

ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING

REGULAR SESSION - DECEMBER 1, 1997

The Board of Island County Commissioners (including Diking Improvement District #4) met in Regular Session on April 21, 1997, beginning at 9:30 a.m., in the Island County Courthouse Annex, Hearing Room, Coupeville, Wa. Mike Shelton, Chairman, Wm. L. McDowell, Member, and Tom Shaughnessy, Member, were present. Also in attendance were Margaret Rosenkranz, Clerk of the Board, and E. Meyer, Administrative Assistant to the Board.

VOUCHERS AND PAYMENT OF BILLS

The following vouchers/warrants were approved for payment by unanimous motion of the Board: Voucher (War.) #15700 - #15833.....\$ 159,127.94.

INTERLOCAL AGREEMENT BETWEEN ISLAND COUNTY AND THE CITY OF OAK HARBOR REGARDING DISTRICT AND MUNICIPAL COURT

Commissioner McDowell recalled that the Island County Justice Court Districting Committee in September of this year met and made recommendations to the Board, and based on their recommendations, the Board in October adopted Ordinance C-53-97 amending the Island County District Court Districting Plan to reflect the time the District Court Judge spends in Municipal Court from 30% to 24% as well as reduce the City of Oak Harbor's share of expenses from 30% to 24%. As a follow-on to that action, Commissioner McDowell presented for Board action an Interlocal Agreement between the City of Oak Harbor and Island County wherein the City agrees to compensate the County for judicial and associated costs of operating the municipal court [replaces prior agreement which was effective beginning 1/1/93]. The initial term of agreement is October 13, 1997 through December 31, 1998, and at the conclusion of that term, automatically renewed for successive two year terms unless the City or County gives written notice at least six months in advance. The amount of reimbursement is 24% of the actual joint judicial and associated costs of the Island County District Court and \$2,250.00 per month for use of County owned District Court facilities and equipment during the initial term of agreement, and the monthly amount for subsequent terms calculated by adjusting the monthly amount from the previous term by the same percentage as the change in the CPI from two years before.

By unanimous motion, the Board approved the new Interlocal Agreement between Island County and the City of Oak Harbor regarding District and Municipal Court.

RESOLUTION #C-79-97 PROCLAIMING DECEMBER 1997 "DRUNK & DRUGGED DRIVING PREVENTION AWARENESS MONTH"

The Board reviewed proposed Resolution to proclaim December 1997 as Drunk & Drugged Driving Prevention Awareness Month throughout Island County, urging all citizens, government agencies, police departments, public and private institutions, businesses, hospitals, emergency medical teams and schools to show support through word and deed to make the holidays safer and sober now and throughout the year.

JoAnn J. Hellmann, President, Island County Chapter, spoke in support of the Proclamation. While the holiday season is a time of happiness and cheer, she reminded that it is also a time when people are most at risk for being injured or killed by others driving under the influence. She requested that the County locate a box of red MADD ribbons in the Courthouse lobby so people can get a ribbon and tie it on their vehicle to remind others to drive safe and sober. She also mentioned that December 19 is *National Lights on For Life Day* and asked everyone drive with headlights on to remember those killed in impaired driving crashes.

The Board, by unanimous motion, adopted Proclamation under Resolution #C-79-97, proclaiming December 1997 as Drunk & Drugged Driving Prevention Awareness Month.

BEFORE THE BOARD OF COUNTY COMMISSIONERS

ISLAND COUNTY, WASHINGTON

IN THE MATTER OF PROCLAIMING)

DECEMBER 1997 AS DRUNK & DRUGGED) P R O C L A M A T I O N

DRIVING PREVENTION AWARENESS MONTH) RESOLUTION #C- 79 -97

_____)

WHEREAS, people are injured and killed each year on our state, county and local roads in alcohol-related crashes; and

WHEREAS, impaired driving needlessly threatens all our friends, neighbors, co-workers and family everyday somewhere in our towns and county;

WHEREAS, DUI arrests have increased 31 percent over the past four years from 429 throughout Island County in 1993 to 590 in 1996; and

WHEREAS, many people who drive under the influence are never caught and less than half of the people arrested are convicted; and

WHEREAS, dozens of volunteers in our towns and county have dedicated countless hours providing support of victims and helping to prevent further impaired driving tragedies; and

WHEREAS, *MADD* and its members and supporters pledge to continue diligent efforts to continue to drive the alcohol-related deaths and injuries down and to stop underage drinking; and

WHEREAS, *MADD* is asking all local town and county residents to "*Tie One On For Safety*" by participating in this national holiday public awareness program by tying a *MADD* ribbon to a visible location on their vehicles as a symbol that you join *Mothers Against Drunk Driving* in its hope for a safe and sober holiday season.

NOW THEREFORE BE IT RESOLVED that we do hereby proclaim ***DECEMBER 1997 as DRUNK & DRUGGED DRIVING PREVENTION AWARENESS MONTH*** throughout Island County and urge all citizens, government agencies, police departments, public and private institutions, businesses, hospitals, emergency medical teams and schools...to show your support through word and deed to help make the holidays safer and sober now and throughout the year.

APPROVED AND ENDORSED this 1st day of December 1997.

BOARD OF COUNTY COMMISSIONERS

ISLAND COUNTY, WASHINGTON

MIKE SHELTON, CHAIRMAN

WM. L. "MAC" MCDOWELL, MEMBER

ATTEST: TOM SHAUGHNESSY, MEMBER

Margaret Rosenkranz

Ex-Officio Clerk of the Board

APPOINTMENT TO ISLAND COUNTY HOUSING AUTHORITY

The Board, by unanimous motion, appointed Julia Hodsen to serve on the Island County Housing Authority, for a term to December 6, 2002.

APPLICATIONS FOR SPECIAL OCCASION LIQUOR LICENSES

Having received favorable recommendations from the Island County Sheriff's Office and the Health Department, the Board by unanimous motion, approved the following Applications for special occasion liquor licenses: (1) Special Occasion Liquor License #368785 class GJK by Island Arts Council; and (2) Special Occasion Liquor License #368790 class J by Greenbank Farm Mang. Group.

CONSOLIDATED HEALTH CONTRACT #9920-04737, AMENDMENT #7

Tim McDonald, Health Services Director, presented for approval Amendment #7 to Consolidated Health Contract #9920-04737, between Island County and the Department of Health and Island County, in the amount of \$2,306. The amended amount adds \$1,256 for the immunization program, and \$1,050 for the tobacco assistance program.

HEALTH INTERAGENCY AGREEMENT, SIGNIFICANT EXPOSURE PROTOCOL

Interagency Agreement between the Island County Health Department, Oak Harbor Police Department, Island County Corrections & Detention Facility, Whidbey General Hospital Emergency Department, relating to a "Significant Exposure Protocol". Mr. McDonald explained the protocol was for the purpose of staff of those agencies, outlining who does what if there is a significant exposure for one of the jail staff. This particular agreement was designed by the Legislature to cover jail personnel [a requirement of last year's legislature]. If a jailer is exposed to a prisoner's body fluids to the extent that jailer feels he/she may have been exposed to a blood born pathogen.

By unanimous motion the Board adopted Interlocal Agreement establishing the Significant Exposure Protocol as presented.

SOLID WASTE FUND UNCOLLECTIBLE WRITE-OFF APPROVALS – 1997

Larry Kwarsick, Public Works Director, presented a list of uncollectible debts due the Solid Waste Fund, totaling \$1,516.42. The action in writing these off is strictly a bookkeeping activity and the Department will still do what I can in terms of collecting those debts.

By unanimous motion, the Board approved the list of Solid Waste Fund Uncollectible Write Off Approvals for 1997 in the amount of \$1,516.42, as recommended by Mr. Kwarsick.

ADDENDUM # 6 TO PURCHASE & SALE AGREEMENT #23718, BETWEEN MARILEE A. AND PHILLIP BLACK AND ISLAND COUNTY FOR PURCHASE OF LOTS 1, 2 & PTN. LOT 3, BLOCK 31, PLAT OF COUPEVILLE

Based on the recommendation of Mr. Kwarsick, the Board by unanimous motion, approved Addendum #6 to the Purchase and Sale Agreement between Island County and Marilee Black and Phillip Black, for the purchase of Lots 1 and 2, and a portion of Lot 3, Block, 31, Plat of Coupeville, extending agreement until January 30, 1998.

SUBDIVISION IMPROVEMENTS PERFORMANCE BOND

FOR IMPROVEMENTS TO BRENTWOOD PRD, DIV. #1

A subdivision improvement bond was presented by Mr. Kwarsick, who recommended the Board's approval, as submitted by Krieg Construction, Inc. in the amount of \$120,000.00, to guarantee the completion of various improvements to Brentwood PRD, Division #1.

By unanimous motion, the Board approved Performance Bond for improvements to Brentwood PRD, Div. #1 from

Krieg Construction, Inc., in the amount of \$120,000.

HEARING HELD: Residential Areas of More Intensive Rural

Development, GMA Comprehensive Plan

A Public Hearing was held at 10:45 a.m., as scheduled and advertised, for the purpose of considering the recommendation of the Island County Planning Commission on Residential Areas or More Intensive Rural Development, GMA Comprehensive Plan. Chairman Shelton reiterated Hearing Record Instructions for conducting today's hearing [copy already on record].

Documents on Record for this Hearing:

- 1) Planning Commission recommendation, letter dated 11/26/97
 - 2) Issue Paper from 11/21/97 Workshop
 - 3) Letter from Lawrence D. Schall, Seattle, submitted by Tom Roehl
 - 4) Letter from Island County Citizens Growth Management Coalition
 - 5) Tom Roehl's 11/17/97 comments, representing two families who own lands immediately abutting the southern most boundary of Clinton NMUGA along and on the Water (East) side of Humphrey Road – with new map 12/1/97 showing the properties referenced
 - 6) Planning Commission 11/26/97 recommendation, annotated by Tom Roehl 12/1/97
1. Attendance Sheet
 2. Hearing Record Instructions

Ben Vincent presented the recommendation on behalf of the Planning Commission:

Following a thorough analysis regarding the issue of limited areas of more intensive rural development, including a Workshop on November 21st, 1997 and a Public Hearing on November 25th, the Planning Commission recommends the following:

A. Recommended Designations. There be at least the following three designations for limited areas of more intensive development (RAIDs):

- Residential RAIDs
- Non-residential RAIDs
- Mixed-use RAIDs

B. Recommended Residential Designation Criteria. The following criteria shall be used for the preliminary designation of Residential RAIDs:

General Criteria

1. Private Residential Communities (i.e. long plat, subdivision) that were created prior to July 1, 1990; and PRCs created prior to April 10, 1996, upon consultation with legal counsel.
2. Parcels that are adjacent parcels that have been subdivided into lots that are smaller than 2.5 acres.
3. Parcels that are adjacent to PRCs which are larger than 2.5 acres but are surrounded by higher density development.

Exclusions

1. Private Residential Communities with an average lot size larger than 2.5 acres.
2. Larger parcels that are within the water and sewer service boundaries but may not be adjacent to a subdivision.
3. Parcels in between or adjacent to designated PRCs that are 2.5 acres and larger but show a bluff or shoreline that greatly reduces its capacity to be built upon.
4. Private Residential Communities that are currently zoned Rural Residential (RR).
5. Private Residential Communities created prior to 1966 and less than 40% developed, unless water or sewer infrastructure is in place.
6. The minimum size for a Residential RAIDs shall be at least 10 improved residential parcels with water system hook-ups, which is the threshold at which water systems must receive State approval?
7. Plats that have a water moratorium may be included within a Residential RAID boundary if they meet other designation criteria.
8. Plats within designated noise zones or salt-water intrusion areas will not be allowed to have any expansion.

Additional Items to be Used for Consideration

1. Preservation of the character of existing natural neighborhoods and communities based on the following components: name of an area; age; size; location, density; historical growth rate; commercial development; community facilities and services; assessed valuation; landmarks; viewscapes; and physical boundaries.
2. Consideration of physical boundaries such as: bodies of water; streets (on a limited basis); arterial highways; land forms and contours; critical areas (wetlands, floodplains, steep slopes, wildlife habitat, aquifer recharge areas); and boundaries of designated resource lands.
3. The prevention of abnormally irregular boundaries by following follow plat, short plat and parcel lines in a manner that minimizes areas of a meandering boundary.
4. The ability to provide public facilities and public services as determined by the proximity to designated road and highway transportation routes, and the (b) reasonable proximity to a water system capable of meeting present and future needs.
5. Water and Sewer service boundaries.
6. Level of existing development.
7. Densities that exist within areas surrounding existing PRCs.
8. Land use plan policies and objectives.

Allowed Densities. Allowed densities within Residential RAID will be determined on an individual basis based on the existing development pattern, existence of infrastructure and neighborhood/community character.

Non-conforming Lots. Those parcel(s) that do not meet the criteria of Residential RAIDs but have already been granted some type of development approval (i.e. subdivision, permit, water rights, etc.) shall become non-conforming lots.

Age of Area/Use. The date of complete application constitutes vesting of a property or use.

Scale of Residential RAID Designation. County-wide, there will no more than a to be determined amount of lands

designated as RAIDs. The determination will be made, once a preliminary analysis is done to see the size and development capacity of a set of Residential RAID criteria.

Mr. Vincent noted a change to the above: delete on page 2 [lines #14 through #16]

Scale of Residential RAID Designation [verbiage is not correct and is not part of the presentation]

Bill Thorn, Camano Island, representing the Citizens Growth Management Coalition, supported changing the term "RAIDS". Generally speaking the Coalition supports what the Planning Commission has recommended, with a few areas to comment on. The Coalition requests that a vision statement be prepared, as it is a key element of the Plan and what all the goals and policies flow from. They also request that the population carrying capacity of Island County be established as being information basic to establishment of RAIDS. Population allocation is needed in order to forecast infrastructure and other requirements. The Coalition supports the designation of limited areas of more intensive rural development in selected areas of the county provided it is done in accordance with RCW 36.70A.070 5, rural element. The Coalition does not agree with item 2 under general criteria "parcels that are adjacent parcels that have been subdivided into lots that are smaller than 2.5 acres" viewing this as an invitation to sprawl and leading to an irregular RAID boundary, and conflicts with the Planning Commission comment further in the recommendation dealing with the irregularity of boundaries. The Coalition suggests adding another general criteria: areas that have a local planning organization established, i.e. planning areas for Freeland or Clinton. Mr. Thorn explained what he meant by finding out what the carrying capacity of Island County is: there are a variety of limitations on how many live in Island county without destroying what is here [water availability, transportation levels of service and localized areas where carrying capacity might be reflected in the ability to prove Infrastructure such as sewers, septic systems, etc.]

Commissioner McDowell believed the carrying capacity of the entire County far exceeded any allocation number the State has ever recommended. He was not sure what the total capacity or total numbers projected for the next 20 years were, but considering population that go in the cities, the number is not less than the carrying capacity, and the water on the Island he was sure exceeded those numbers that were already projected.

Mr. Thorn was not sure of that at all because of salt water intrusion in areas of Camano Island right now. Commissioner McDowell noted that from information received from the hydrogeologist there are six areas of salt water intrusion on Whidbey Island, all on waterfront areas.

Chairman Shelton made the point that if someone proposed a development in a known salt water intrusion area it would not be approved. There are existing regulations that govern development in salt water intrusion areas.

John Edison, Camano Island, referred to the map posted during today's hearing and noted that it looked a lot better than the previous maps he had seen, and felt it a large step in the right direction [urban growth areas gone from Camano Island]. His primary objection to the RAIDS is that the map really does not reflect the criteria for some of the definitions given, i.e. RAID on Camano Island immediately north of Lake Christopherson, surrounded by a lake, a farm and rural residential area. The large RAID on the southern neck of the Island literally cuts the Island in half and there is no wildlife corridor. He hopes that can be corrected, but saw today's proposal as a major step in the right direction. Although he approves of the concept of RAIDS he thought it should be tightened up a bit and felt the map should reflect the definition.

Mike Seraphinoff, Greenbank, indicated he had been involved in some of the drafting of the Coalition's paper submitted today and endorsed what was in the paper. His focus was on areas where local planning commissions have been formed and elected to form residential RAIDS in the context of subarea land use planning. At a meeting of the Planning Commission two weeks ago, he raised the issue that already existing community councils had suffered a bit of a setback in the planning process in that their vision statements had been removed from drafts. He did not really disagree with the idea of local planning groups for Freeland and Clinton but at the same time felt that existing community councils should be ignored in this process; he would like them acknowledged and that they do have value.

From the perspective of community councils being the voice of local folks, Chairman Shelton had absolutely not problem with. However, the actual legislation that formed the community councils he had a great deal of difficulty with because after going through the extensive process of developing a comprehensive plan under growth management, the councils can develop their

own comprehensive plans to fit in that particular area and present that to the Board of County Commissioners, and the

County would be required to defend whatever the council has enacted. He explained that his purpose was not to be in opposition to what he believes the Greenbank community represents which has some great advantages.

Commissioner Shaughnessy agreed, it was the It was the legislation and not the individual councils involved. As far as Camano Island is concerned, he has said in the past that they are more than welcome and he appreciates their input and the fact that they serve a purpose in the forum issue. The community councils serve a very good and practical purpose especially in the forum.

Mr. Seriphinoff said that he sent a letter to the Planning Commission, and wondered if there would be a process as far establishing a time when the Greenbank Community Council could discuss the status of their vision statement. Mr. Moore confirmed that the Planning Commission received the letter and would consider the request, would I respond back to Mr. Seriphinoff.

Tom Roehl, Professional Planner, Freeland, representing himself and several clients, noted that as a member of the Greenbank Council when the news of the vision statement change occurred, he remembered exchanging e-mails and the last time he saw those the Council was interested in revisiting that in light of all the new things that happened with GMA. His personal opinion was there was no need to have a topic in front of the Board as to whether the Council should or should not be recognized, rather the Council should do the work submit comments through the process already established. At the last meeting on the NUGAs he submitted a letter on behalf of the Moore and Paul families in Clinton, with an attached map, and asked that those be carried forward into this topic. On behalf of another client, Mr. Roehl submitted a letter from Lawrence D. Schall and family dated December 27, 1996, with a new attachment, a map illustrating their area.

Next, Mr. Roehl commented on the designation criteria the proposal today [Mr. Roehl submitted a copy of the Planning Commission Recommendation which Mr. Vincent read into the record today, annotated with Mr. Roehl's comments].

General criteria, item 3. The words "surrounded by" created in the past some confusion and controversy in terms of how literal it was interpreted, and he suggested that since these are preliminary designation criteria that at least for now clarify "surrounded by" by inserting the "or located between or amid".

Exclusions. Recommend after the heading "Exclusions" add in parenthesis the words "Pending Final Review".

Exclusion, Item 6. A structural comment: it is confusing – is this an exclusion or a criteria; it appears to be a criteria.

Re Coalition comment – concept of recognizing areas for which subarea planning is on-going through a committee and having those areas more generally recognized as potential future RAIDS subject to the subarea planing process he thought might be a good idea, and he includes Greenbank in that subarea planning.

Rich Melaas, Community Planning Liaison for NAS Whidbey, recommended that when the County considers the designation criteria for expansion of rural areas of intense development that environmental constraints, such as the Noise Zones and APZ's also be considered in those environmental constraints. He later clarified this statement to note that with regard to the issue of expansion he was addressing the fact that one of the preliminary criteria is lots that are adjacent to PRCs larger than 2-1/2 acres may be considered in part of the logical outer boundary of a RAID prior to its designation. Using that as a preliminary criteria, some of the anomalies and exceptions that are used to take those kinds of larger lots out of the RAID, APZs and Noise Zones also should be considered when expanding an existing PRC into the boundary of a RAID.

Commissioner McDowell questioned the recommendation in Item #6, Exclusions, in that it seemed not to be an exclusions, as much as a definition of size.

Mr. Vincent explained intent: if it did not meet that size it would have been excluded. The point Mr. Roehl brought up

is acknowledged and that can be used as a criteria and moved back up under general criteria.

Commissioner McDowell questioned, whether it becomes a criteria or exclusion, what does "10 improved residential parcels with water system hook-ups" – does that mean the houses have to be there?

Mr. Vincent replied in the negative, that there just had to be hookups available and meet the criteria of at least 10. It does not mean 10 houses have to be built – it has to be 10 lots with approved water available [reason selected 10 is because that is the State number for an approved water system]. Mr. Moore indicated that exclusion worked in tandem with exclusion #2 Commissioner McDowell wanted to make sure that would be clarified whether it becomes a criteria or exclusion.

Commissioner McDowell provided some general comments. With regard to RAIDS expanding, he clarified that once those lines are drawn they cannot be expanded ever on that particular RAID. An error can be corrected, but a RAID cannot be expanded as the law is currently written. He agreed with Mr. Roehl's comment about replacing the words "surrounded by" and putting in something like "located between" under General Criteria #3. With respect to the last item on page 2 [line 10] he had some concerns with regard to the term "non-conforming" lots. That term can be a problem for people who own non-conforming lots, such as when dealing with insurance, loans, county codes, etc. and urged coming up with a term other than non-conforming, i.e. pre-existing or pre-GMA lots.

Chairman Shelton agreed and noted they had talked before about the term non-conforming, and had discussed perhaps redefining what non-conforming means. Non-conforming has a specific meaning in Island County today so he suggested before continuing to use that term, that be changed to a more appropriate term through the development of the Plan.

Commissioner Shaughnessy addressed Exclusion #5 "Private Residential Communities created prior to 1966 and less than 40% developed, unless water or sewer infrastructure is in place " – and asked exactly what that means [Camano Island – an old subdivision Thunder Ridge came to mind].

Mr. Vincent thought Thunder Ridge would fall in that category, created prior to 1966 and less than 40% developed, so it would be excluded and it could be identified.

Chairman Shelton said that short of going back and trying to aggregate lots back together, something this Board is not interested in doing, how would the County get around the designation as a RAID if in fact the lots are there?

Mr. Moore indicated that it did not change any of the legal vested rights that those lots possess whether they are designated RAIDS or not. The purpose of the exclusion is to meet the intent of the Act and minimize the number of RAIDS that are established, given some form of recognition. He asked Bill Thorn for a clarification of #2 on page 2: is the concern of the Coalition that lots adjacent or surrounded by these somehow could be further subdivided? Mr. Thorn indicated that was the concern.

Mr. Vincent explained the way they came up with the numbers [40% #5 under Exclusions] was they asked for a ballpark or number to come up with as to what they could establish based on the information available at the time when this issue was discussed. That figure was 40%, and "prior to 1966" was so that would take into consideration for those properties that had not been built or completed - where they would actually be as far as a RAID.

Mr. Moore provided the example of Whispering Firs, South Whidbey, totally undeveloped, in place for some time. Under this criteria that would not be designated as a RAID; those parcels have all been sold but if some day there is some system developed where they could actually provide sewer and water services to that area and achieve the other infrastructure, he did not see there was anything whether that is designated or not designated a RAID that would prevent that development from occurring.

Commissioner McDowell did not believe a line drawn around a subdivision made much sense other than to recognize on a map that it exists; the real purpose is to identify where in a limited area you can have increased development and outside that area you cannot. And, Mr. Moore noted that the big question was, what lands outside of the developed areas are to be included and what are the criteria for including them.

Chairman Shelton asked if there is an existing residential development that does not meet the criteria as described is there some purpose in drawing a boundary around that development designating it as a RAID? He did not see any real advantage to drawing a line around an existing development, other than to show someone this is what currently exists. He thought that, or example, the only way Scatchet Head could expand at the densities that are there is if areas were designated for expansion there.

Mr. Moore provided clarification that if it is just around that existing development there is no value to that being done. Staff draft last November was hopeful that the 6094 amendments might provide an ability to take selected areas such as Useless Bay, Scatchet Head, and Brentwood, - recognize those as the basis for a community to build around, and the same thing

with Freeland and Clinton, so they can come into being as urban settlements in effect. The Legislature said to designate all those areas, which Mr. Moore believes serves no great purpose.

But as Commissioner McDowell pointed out, if nothing else, it identifies where those populations are; the real purpose of drawing that line around an individual subdivision is to call it a regular lot.

Mr. Dearborn explained that the original thinking for the RAID boundary was to eliminate the issue of non-conformance i.e. if drawing a boundary around an existing subdivision with no expansion that is in effect the only thing you are accomplishing by that boundary because there is no expansion potential there. The idea mentioned is appropriate and eliminates the need for defining every single non conforming area as a RAID, i.e. create a different way of treating those lots – call them existing lots and as Commissioner McDowell suggested would ensure those lot owners have every right and ability to build a home or use their property as if it were a conforming as a lot. Just because they have a lot that no longer meets the minimum lot size should not effectively serve as a cloud on their future potential.

The way those non-conforming lots were dealt with in the early Eighties with the 1985 zoning code was through a Certificate of Zoning compliance – it was binding on the County and the owner could take that CZC to a bank or loaning institution as documentation to show what they could and could not do with their lot. The CZC process should be reviewed to see how banks have used that and if that system can be refined so that existing lots that no longer conform with the minimum lot size are not penalized in terms of their abilities to use the property - and therefore no need to define every single subdivision as a RAID.

From his own personal experience, Commissioner McDowell believed that process was a big mistake on the part of a land owner – finding that when banks or loan institutions see something different it can be quite a hassle.

Mr. Dearborn noted that Criteria #1 referred to two dates, July 1, 1990 and April 10, 1996, and asks the question whether both dates can be used for doing the determinations. Certainly for Island County it would be hard to understand why a property that had gone through a PRD in 1992 or 1993 should not have the same benefit and treatment as a property that occurred before July 1, 1990. He suggested both, and to be identified differently – look at each one and make a judgment as to whether it is appropriate to include as a RAID or not, and have a good record of documentation for why it is if included as a RAID. July 1, 1990 is the date in the statute; anything included after that date must have very good rationale supporting that inclusion. Suggestion is to map them both, identify the ones after July 1, 1990 differently than those before that date, and look at each one carefully and make a judgment. He believed that Commissioner McDowell was correct in his description – at this point these are boundaries that are set and established and not allowed to expand.

Chairman Shelton discussed "Additional Items to be Used for Consideration" item #2, talking about wetlands, floodplains, steep slopes, wildlife habitat, and aquifer recharge areas. While wetlands are fairly scientifically designated, and flood plains and steep slopes having criteria, he questioned thought how wildlife habitat is defined. Some definition of that is in order.

Mr. Moore stated that included in the critical area definition is the concept that the use of the term "wildlife habitat" is for rare and endangered species as being the primary concern.

Commissioner McDowell asked about defining aquifer recharge areas for Island County inasmuch as the County is a sole source aquifer.

In that case, Mr. Moore pointed out there are definitions for high, medium and low recharge areas, but he did agree those probably should be refined; the concept is "as determined by the Critical Areas Ordinance".

The Commissioners agreed that rather than throwing those terms in and not having anyone understand what they mean is dangerous, and there should be more specificity.

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Board Decision

By unanimous motion, the Board adopted the recommendation of the Island County Planning Commission as stated in the two-page 11/26/97 memorandum from Island County Planning Commission, regarding the issue of limited areas of more intensive rural development, with the following changes:

- General Criteria

[line 17 page 1] #1 reading "Private Residential Communities (i.e. long plat, subdivision) that were created prior to July 1, 1990; and PRCs created prior to April 10, 1996, upon consultation with legal counsel." - those need to be mapped and looked at separately for those PRCs created after July 1, 1990.

- General Criteria

[line 20 page 1] 3. "Parcels that are adjacent to PRCs which are larger than 2.5 acres but are surrounded by higher density development" the words surrounded by to be replaced by language that would say "located between" or "amid".

- Exclusions

[line 31 page 1] Item 6 reading "The minimum size for a Residential RAIDs shall be at least 10 improved residential parcels with water system hook-ups, which is the threshold at which water systems must receive State approval?" be changed by deleting the word "improved" and adding the word "available" after the word "hook-ups".

- Additional Items to be Used for Consideration

[line 41-43] #2 reading "Consideration of physical boundaries such as: bodies of water; streets (on a limited basis); arterial highways; land forms and contours; critical areas (wetlands, flood plains, steep slopes, wildlife habitat, aquifer recharge areas); and boundaries of designated resource lands" definitions need to be clearer and with more definitive definition for wildlife habitat and aquifer recharge areas.

- Scale of Residential RAID Designation - page 2 - lines 14-16 - delete that language .

- More work needs to be done on Non-Conforming issue - as noted in the Board's discussion that more work needs to be done to come up with some other description for all those lots that are not inside RAIDs so they will not be called Non-Conforming.

FINAL APPROVAL/SIGNATURE - ORDINANCE #C-80-97 (PLG-020-97)

REZONE, REZ 004/93, LEE AND JUDITH HARMON

Mr. Moore presented for final approval, Ordinance #C-80-97 to finalize the reclassification of zoning from split Rural Residential and Residential to Residential for a 94 lot planned residential development, on Assessor's Parcels R23223-320-4270 and R23223-427-4920 located on the south side of North Camano Drive on the northwest side of Camano Island. Applicants are Lee and Judith Harmon, for Rezone #004/93. Preliminary conditional approval was granted by the Board on October 24, 1994. He confirmed Island County Staff recommendation of approval.

Commissioner McDowell commented from several on-site visits his observation this appeared to be an outstanding well thought out development and fits in with the surrounding property, and from an engineering aspect, water, stormwater, swales, looked like a great plat and he congratulated the Harmons and their team.

By unanimous motion, the Board adopted Ordinance #C-80-97, final approval of Rezone #004/93.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

<p>IN THE MATTER OF ZONING RECLASSIFICATION OF PARCEL R33230-225-2300 FROM RURAL RESIDENTIAL TO RESIDENTIAL FLOATING</p> <p style="padding-left: 40px;">OWNERS: Lee and Judith Harman, Trustees of Cascade Regional Eye Center, Inc. 401K Profit Sharing Plan and Trust</p> <p>635 N. Sunset Drive Camano Island, WA 98292</p>	<p>)</p> <p>) ORDINANCE NO. C-80- 97</p> <p>) PLG - 020-97</p> <p>)</p>
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WHEREAS, an application for Reclassification of Zoning, REZ 004/93, incorporating an application for a Planned Residential Development, PRD 002/93, and a Site Plan, SPR 048/94, was accepted by the Department of Planning and Community Development on May 21, 1993, to reclassify two parcels, approximately 102.8 acres, from split Rural Residential and Residential zoning to the Residential zone for the purpose of developing a 94 lot planned residential development, a new community water system, a water storage tank, trails and recreational area, and open space.

WHEREAS, the parcel is located on the northwest side of Camano Island, on the south side of North Camano Drive. The site is more particularly located in the southeast half of the northeast quarter of Section 23, Range 2 East, Township 32 North, W.M., tax parcel numbers R23223-320-4270 and R23223-427-4920

WHEREAS, said applications were heard at a public hearing before the Island County Planning Commission on August 30, 1994, and on September 27, 1994, the Planning Commission found the applications for zoning reclassification, planned residential development and site plan review to be in conformance with the Island County Code Chapters 17.02, 16.17, and 16.15, and prepared Findings of Fact and a Recommendation with Conditions of Approval ; and

WHEREAS, the Board of Island County Commissioners held a public meeting on October 24, 1994, and reviewed and accepted the Planning Commission Recommendation for conditional preliminary approval of the for zoning reclassification, planned residential development and site plan review; and

WHEREAS, applications to revise the planned residential development, PRD 343/96, and the site plan, SPR 352/96,

were accepted by the Department of Planning and Community Development on August 15, 1996, for the specific purpose of creating a phasing plan, reducing the number of proposed lots, relocating some recreation and open space areas, creating a private storage area for Recreational Vehicles, and relocating the proposed water tank; and

WHEREAS, said applications were heard at a public hearing before the Island County Planning Commission on January 28, 1997; and

WHEREAS, the Island County Planning Commission found the applications for the revisions to be in conformance with the original conditions of approval dated October 24, 1994, and with the Island County Code Chapters 17.02, 16.17, and 16.15, and they issued Findings of Fact, Conclusions, and a Recommendation with revised Conditions of Approval; and

WHEREAS, Board of Island County Commissioners held a public meeting on February 10, 1997, and reviewed and accepted the Planning Commission Recommendation for revised conditional preliminary approval of the planned residential development and site plan review; and

WHEREAS, an application for the first phase of the Final Planned Residential Development was submitted on July 24, 1997, and was reviewed by the Island County staff for conformance with the conditions of preliminary approval, and

WHEREAS, the conditions of Preliminary Approval of the zoning reclassification and the revised planned residential development have been met by the applicants;

NOW THEREFORE BE IT HEREBY ORDAINED that the parcel described in attached Exhibit A is consistent with the conditions approved by the Board of Island County Commissioners on October 24, 1995, and revised on February 10, 1997, and is hereby reclassified to the Residential Zone.

APPROVED AND ADOPTED this 1st day of December, 1997.

	BOARD OF COUNTY COMMISSIONERS OF ISLAND COUNTY, WASHINGTON
	MIKE SHELTON, CHAIRMAN
	Wm. L. McDOWELL, COMMISSIONER
	TOM SHAUGHNESSY, COMMISSIONER

ATTEST: Margaret Rosenkranz,

Clerk of the Board

EXHIBIT A

BY LEE AND JUDITH HARMON

STATE OF WASHINGTON

COUNTY OF ISLAND

IN THE MATTER OF EXTENSION OF THE)
BOND GUARANTEEING COMPLETION OF) RESOLUTION NO. C-81-97
WORK IN USA 492/96, Lee R. Harman)
Brentwood PRD) PLG-021-97
ISLAND COUNTY, WASHINGTON)
)

WHEREAS, the completion of work in Use Approval #492/96 has not been completed to County standards; and

WHEREAS, to assure the completion of the required work as described herein: wetlands restoration at Brentwood PRD has not been completed ahead of the required date of December 11, 1997; and

WHEREAS, to assure the completion of the above described work, the developer/applicant furnished Island County with a bond in the amount of (\$5,000.00) Five Thousand & no /100ths Dollars, guaranteeing said work; and

WHEREAS, an extension of time is necessary to complete the above referenced site improvements; NOW, THEREFORE,

IT IS HEREBY RESOLVED that the bond guaranteeing completion of the wetland restoration in USA 492/96 be extended this date in the amount of existing bond to guarantee completion of the work. Completion due date December 11, 1998.

DATED this 1st day of December, 1997.

**BOARD OF COUNTY
COMMISSIONERS**

ISLAND COUNTY, WASHINGTON

MIKE SHELTON, Chairman

WM. L. McDOWELL, Member

TOM SHAUGHNESSY, Member

ATTEST:

Margaret Rosenkranz

Clerk of the Board

PLANNING DIRECTOR APPROVAL:

VINCENT J. MOORE, Director

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

IN THE MATTER OF RECLASSIFICATION)

OF PARCELS #13303-156-4690 FROM)

RESIDENTIAL TO RURAL RESIDENTIAL) ORDINANCE NO. C-82-97

OWNER: KENNETH BUEHN) PLG-022-97

WHEREAS, an application for rezone, REZ 337/97, was accepted by the Department of Planning and Community Development on August 1, 1997, wherein Kenneth Buehn requests to reclassify a parcel containing approximately 10 acres, located in the Northwest quarter of Section 03, Township 33 North, Range 1 East, W.M., North Whidbey Island, from the Residential zone to the Rural Residential zone; and

WHEREAS, said application was heard at a public hearing before the Island County Hearing Examiner on November 6, 1997, and

WHEREAS, the Hearing Examiner found the said reclassification to be in conformance with Island County Code 17.02.210 - Island County Zoning Ordinance; and

WHEREAS, the Hearing Examiner prepared Findings of Fact, Conclusions of Law and Conditions of Approval on said reclassification, attached as Exhibit A; NOW, THEREFORE,

BE IT HEREBY ORDAINED that the property described in attached Exhibit B is consistent with the conditions set forth in Exhibit A, and is hereby reclassified to Rural Residential.

DATED this 1st day of December, 1997.

	BOARD OF COUNTY COMMISSIONERS ISLAND COUNTY, WASHINGTON
	MIKE SHELTON, CHAIRMAN Wm. L. MCDOWELL, MEMBER TOM SHAUGHNESSY, MEMBER
ATTEST: Margaret Rosenkranz Clerk of the Board	

The action proposed by this Ordinance has been reviewed and found to meet the current Island County Zoning and Land Use Statutes.

Vincent J. Moore, AICP

Director, Planning/Community Development

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**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

IN THE MATTER OF AN APPEAL OF THE ISLAND COUNTY HEARING EXAMINER'S DECISION IN SPR 021/96, ACCRUE, INC.))))	FILE NO. APP 418/97 CORRECTION APPEAL DECISION <u>FINDINGS OF FACT AND</u> <u>CONCLUSIONS OF LAW</u>
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This matter came before the Board of Island County Commissioners on October 27, 1997, upon appeal by Camano Action for Rural Environment, Inc. (CARE) of the September 15, 1997, Island County Hearing Examiner Decision granting conditional approval of Site Plan No. 021/96, Accrue, Inc., a proposal for a binding site plan to allow commercial development and subdivision of 11.33 acres of property known as "Terry's Corner" into twenty (20) individual lots and two (2) common area tracts. One common area tract will be utilized for storm water detention and the other will provide an area for storm water infiltration and sewage disposal system drainfields on Assessor's Parcels #R33220-050-1350, R33220-080-1300, R33220-085-1790, and R33220-093-2240. This is a closed record appeal. The record of this appeal includes the entire record as was before the Island County Hearing Examiner including the materials and information in the application file, the Island County staff report, the Hearing Examiner decision, the minutes of the public hearing, the Island County Code and Comprehensive Plan, the applicable State codes, together with Appellants' notice and basis of appeal filed with this Board.

Having reviewed the record and independently reviewed applicable ordinances and legislation, THEREFORE, the Board of Island County Commissioners makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

I.

According to the site plan review application, Assessor Parcels #R33220-050-1350, R33220-080-1300, R33220-085-1790, and R33220-093-2240 are owned by Consumer's Choice Inc., 1266 Bouslog Road, Burlington, WA 98233. The subject property is currently undeveloped, relatively level, triangular in shape, and bordered on all three (3) sides by paved roadways, State Highway 532 on the south, North Camano Drive on the

north, and Sunrise Boulevard on the west. With the exception of a large pile of excavated earth in the northeast corner of the property, there are no significant topographical variations due to grading activities in the past. The overall downward slope of the site is to the south, approximately 1 to 2 percent. Vegetation on the site consists of grass and shrub/brush. There is an existing drainage way across the property that consists of a 24 inch culvert. The existing culvert will be replaced with a 48 inch culvert as required by the Mitigation Agreement between the property owners and Drainage District #5.

II.

An application for a binding site plan for twenty commercial lots on Assessor parcels #R33220-050-1350, R33220-080-1300, R33220-085-1790, and R33220-093-2240 located at the intersection of North Camano Drive and State Highway 532 was signed by the owner and submitted by Accrue, Inc., P. O. Box 673, Stanwood, WA 98292, to Island

County on January 17, 1996. Island County accepted the application as complete for review on February 12, 1996. The applicant has indicated an intent to create a unique commercial development that is in character with the surrounding rural community. The proposed lots will be individually sold prior to construction of buildings. Conditions of approval of this binding site plan, covenants and restrictions (CC&Rs) and an Association Agreement binding on all owners, will require that they participate in building and maintaining a semi-rural, village type commercial development.

III.

After review by Island County, the Planning and Community Development prepared a staff report and recommended conditional approval of the application to the Island County Hearing Examiner. The Island County Hearing Examiner issued a decision of conditional approval on September 15, 1997. The appeal of the decision was received by Island County on September 26, 1997, and is a timely appeal filed within 15 calendar days of the date of the issuance of the decision. The closed record hearing by the Board of Island County Commissioners was set for and held on October 20, 1997, in conformance with ICC 16.19.160, Land Use Review Process - Appeals.

IV.

The land uses surrounding the proposal are primarily residential, farming, and agriculture on large lots. Farms, fields, stands of trees, and isolated clusters of buildings dominate the landscape. There are a few non-residential structures (fire station, a cemetery, and a bank) in the immediate vicinity and adjacent to the subject site, but these uses generate relatively low activity levels and traffic volumes, and do not dominate the character of the area.

V.

The subject parcels were zoned Non-Residential (NR) in 1984 pursuant to ICC 17.02.040.C.2. Before that time, the site was zone Commercial under the Interim Zoning Ordinance. The Board of Island County Commissioners adopted Legislative Intent for the Non-Residential zone with the 1984 Zoning Ordinance, and it recognizes some lands that were zoned commercial or light industrial may not be appropriate locations for some types of commercial or industrial development. The Non-Residential zoning at Terry's Corner is not entirely appropriate given the existing surrounding land uses; however, the site is bounded by a major arterial and a state route, and it is not well suited to residential use or farming use. Because of its location at the intersection of a state highway and a major arterial serving the island, Terry's Corner is highly visible and is considered an entryway to much of Camano Island. While some types of non-residential uses would be appropriate in this location, they must be carefully evaluated through the Site Plan Review Process for consistency with all applicable regulations and for consistency with the Comprehensive Plan to ensure that only uses which are compatible with the surrounding area are allowed. It is clearly not the intent of the Zoning Ordinance that all Non-Residential uses be allowed on all sites zoned Non-Residential. Requirements for the Non-Residential zone are listed in ICC 17.02.105, and it requires all parcels designated Non-Residential to be maintained and/or developed consistent with both ICC 16.15, Site Plan Review Ordinance, and ICC 17.02, Zoning Ordinance. The criteria for the review of a site plan are listed in ICC 16.15.040.

VI.

The Island County Comprehensive Plan, Planning Policy Phase II, was adopted on August 1, 1977. Island County is applying the provisions of the 1977 Comprehensive Plan until such time as a new Comprehensive Plan pursuant to the Growth Management Act is adopted. Island County and the three municipalities within the county adopted County Wide Planning Policies on June 22, 1993, and Interim Urban Growth Areas in October and November 1993. The 1977 Island County Comprehensive Plan provides guidance as to which types of uses are appropriate in a specific area. It has five classifications for commercial uses, all are described in Section III, Optimal Land Use Pattern, Part II, Commercial Areas, Part D, Development Guidelines. According to this section, Terry's Corner is specifically designated as a Retail Business Center where future business should be clustered with a safe internal circulation network and limited highway access. The Retail Business Center is further defined (Comprehensive Plan Table III-A) as "clusters of five to ten establishments providing retail services similar to neighborhood commercial." Services offered include restaurants, banks, food, drug and variety stores. Service stations or any other business that serve people remaining in an automobile for fast service are not listed as uses to be included in a `Retail Business Services, and are clearly not intended to be allowed in such areas. Service stations are specifically listed only in the Community

Business Centers and General Commercial in the Comprehensive Plan.

VII.

With the exception of the gas station and the fast food business, most of the uses proposed on the site plan will have relatively low activity levels and low traffic volumes and meet the goals and policies of the Comprehensive Plan. In order to provide a transition between the proposed project and the surrounding area, the Island County Hearing Examiner's decision mandates the provision of a forty-foot landscape buffer consisting of enhanced native vegetation around the entire project and the imposition of required standards for building design, size, height, materials, and colors. These conditions will substantially lessen the visual impact. Gas stations and other uses that serve people staying in their automobiles or provide quick service and turn-around to a high number of people (such as fast food businesses) have higher levels of activity, lighting, noise and traffic than office and general retail uses and those associated impacts could not be substantially mitigated through a landscaping buffer or building design. Their hours of operation are generally long, extending well into the evening and early morning, so that activity, lights and noise occur around the clock. They include drive-up stacking lanes, a higher percentage of coverage by impervious surfaces, and more parking spaces than office and general retail uses and the surrounding residential and farming uses. Traffic patterns for these uses are generally quick in and out trips by numerous vehicles. This will surely disrupt the use of the surrounding area for residential purposes. These uses do not meet the intent of the Retail Business Center designation in the Comprehensive Plan nor the site plan review criterion ICC 16.15.040.A.3 that requires a "compatible transition with the surrounding community, existing and proposed land uses, and general development pattern." An additional condition prohibiting these types of uses from the project would lessen the overall impacts of the project on the surrounding areas, and it would also enhance the effectiveness of the other, already required conditions in providing a transition between uses. The transition from the proposed project to the surrounding areas would be substantially mitigated and therefore the site plan review criteria and the comprehensive plan would be met by a modification to the conditions of approval.

VIII.

The Island County Public Works Department required a professional traffic study. There is no access proposed or permitted from State Highway 532 and only limited access allowed to North Camano Drive. The study indicates the project will not lower levels of service (LOS) standards. Any development of the site will cause increased traffic flows; however, existing standards will not be out of compliance because of this proposal. Further mitigation of potential impacts on the surrounding areas will be achieved through the prohibition of specific types of land uses that generate high levels of traffic volume; demands for parking spaces, and numbers of people. Prohibition of specific uses will decrease the probability of circulation problems and potential for traffic accidents.

IX.

A condition of preliminary approval is an adequate water supply to serve the proposed project; Island County Health Department received a letter of commitment from a purveyor, Camano Village Water System. If the purveyor cannot provide adequate quantities or quality of water prior to final approval of the site plan, the project must be scaled down or abandoned.

X.

The regulations for sewage disposal in place at the County and State levels are designed so ground water supplies receive the greatest protection possible. Those regulations include pollution-free set-backs from wells, pre-treatment of septic effluent and careful analysis of soils receiving effluent. Regulations on installation of the proposed on-site system will address area concerns for groundwater contamination.

CONCLUSIONS OF LAW

I.

The proposed division of this property into individual lots can be approved under state subdivision statutes through the adoption of a binding site plan. In order to approve the applicants proposed commercial development on this site, the development must be consistent with the Island County Comprehensive Plan, the site plan review criteria of ICC 16.15.040, and the development standards applicable to this type of development, as set forth in ICC 17.02.

II.

The Island County Public Works Department and Health Department have provided conditions to ensure compliance with county and state regulations regarding traffic, drainage, access, erosion control, water supply and sewage disposal. Their requirements are included in the Hearing Examiner conditions of approval.

III.

The Island County Comprehensive Plan Optimal Land Use Map designates the area for "Retail Business Services". The site is also bordered on two sides by scenic corridors. Subject to the conditions of approval required by the Hearing Examiner with one modification to prohibit specific uses regarding the service, repair or maintenance of automobiles, service to people in automobiles, and/or quick service and turn-around to a high number of people such as fast food businesses, the proposed development of this site will be consistent with the Island County Comprehensive Plan.

IV.

The subject parcels are zoned Non-Residential and the proposed uses are allowed in Non-Residential zones subject to site plan approval. Uses and designs may be limited or prohibited based upon the provisions of the Comprehensive Plan, the Site Plan Review Ordinance ICC 16.15, and the Zoning Ordinance ICC 17.02. The prohibition of specific uses listed in the preceding section III is in conformance with the Site Plan Review Criteria, ICC 16.15.040.

V.

With one modification, the conditions of approval required by the Island County Hearing Examiner in his decision of September 15, 1997, are appropriate and sufficient to bring the project into compliance with the site plan review criteria of ICC 16.15.040 and the development standards of ICC 17.02. Subject to one modification to the conditions of approval, the binding site plan approval by the Hearing Examiner should be upheld.

VI.

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following:

DECISION

Based upon the foregoing, we find that:

The conditional approval of the preliminary binding site plan granted to Accrue, Inc. by the Island County Hearing Examiner on September 15, 1997 under SPR 021/96 approving a proposed subdivision of the 11.33 acres known as Terry's Corner, Assessor Parcel Numbers R33220-050-1350, R33220-080-1300, R33220-085-1790, and R33220-093-2240, into twenty (20) individual lots for commercial development and two (2) common area tracts, is **UPHELD WITH A MODIFICATION AS FOLLOWS:**

A. The following uses are prohibited from this project:

1. Gas station and convenience shop,
2. Fast food restaurant.

APPROVED AND ADOPTED this 1st day of December, 1997.

	BOARD OF COUNTY COMMISSIONERS OF ISLAND COUNTY, WASHINGTON
	MIKE SHELTON, CHAIRMAN
	TOM SHAUGHNESSY, COMMISSIONER

ATTEST:

Margaret Rosenkranz, Clerk of the Board

**BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON**

Mike Shelton, Chairman

Wm. L. McDowell, Member

Tom Shaughnessy, Member

Attest:

Margaret Rosenkranz, Clerk of the Board

