting shall be downcast and lighting within surface parking lots shall be no higher than 5 feet above grade. All exterior lighting shall comply with BIMC Chapter 15.34.

8. All on-site stormwater facilities shall remain privately owned and maintained. The owner 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 issuance of occupancy permits. The approved language for the Declaration of Covenant is found in BIMC 15.21.

9. Stormwater detained in the proposed detention pond will be released at a controlled rate through a control structure and ultimately out through a dispersion tee located within 25 feet of the north-eastern property line. The nearest residence downgradient of the dispersion tee is within 50 feet. The release of stormwater from the detention pond shall be monitored for a minimum of 5 years to ensure proper function of pond and control structure and to ensure stormwater release is not detrimental to the neighboring property or structures. The monitoring plan shall be developed by the project stormwater engineer, reviewed and approved by the City, and included with the overall stormwater operation and maintenance plan.

10. The applicant shall be responsible for verifying water pressure and fire flows are adequate from connections to water mains.

11. All construction activities shall comply with the construction operating hours limitations contained in BIMC Chapter 16.16.

12. Noise produced by this development must comply with the maximum environmental noise levels established by the Washington Administrative Code 173-60 or its successor.

Examiner imposed conditions

13. To ensure that the Madrona School facility remains compatible with the surrounding neighborhood, the school is limited to an occupancy of 200 students and 27 teachers for standard school days. (This limitation does not apply to special events or functions.

14. To ensure historic and cultural resource preservation, a completed Washington State Historic Property Inventory Field Form shall be recorded with the State Department of Archaeology and Historic Preservation prior to the demolition of the historic home on the property.

15. A National Pollutant Discharge Elimination System (NPDES) permit from the Department of Ecology will be required prior to ground disturbing activities.

16. A Right-of-Way permit will be required prior to any work within the right of way. The ROW permit will be subject to separate conditions and bonding requirements.

17. Except for modifications reflecting compliance with these conditions of approval, building plans shall substantially conform to plans submitted on August 2, 2016, except as follows: Sheet A-1.00 submitted on September 22, 2016; Sheet C1-C3 submitted on January 10, 2017.

18. 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.

19. The project shall comply with the following conditions of the Fire Marshall:

- a. The project shall comply with all applicable provisions of the adopted Fire Code.
- b. All driving lanes within the project are considered Fire Lanes and shall be labeled as such by the Fire Marshal.
- c. Landscaping shall not impede access of fire department apparatus and personnel.

20. Prior to building permit issuance, a Boundary Line Adjustment shall be submitted and approved. The structures on any resultant lot must meet zoning requirements.

21. A minimum of nine bicycle spaces must be provided. Bicycle facilities shall allow secure locking of both frame and wheels of a bicycle.

22. In order to screen the proposed school from the adjacent single-family home to the south, a six-foot high solid wood fence shall be erected at the inner edge of the buffer on the south side of the property, prior to final inspection of the first phase of the project. (Note: this condition may be waived upon written request of the property owner to the south.)

23. All perimeter buffers shall be planted to the full screen landscape requirements in accordance with the submitted landscaping plan during the first planting season following the grading and access construction phase.

24. Landscape buffers shall be maintained for the life of the project.

25. New plantings shall be the following heights at time of planting: evergreen trees shall not be less than six feet in height; deciduous trees shall not be less than two-inch caliper dbh, evergreen shrubs shall be not less than 18 inches in height.

26. All plantings shall be installed or installation financially assured in accordance with BIMC 18.15.010(H) prior to occupancy of any of the new buildings. Subsequent to installation approval by the Department, maintenance assurity shall be required in accordance with BIMC 18.15.010(H).

27. The primary internal walkways shall be surfaced with nonskid hard surfaces (asphalt pavement or concrete), meet handicapped accessibility requirements and be designed to provide a minimum of five feet of unobstructed width.

28. The walkway adjacent to the pick up/drop off lane shall be curbed and raised six inches above adjacent vehicular surface grade, except where required to meet accessibility standards.

29. Raised curbs shall be used to define driveways from the public right-of-way, landscape areas within the parking lot, the ends of parking aisles, and the vehicular circulation pattern.

30. No parking or pick-up/drop-off shall occur on Madison Avenue or within the Windsong Loop neighborhood.

31. Outdoor trash/recycle receptacles shall be enclosed within solid, gated structure that is screened from view with evergreen vegetation.

32. No high field lights shall be allowed.

33. The project may have one sign at the entrance to the school. The sign shall be located outside of the public right-of-way and shall not exceed 10 feet square in size. It shall be constructed of natural materials. The height of the sign shall not exceed five feet from existing grade.

34. Prior to the issuance of any building permit, the landowner must record a notice of title listing these conditions of approval with the Kitsap County Auditor.

35. Prior to issuance of a building permit for Phase I or for Phase II, approval of a Building Site Application for on-site sewer and water facilities shall be obtained from the Kitsap Public Health District.

36. The applicant shall review experience at the exit from the site, and if this experience so indicates, shall limit exiting to right-turn only during pick-up and/or drop-off times.

37. The Tree Retention Plan, as accepted by the City, shall be adhered to during all phases of construction and in the future. Deviations therefrom may be allowed by the City only for good cause shown.

38. The school may not allow use of its facilities for commercial purposes. Non-profit organizations or religious groups may be permitted after-hour use of the Phase I and II facilities, provided that no function may continue beyond 9:00 p.m. and all functions shall be subject to strict conditions on noise and on the size of gatherings in order to minimize any disturbance of area neighbors.

39. The applicant shall request the Police Department to declare the area adjacent to the school on North Madison Avenue a school zone and to impose a speed limit appropriate to the zone. Signs reflecting the zone and the allowable speed should be installed.

40. Summer school sessions shall be limited so that no more than 40 students are in attendance on campus at any time.

ORDER

The application of Madrona School for Phase I and II Site Plan and Design Review and for a Conditional Use Permit (PLN 18970B SPR/CUP) is approved, subject to the conditions set forth above.

Phase III of the proposed project is remanded to the City for further investigation of the traffic impacts of the operation of the proposed auditorium.

SO ORDERED, this 23rd day of May, 2017.

/s/ Wick Dufford
Wick Dufford, Hearing Examiner Pro Tempore