APPLICATION: The applicant is seeking Preliminary Plat Approval for the subdivision of one parcel, containing approximately sixteen acres into thirty-one residential lots. The property is located in the Penn Cove Residential Area of More Intensive Development and under the applicable code provisions can be subdivided into thirty-two lots. The property is located on the east side of Monroe Landing Road at the terminus of Wildwood Drive. The Penn Cove Water District has agreed to provide water to the lots and the Penn Cove Sewer District has agreed to provide sewage disposal to the lots.

DECISION: Preliminary Long Plat Approval is granted to the proposal subject to the conditions set forth in the staff report.

FINDINGS OF FACT

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted herein and evidence presented at the public hearing on November 15, 2007.

I. PRELIMINARY INFORMATION

Applicant: Firchau Construction Company, Inc.

Property Location: The parcel is located on the east side of Monroe Landing Road at the terminus of Wildwood Drive, Oak Harbor, WA. Assessor’s Parcel No. R13222-197-1650.

Applicable Ordinances, Statutes and Regulations: Chapter 17.03, Zoning Ordinance; Chapter 16.15, Site Plan Review Ordinance; Chapter 16.19, Land Use Review Process, and Chapter 16.14C, County Environmental Policy.
SEPA: A Notice that a SEPA Threshold Determination of Non-Significance would likely be issued on the proposal was issued on June 13, 2007. Island County issued a Determination of Non-Significance on October 17, 2007 under WAC 197-11-340.

Publication: November 3, 2007

Mailing of Notice to Applicant: October 17, 2007

Sign Posted: June 12, 2007

Mailing of Staff Report: November 5, 2007

Date of Application: May 24, 2007

Hearing Date: November 15, 2007

Exhibit Log:
1. Staff Report
2. Pre-Application Conference application dated 9/21/06
3. Request for comment dated 9/29/06
4. Parcel Data Sheet
5. Account Summary Snapshot
6. Screen-print of database Parcel Permit information
7. GIS Critical Area Map
8. Quarter Section
9. Letter from Monica Felici, Island County P&CD to Larry Kwarsick notifying of Pre-Application Conference, dated 9/29/06
10. Recommendation from Central Whidbey Island Historical Preservation District Review Committee to Larry Kwarsick
11. Email from Jennifer Meyer NASWI to Andrew Hicks, Island County P&CD, Island County P&CD, dated 10/4/06
12. Email from Kirsten Harma to Andrew Hicks, Island County P&CD, dated 10/12/06
13. Pre-Application Meeting Sign In Sheet, dated 10/26/06
14. Pre-Application Staff Comments from Andrew Hicks, Island County P&CD to Larry Kwarsick, dated 10/26/06
15. Pre-Application Comments from Aneta Hupfauer, Island County Public Health to Larry Kwarsick, dated 10/26/06
16. Pre-Application Comments from John Bertrand, Island County Public Works Roads Division to Larry Kwarsick, dated 10/26/06
17. PLP 225/07 Land Development Permit Application, dated 5/24/07
18. Application for Long Plat - Preliminary, received 5/24/07 with the following attachments:
a. Letter from Wetland Resources, Inc. to Firchau Construction Co., dated 11/14/06
b. Letter from Penn Cove Water & Sewer District to Firchau Construction Co, dated 10/02/06
c. Certificate of Transportation Concurrency
d. Certificate of Transportation Concurrency, Attachment A
e. Memorandum from Transportation Engineering Northwest, LLC to Larry Kwarsick, dated 10/18/06
f. Drainage Report by Davido Consulting Group, Inc., dated 5/07
g. Environmental Checklist
h. Application for Access to County Road Right of Way, dated 2/22/07
19. Notice of completed application from Monica Felici, Island County P&CD to Larry Kwarsick, dated 6/1/07
20. Notice of Application with SEPA
21. Notice of request for applicant to participate in an analysis project of the study of the current conditions of the wetlands in Island County
22. Request for Comments, dated 6/1/07
23. Comment from Central Whidbey Island Historical Preservation District Review Committee to Firchau Construction
24. Letter from Aneta Hupfauer, Island County Public Health to Andrew Hicks, Island County P&CD, dated 6/5/07
25. Affidavit of Mailing public notice to Larry Kwarsick, dated 6/8/07
26. Affidavit of Mailing public notice to attached list for notification of type III application, dated 6/8/07
27. Affidavit of Posting of Sign from Larry Kwarsick, dated 6/12/07
28. Undeliverable mail returned 6/12/07 from type III application notice
29. Undeliverable mail returned 6/12/07 from type III application notice
30. Undeliverable mail returned 6/13/07 from type III application notice
31. Undeliverable mail returned 6/21/07 from type III application notice
32. Affidavit of Publication in the 6/13/07 WNT/Record, dated 6/13/07
33. Public Comment received from Peter Gebhard, dated 6/14/07
34. Public Comment received from Richard & Mary Mueller, dated 6/27/07
35. Letter from John Bertrand, Island County Public Works Roads Division to Andrew Hicks, Island County P&CD, dated 8/9/07
36. Letter from Justin Craven, Island County P&CD to Andrew Hicks, Island County P&CD, dated 8/16/07
37. Letter from Andrew Hicks, Island County P&CD to Larry Kwarsick, Sound Planning Services, dated 8/16/07
38. Email from Larry Kwarsick, Sound Planning Services to Andrew Hicks, Island County P&CD in reply to sign placement, dated 8/16/07
39. Email from Larry Kwarsick, Sound Planning Services to Andrew Hicks, Island County P&CD, dated 8/20/07
40. Second email from Larry Kwarsick, Sound Planning Services to Andrew Hicks, Island County P&CD, dated 8/20/07
41. Email from Aneta Hupfauer, Island County Public Health to Larry Kwarsick, dated 8/20/07
42. Letter from Aneta Hupfauer, Island County Public Health to Andrew Hicks, Island County P&CD, dated 8/21/07
43. Email from John Bertrand to Larry Kwarsick, dated 8/22/07
44. Email from Larry Kwarsick to Andrew Hicks, Aneta Hupfauer & John Bertrand, dated 8/27/07 with attached Capacity & Fire Flow Documents
45. Letter from Davido Consulting Group, Inc. to Andrew Hicks, Island County P&CD in response to agency comments, dated 9/25/07
46. Letter from Aneta Hupfauer, Island County Public Health to Andrew Hicks, Island County P&CD, dated 10/4/07
47. Letter from John Bertrand, Island County Public Works Roads Division to Andrew Hicks, Island County P&CD, dated 10/8/07 regarding additional information
48. Letter from Larry Kwarsick, Sound Planning Services to Andrew Hicks, Island County P&CD, dated 10/8/07 regarding request for additional information
49. Email from Larry Kwarsick, Sound Planning Services to Andrew Hicks, Island County P&CD, dated 10/9/07 regarding critical areas
50. Letter from Justin Craven, Island County P&CD to Andrew Hicks, Island County P&CD, dated 10/15/07
51. Final SEPA Threshold Determination of Non-Significance, dated 10/16/07
52. Affidavit of Mailing SEPA Threshold Determination to POR, dated 10/17/07
53. Affidavit of Mailing SEPA Threshold Determination to Contact person, dated 10/17/07
54. Notice of hearing date from Paula Bradshaw, Island County Hearing Examiner’s Office to Larry Kwarsick, Sound Planning Services, dated 10/17/07
55. Map C100 Cover Sheet, dated 5/17/07
56. Map C200 Site Plan (North Half), dated 5/17/07
57. Map C201 Site Plan (South Half), dated 5/17/07
58. Map C300 Grading & Tesc Plan (North Half), dated 5/17/07
59. Map C301 Grading & Tesc Plan (South Half), dated 5/17/07
60. Map C400 Drainage Plan (North Half), dated 5/17/07
61. Map C401 Drainage Plan (South Half), dated 5/17/07
62. Map C500 Water Plan (North Half), dated 5/17/07
63. Map C501 Water Plan (South Half), dated 5/17/07
64. Map C600 Sewer Plan (North Half), dated 5/17/07
65. Map C601 Sewer Plan (South Half), dated 5/17/07
66. Map C700 Sanitary Sewer Profiles, dated 5/17/07
67. Map C701 Scannon Loop Road Profiles, dated 5/17/07
68. Map C100 Cover Sheet, dated 9/15/07
69. Map C200 Site Plan (North Half), dated 9/15/07
70. Map C201 Site Plan (South Half), dated 9/15/07
71. Map C300 Grading & Tesc Plan (North Half), dated 9/15/07
72. Map C301 Grading & Tesc Plan (South Half), dated 9/15/07
73. Map C400 Drainage Plan (North Half), dated 9/15/07
II.

The applicant is seeking Preliminary Plat Approval for the subdivision of one (1) parcel, containing approximately sixteen acres into 31 residential lots. The property is located in the Penn Cove Residential Area of More Intensive Development and under the applicable code provisions can be subdivided into 32 lots. The property is located on the east side of Monroe Landing Road at the terminus of Wildwood Drive. The Penn Cove Water District
has agreed to provide water to the lots and the Penn Cove Sewer District has agreed to provide sewage disposal to the lots.

III.

This proposal has been reviewed by Island County Planning & Community Development for compliance with the Island County Code and RCW 58.17. Planning Department staff has concluded that the application meets all of the requirements of the Island County Code and has recommended approval in a staff report, a copy of which is attached hereto.

The applicant indicated that the factual findings set forth in the staff report were accurate and that the applicant had no objection to any of the requested conditions of approval.

The Planning Department received written comments on this proposal during the comment period after notice of the proposal was published and notices were mailed to the property owners entitled to them.

There was public testimony at the hearing. There were also a number of people present at the hearing that clearly had concerns about the proposal but chose not to testify.

Those that expressed concern either in writing or at the public hearing were residence in the area in which the proposed plat is located. They raised concerns about potential impacts on neighboring existing residential development through traffic and storm water drainage. Concerns were also raised about impacts on local wildlife, including Eagles and Herons.

One of the persons who testified suggested that they would not or should not retain utility services for the development.

A traffic study was done for the proposed development. The development will increase traffic on roads in the immediate vicinity, including Wildwood Court which runs through and adjacent to an already existing residential subdivision.

A residential development at the density of two lots per acre is allowed in this zone. Residential development at this density will always increase traffic and reduce existing open space. However there is no evidence in the record that this would have a substantial adverse environmental impact. A SEPA threshold determination of Non-significance was issued. This determination was not appealed.

Increase traffic can be expected. A somewhat common rule of thumb used for residential traffic impacts is ten trips per day per unit. At full build out this could add an additional three hundred plus trips up or down Wildwood Court. There is no evidence that the roads existing as well as those proposed will be incapable of handling the additional traffic.
The applicants are required to propose an engineered storm water drainage plan. A preliminary plan has been reviewed by Island County Public Works and has been approved. A final drainage plan will need to be approved prior to final plat approval by Island County. Island County ordinances do not allow an increase in storm water runoff as a result of a residential development. The amount of storm water leaving the site after this development is complete cannot exceed that which is currently leaving the site. The storm water drainage plan and detention are designed to ensure these standards are met.

IV.

The Findings of Fact set forth in the staff report are supported by the record as a whole. A copy of the staff report is attached hereto and incorporated herein by this reference. The Hearing Examiner hereby adopts the Findings of Fact set forth in the staff report as Findings of Fact herein.

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

CONCLUSIONS OF LAW

I.

The site proposed for residential development is within a Residential Area of More Intense Development. Pursuant to the Island County Comprehensive Plan and Zoning Ordinance, residential infill is an intended use for this property. The subject parcel has been designated for residential infill and development pursuant to the Growth Management Act, and any objection to this designation would have to have been made at the time the Ordinance was adopted. Persons who object to the designation would have had to appeal the designation to the Growth Management Hearings Board. Questioning the designation of this site for residential development is beyond the jurisdiction of the Hearing Examiner.

II.

The Hearing Examiner concludes, consistent with the conclusions of Island County Planning and Community Development, that the proposed development is consistent with the Island County Comprehensive Plan, with the applicable standards for development set forth in the Zoning Ordinance and Subdivision Ordinance and with the requirements for Preliminary Plat Approval as set forth in ICC 16.06.110.C.

III.

The Island County Health Department, The Island County Public Works Department, and the Critical Area Specialist have all indicated that the proposed preliminary plat is
consistent with applicable Island County Ordinances, subject to compliance with the conditions of approval they have recommended.

The Island County Hearing Examiner concludes that the proposal is consistent with the applicable provisions of the Island County Code and that it should be approved. The Hearing Examiner concludes that subject to the conditions of approval the proposed subdivision meets the requirements of RCW 58.17.

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**

The Island County Hearing Examiner hereby grants Preliminary Plat Approval for the proposed creation of thirty-one residential lots on Assessors Parcel number R13222-197-1650, subject to the following conditions of approval:

1. Compliance with Island County Public Works requirements as specified in the attached comments and conditions dated October 8, 2007.

2. Compliance with Island County Health Department requirements as specified in the attached comments and conditions dated October 4, 2007.

3. Prior to final plat approval, all site and off-site improvements required as a condition of preliminary approval shall be complete, OR, at the discretion of the Board of Island County Commissioners by recommendation of the Planning Director and County Engineer shall be bonded for.

4. All utilities installed on-site shall be underground.

5. All proposed development shall comply with the state noise ordinance, air pollution control regulations, water quality standards, and all other pertinent codes and ordinances.

6. Prior to submittal of the Final Long Plat application, obtain approval of (1) a Private Road Name Petition (attached) and thirty-one (31) individual addresses for the proposed lots. Pursuant to ICC 14.04, RCW 58.17.280, Ordinance #C-32-96, the addresses must appear on the final short plat map and the following standards for posting the address must be followed:
   
   The property owner shall post the address in a manner that it can be read from the public or private road accessing the addressed property and provide adequate identification of the addressed property in accordance with the following. Addresses shall be posted on the addressed building, with one-half inch (1/2”) channel numerals at least five inches (5”) in height, in colors contrasting with the background in such manner and location as to be clearly visible from the road. In instances where the main building's posted address is not clearly visible from the road, house numbers shall be visibly posted at one location at a height between four feet (4’) and eight feet (8’) from road level and anywhere within an arc of 30 feet.

Island County Hearing Examiner
PLP 225/07 Firchau Construction Company, Inc.
from the point of intersection of the driveway with the access road, with numerals at least three inches (3") high on a contrasting background and visible when traveling in either direction.

7. The following shall appear under “Restrictions” on the final plat map:

“Lot size averaging was used in accordance with Chapter 17.03.070 to create lots that are smaller than the required minimum lot size. No lots in this subdivision may be further divided.”

8. Of the lots created by this long plat, twenty-one (21) lots will be less than the minimum lot size as established by ICC 17.03.075. Therefore, the following shall appear under “Restrictions” on the final plat map:

“No variances shall be granted to reduce the setbacks for any lots within this subdivision.”

9. In addition to the standard final map requirements, the following shall also appear on the face of the final plat:

A. The complete plat number and existing parcel number must appear at the top right corner of each sheet of the final plat as follows:

   **LONG PLAT NO. PLP 225/07 R13222-197-1650**

B. The name of the subdivision: **Penn Cove Park, Division #3**

C. (Approved Private Road Name) ________ (Private)

10. The subject parcel is located in a high noise area, identified as Noise Zone 2 on the Air Installation Compatible Use Zones Study for Naval Air Station at Whidbey Island. The following shall appear under Notes on the final plat map:

“This parcel is located within the AICUZ Noise Zone 2 impacted area. Persons on the premises may be exposed to a significant noise level as a result of airport operations. Island County has placed certain restrictions of construction on parcels within airport noise zones. Before purchasing or leasing from the above site, you should consult the Island County Noise Level Reduction Ordinance to determine the restrictions which have been placed on the subject site.”

11. The following must appear on the final survey under Notes:

“This site is located within the Central Whidbey Historical Preservation District. Historical Advisory Committee review of all structures is required prior to issuance of a building permit.”

Island County Hearing Examiner
PLP 225/07 Firchau Construction Company, Inc.
12. There is a Commercial Agriculture zoned parcel within 500 feet of the subject parcel; therefore, compliance with the provisions of ICC 16.25.040 is required. The following declaration must appear on the face of the final long plat.

“Applicant and Applicant’s heirs, legal representatives, assigns, and lessees, hereby acknowledge and agree to accept by the placement of this notice, and the acceptance and recording of this instrument, that 1) The property herein described is situated within five hundred (500) feet of agricultural, forest land, or a surface mining operation, or lands designated mineral lands of long term commercial significance; 2) A variety of commercial activities may occur on these lands that are not compatible with residential development for certain periods of limited duration, and therefore the property may be subject to noise, dust, smoke and odors resulting from harvest, planting, fertilization, waste disposal and pest control associated with permitted agricultural, surface mining or forest practices; 3) For mineral lands these activities may include mining, extraction, screening, washing, crushing, stockpiling, blasting, transporting and recycling of minerals; and 4) These practices, when performed in accordance with County, State and Federal law, shall not be subject to legal action as a public nuisance unless the activity has a substantial adverse effect on the public health and safety. By the recording of this notice, the County does not intend to affect or impair any right to sue for damages under new RCW 7.48.305.

13. All associated roadway stormwater runoff mitigation improvements must be constructed prior to Final Long Plat approval.

14. All requirements shall be completed and the Final Plat Map must be recorded within five (5) years from the date of this approval.

15. All requirements for Final Subdivision approval required in ICC 16.06.120 & ICC 16.06.130, shall be met. The final subdivision shall be consistent with the approved preliminary plat as modified by conditions of preliminary approval listed in this section.

16. The above requirements are subject to change if proposed lots sizes or any other information provided by the applicant or their authorized representatives proves inaccurate.

17. The total of all property taxes for the year in which the plat is to receive final approval and any delinquent assessments for which the property may be liable shall be paid in full to the Island County Treasurer prior to the recording of the final plat.

18. Upon completion of the above requirements, the applicant shall submit:

A. The original Final Long Plat application and all required materials, along with three copies.
B. An original, complete Certificate of Title, formatted to meet the Washington State Recording requirements dated no earlier than 30 days prior to submittal.
C. Four paper copies of the proposed final plat.
D. A signed and notarized statement by the owner that all conditions of preliminary approval have been met.
E. Established application fees for a Final Plat application.

*Note: The information shall be collated into four, separate, identical packages each to include the above listed items.*

19. On the final plat map, ALL certification stamps and signatures must be in permanent black ink.

20. The Island County Auditor will only accept the following for recording:

Sheet size must be 24 x 18 inches. Borders must be 2 inches on the left edge and ½ inch on the top, bottom, and right edges. If any part of a signature, seal, drawing, or any other mark is located in the required borders, the Auditor’s Office will not accept the plat for recording.

Entered this 20th day of November, 2007, pursuant to authority granted under the laws of the State of Washington and Island County.

________________________________
MICHAEL BOBBINK
Island County Hearing Examiner

APPEAL PROCESS:

PLP

This decision of the Hearing Examiner shall be a final and conclusive decision unless within fourteen (14) days following the mailing of such decision a written statement of appeal is filed with the Island County Board of Commissioners by the applicant, a Department of the County, or Party of Record, who is also an Aggrieved Person. Said statement shall set forth any alleged errors and/or the basis for appeal and shall be accompanied by a fee pursuant to the fee schedule adopted by the Board; provided that such appeal fee shall not be charged to a department of the County or to other than the first appellant ICC 16.13.100.b; ICC 16.19.190.
Preliminary Subdivision

Staff Report and Recommendation
Penn Cove Park, Division #3

FILE NUMBER: PLP 225/07

APPLICANT: Firchau Construction Company, Inc.
ASSESSOR’S PARCEL NUMBER: R13222-197-1650

PROPOSAL

Firchau Construction Company, Inc. seeks preliminary plat approval for the subdivision of one (1) parcel, approximately sixteen (16) acres into 31 residential lots. The subject parcels are all zoned Rural Residential (RR) and are located in the Penn Cove Residential Area of More Intensive Development (RAID). The proposal will result in a project density of two (2) dwelling units per acre. The proposed lots range from 0.43 acre in size to 0.62 acre in size. The subject parcel is located on the east side of Monroe Landing Road at the terminus of Wildwood Drive. The proposed method of sewage disposal is through the Penn Cove Sewer District. The Penn Cove Water District will serve water to the 31 lots.

STAFF FINDINGS & ANALYSIS

1. Project History and Review Process

On August 28, 2006 the Board of Island County Commissioners adopted Ordinance C-90-06. This ordinance made a technical zoning amendment to the Island County Zoning Atlas which rezoned parcel R13222-197-1650 from Rural to Rural Residential and placed the subject parcel into the Penn Cove Rural Area of Intense Development (RAID).

Pre-Application 937/06 was submitted on September 26, 2006 and the Pre-Application Conference was held on October 26, 2006.
The Preliminary Long Plat application was submitted on May 24, 2007 and found to be complete on June 1, 2007. The public comment period for the proposal was 14 days long and ended on June 27, 2007.

2. Site Description & Consistency Review

a. Location: The parcel is located on the east side of Monroe Landing Road at the terminus of Wildwood Drive, Whidbey Island, Washington. They are in the SW ¼ of Section 22, Township 32N, Range 1 E, W.M., Assessor’s Parcel No. R13222-197-1650.

b. Site Condition and Size: The parcel is approximately 16-acres in size and rectangular in shape with a length of approximately 1,000 feet and a width of approximately 680 feet. The parcel contains no existing residential or commercial structures. Vegetation on the northern third of the parcel is dominated by Nootka rose (Rosa nutkana, Fac) and snowberry (Symphoricarpos albus, FacU-) with a trace amount of Oregon grape (Berberis nervosa, FacU). There is a small patch of Apple (Pyrus malus, No) located on the northern border of the parcel. The remainder of the parcel is vegetated by forest including a large area of Douglas fir, Western hemlock, sword fern and salal, and a swath of red alder and salmonberry-dominated forest.

c. Zoning/Type of Land Use Permitted: The subject parcel is zoned Rural Residential (RR) and is located in the Penn Cove RAID. The proposed subdivision of the parcel into residential lots is consistent with the Rural Residential zone. The Penn Cove RAID has a base density of 2 dwelling units per acre with a minimum lot size of one half (0.5) acre. The applicant has proposed to utilize lot size averaging, per ICC 17.03.070.F.3 to create several parcels that will be less than 0.50 acres in size. The overall base density will not be exceeded.

d. Access: All thirty-one (31) lots will access Wildwood Drive via a private road (APW07-0012). A private road name petition is required for this new road.

e. Surrounding Zoning and Development: The subject parcel is bordered by Rural Residential zoned parcels to the east, south and southwest, Rural zoned parcels to the northwest, and Commercial Agriculture zoned parcels to the north. All surrounding development is either residential or agricultural.

f. Density of Development: As listed in ICC 17.03.075, the established base density for the Penn Cove RAID is two (2) dwelling units per one acre. The total area of the parcel is sixteen (16) acres which would allow for thirty-two (32) dwelling units. The proposed subdivision of sixteen (16) acres into thirty-one (31) residential lots would result in a base density of two (2) dwelling units per acre and would therefore conform to the base density requirement contained herein. The applicant has proposed lot size averaging for density. The Rural Residential zone, per 17.03.060.F.3 ICC, allows lot size averaging for subdivisions provided that the average density shall not exceed the base density and the lot size shall not be less than the lot size required by County Health requirements. The parcel alone
would allow up to 32 residential lots for development. As proposed, the base density is not being exceeded. The Island County Health Department has no objections to the parcel sizes proposed.

g. Natural Features and Critical Areas: According to Island County critical areas maps, the subject parcel contains a possible wetland. However, a Wetland Report, produced by a qualified professional and verified by Island County Staff, provides a reasonable amount of evidence that no regulated wetland feature exists on the subject parcel. Therefore, the subject parcel is not located within any critical areas. The FEMA flood zone designation for the site is X.

h. Shoreline: The parcel does not fall within shoreline jurisdiction.

i. Archaeological Sites: According to the maps provided by the State Office of Archaeology and Historic Preservation, the project is not located on or near an archaeological site.

j. Historic Districts: The site is within the boundaries of Ebey’s Historical Reserve.

k. Accident Potential and/or Noise Zone: The site is located within the Air Installation Compatable Use Zone level 2.

3. Land Use Controls

Island County Comprehensive Plan, Section IV, Goals and Policies:

1. Rural Residential Lands. The established goal of the Rural Residential lands is to “provide for infill, development, or redevelopment of existing residential areas which have been identified as residential areas of more intensive rural development pursuant to RCW 36.70A.070(5)(d)”.

Consistency of the proposal with policy statements for the Rural Residential Lands is achieved as follows:

i. The proposed density of 2 dwelling units per acre is consistent with the allowed density within the Penn Cove Residential Area of More Intensive Development (RAID), which was established at two (2) dwelling units per acre.

ii. Of the proposed lots, 21 will be less than the minimum 0.50-acre required lot size. The Rural Residential zone permits “lot size averaging”, which allows residential lots to be smaller than lot size requirements of a particular RAID. In this case, the developable area is 16-acres in size, which, with a base density requirement of 2 du/ac, would allow up to 32 residential lots. The base density of the parcels as a whole will not be exceeded by this proposal.
iii. The proposed land use for the 31 lots for single family homes is consistent with the Permitted Uses of Rural Residential lands.

iv. The development will not be accessing directly onto a State highway.

2. Residential Development. The established goal of residential development is to “encourage clustered residential development where appropriate.” Many of the policy statements contained within this section are applicable to clustered development and Planned Residential Development (PRD). The proposed subdivision is not a PRD and is not proposing clustering.

Chapter 17.03 Island County Code. The density, lot sizes, and widths are within the standards for lots in the Rural Residential zone district in the Penn Cove RAID.

1. As listed in ICC 17.03.075, the established base density for the Penn Cove RAID is two (2) dwelling units per one (1) acre. The proposed subdivision of 16-acres into thirty-one (31) residential lots will result in a base density of two (2) dwelling units per acre and would therefore conform to the base density requirements contained herein.

2. According to ICC 17.03.075, the established minimum lot size for the Penn Cove RAID is one half (0.5) acre. The lot sizes within the proposed subdivision range from 0.43 acre in size to 0.62 acre in size. The ability to create lots less than one half (0.5) acre in size is permitted based on lot size averaging, which is being proposed by the applicant. Pursuant to ICC 17.03.070.F.3, “Lot size averaging may be permitted for subdivisions or short subdivisions provided that the average density shall not exceed the base density established by subsection 1 above and the lot size shall not be less than the lot size required by County Health requirements.” The Island County Health Department has indicated that the proposal conforms to the minimum land area requirements specified in ICC 8.07C, and has no objections as described in the attached memorandum from Aneta Hupfauer, dated October 4, 2007.

3. All lots conform to the minimum lot width of 60 feet as established in ICC 17.03.070.G.2.

Chapter 16.06 Island County Code.

1. This proposal would create a total of 31 lots for the purpose of development, lease, sale, or gift and therefore would meet the definition of subdivision under ICC 16.06.040. The criteria for preliminary approval of a subdivision are listed in ICC 16.06.110.C. Requirements of ICC Titles 8, 11, and 13 are addressed by Island County Health and Engineering in separate correspondence. Conformance with ICC Title 17 requirements is described above and under the review for Consistency, ICC 16.19.100.
Chapter 11.05 Island County Code. The check for Adequacy as described in ICC 11.05.030 is performed to ensure the public facilities necessary to support development activities are available and adequate to serve the proposed development. This check is done to ensure appropriate provisions have been made prior to preliminary approval. The check for adequacy was performed on the public facilities listed in Section 11.05.030.A ICC as follows:

1. Requirements of Chapter 11.03 ICC, the Stormwater and Surface Water Ordinance are addressed in the Island County Public Works comments dated October 8, 2007.

2. According to a memorandum from former Planning Director Larry Kwarsick dated March 1, 1999, community parks owned and operated by the County are expected to operate within the adopted level of service standards through the year 2020. Therefore, the community parks are assumed to be adequate to serve the proposed development.

3. Requirements of Titles 8, Health, Welfare and Sanitation, concerning potable water supplies and sanitary wastes are addressed in the Island County Health Department’s comments dated June 5 and August 21, 2007.

4. The subject site is located within the boundaries of the North Whidbey School District, which has yet to adopt a comprehensive plan which fulfills the requirements of Section 11.05.040.3.C ICC. Therefore, school and school ground facilities are presumed to be adequate to serve the proposal subject to the provisions contained in Section 11.05.040.D.2 ICC.

5. Pursuant to Chapter 11.04 ICC, a Certificate of Transportation Concurrency has been issued for the proposal, confirming that the level of service standards used in the Transportation Concurrency Management Program has been satisfied and that sufficient road capacity exists for the proposal (10772006 CC).

6. Island Transit has yet to adopt a comprehensive plan which fulfills the requirements of Section 11.05.040.03.C ICC. Therefore, transit stops are presumed to be adequate to serve the subject proposal to the provisions contained in Section 11.05.040.D.2 ICC.

Agriculture and Forestry Protection, ICC 16.25. The subject site is situated within 500 feet of property that is zoned Commercial Agriculture. Therefore the requirements of Chapter 16.25.040 ICC apply to this proposal.

SEPA Review. A Notice that a SEPA Threshold Determination of Non-Significance would likely be issued on the proposal was issued on June 13, 2007. Island County issued a Determination of Non-Significance on October 17, 2007 under WAC 197-11-340. No appeals were filed with this office.
4. Agency Comments

a. The Island County Public Works Department has no objection to the preliminary approval of this subdivision. Comments and conditions for approval are provided in the attached memorandum from John Bertrand, dated October 8, 2007.

b. Island County Health Department has no objection to the preliminary approval of this subdivision. Comments and Conditions of approval are provided in the attached memorandum from Aneta Hupfauer, dated October 4, 2007.

c. Island County Critical Areas Planner has no objection to the preliminary approval of the subdivision. Comments and conditions of approval are provided in the attached memorandum from Justin Craven, October 15, 2007.

5. Public Comments

There were two (2) written public comments received during the comment period that ran from June 13, 2007 to June 27, 2007. Two public comments were received regarding this application. The public comments stressed concern over:

1) An increase in traffic flow in and around the neighborhood
2) Impacts to local wildlife
3) The process by which the subject parcel was rezoned from Rural to Rural Residential
4) The impacts of the increased density to the existing neighborhood

CONCLUSIONS

1. The application was accepted and reviewed as a Type III Decision according to the timeframes and process established in 16.19 ICC. Some of the timeframes established in 16.19 ICC were not met by Island County Staff. The proposal required a review by the Critical Areas Planner, who at the time of review was inundated with a large amount of applications. Staff apologizes for this inconvenience and made every effort to ensure that the rest of the application review occurred in a timely manner.

2. The staff of Island County Health, Engineering, and Planning and Community Development evaluated the proposed project for compliance with Titles 11, 8, 13, and 17 and with Chapters 16.06, 16.14C and 16.19 of the Island County Code. Other county and/or state agencies were consulted as appropriate. Health Department comments and requirements are described in the attached memorandum from Aneta Hupfauer, dated October 4, 2007. Public Works comments and requirements are described in the attached memorandum from John Bertrand, dated October 8, 2007. Comments and requirements from Island County’s Critical Areas Planner are contained in the attached memorandum from Justin Craven, October 15, 2007. Other
Planning and Community Development comments and requirements are described in this Staff Report.

A. A Determination of Consistency was performed according to ICC 16.19.100. Upon conformance with the condition of approval, the proposed subdivision will be consistent with the adopted Island County standards for lot size, density, land use, roads, drainage facilities, proposed method of waste disposal and system of water supply as required.

B. A check for Adequacy was performed according to ICC 11.05. Appropriate provisions have been made for specified public facilities and the proposal complies with the adopted level of service standards for drainage ways, community parks, potable water supplies, sanitary waste disposal, schools, streets and transit stops.

C. Upon conformance with the conditions of approval, the proposed subdivision will conform to the requirements of Chapters 16.06 and 16.04 ICC and Chapter 58.17 RCW.

**RECOMMENDATION**

Based on the foregoing Findings, Analysis and Conclusions, the Planning and Community Development recommends **approval** of the Preliminary Long Plat, PLP 225/07, submitted on behalf of Firchau Construction Co., proposing to subdivide parcel number R13222-197-1650, totaling sixteen (16) acres into thirty-one (31) residential lots, with a proposed project density of two (2) dwelling units per acre subject to the following conditions:

1. Compliance with Island County Public Works requirements as specified in the attached comments and conditions dated October 8, 2007.

2. Compliance with Island County Health Department requirements as specified in the attached comments and conditions dated October 4, 2007.

3. Prior to final plat approval, all site and off-site improvements required as a condition of preliminary approval shall be complete, OR, at the discretion of the Board of Island County Commissioners by recommendation of the Planning Director and County Engineer shall be bonded for.

4. All utilities installed on-site shall be underground.

5. All proposed development shall comply with the state noise ordinance, air pollution control regulations, water quality standards, and all other pertinent codes and ordinances.
6. Prior to submittal of the Final Long Plat application, obtain approval of (1) a Private Road Name Petition (attached) and thirty-one (31) individual addresses for the proposed lots. Pursuant to ICC 14.04, RCW 58.17.280, Ordinance #C-32-96, the addresses must appear on the final short plat map and the following standards for posting the address must be followed:

The property owner shall post the address in a manner that it can be read from the public or private road accessing the addressed property and provide adequate identification of the addressed property in accordance with the following. Addresses shall be posted on the addressed building, with one-half inch (1/2") channel numerals at least five inches (5") in height, in colors contrasting with the background in such manner and location as to be clearly visible from the road. In instances where the main building's posted address is not clearly visible from the road, house numbers shall be visibly posted at one location at a height between four feet (4') and eight feet (8') from road level and anywhere within an arc of 30 feet from the point of intersection of the driveway with the access road, with numerals at least three inches (3") high on a contrasting background and visible when traveling in either direction.

7. The following shall appear under “Restrictions” on the final plat map:

“Lot size averaging was used in accordance with Chapter 17.03.070 to create lots that are smaller than the required minimum lot size. No lots in this subdivision may be further divided.”

10. Of the lots created by this long plat, twenty-one (21) lots will be less than the minimum lot size as established by ICC 17.03.075. Therefore, the following shall appear under “Restrictions” on the final plat map:

“No variances shall be granted to reduce the setbacks for any lots within this subdivision.”

11. In addition to the standard final map requirements, the following shall also appear on the face of the final plat:

D. The complete plat number and existing parcel number must appear at the top right corner of each sheet of the final plat as follows:

   LONG PLAT NO. PLP 225/07   R13222-197-1650

E. The name of the subdivision: Penn Cove Park, Division #3

F. (Approved Private Road Name) ________ (Private)

10. The subject parcel is located in a high noise area, identified as Noise Zone 2 on the Air Installation Compatible Use Zones Study for Naval Air Station at Whidbey Island. The following shall appear under Notes on the final plat map:
“This parcel is located within the AICUZ Noise Zone 2 impacted area. Persons on the premises may be exposed to a significant noise level as a result of airport operations. Island County has placed certain restrictions of construction on parcels within airport noise zones. Before purchasing or leasing from the above site, you should consult the Island County Noise Level Reduction Ordinance to determine the restrictions which have been placed on the subject site.”

11. The following must appear on the final survey under Notes:

“This site is located within the Central Whidbey Historical Preservation District. Historical Advisory Committee review of all structures is required prior to issuance of a building permit.”

12. There is a Commercial Agriculture zoned parcel within 500 feet of the subject parcel; therefore, compliance with the provisions of ICC 16.25.040 is required. The following declaration must appear on the face of the final long plat.

“Applicant and Applicant’s heirs, legal representatives, assigns, and lessees, hereby acknowledge and agree to accept by the placement of this notice, and the acceptance and recording of this instrument, that 1) The property herein described is situated within five hundred (500) feet of agricultural, forest land, or a surface mining operation, or lands designated mineral lands of long term commercial significance; 2) A variety of commercial activities may occur on these lands that are not compatible with residential development for certain periods of limited duration, and therefore the property may be subject to noise, dust, smoke and odors resulting from harvest, planting, fertilization, waste disposal and pest control associated with permitted agricultural, surface mining or forest practices; 3) For mineral lands these activities may include mining, extraction, screening, washing, crushing, stockpiling, blasting, transporting and recycling of minerals; and 4) These practices, when performed in accordance with County, State and Federal law, shall not be subject to legal action as a public nuisance unless the activity has a substantial adverse effect on the public health and safety. By the recording of this notice, the County does not intend to affect or impair any right to sue for damages under new RCW 7.48.305.

13. All associated roadway stormwater runoff mitigation improvements must be constructed prior to Final Long Plat approval.

14. All requirements shall be completed and the Final Plat Map must be recorded within five (5) years from the date of this approval.

15. All requirements for Final Subdivision approval required in ICC 16.06.120 & ICC 16.06.130, shall be met. The final subdivision shall be consistent with the approved preliminary plat as modified by conditions of preliminary approval listed in this section.
16. The above requirements are subject to change if proposed lots sizes or any other information provided by the applicant or their authorized representatives proves inaccurate.

17. The total of all property taxes for the year in which the plat is to receive final approval and any delinquent assessments for which the property may be liable shall be paid in full to the Island County Treasurer prior to the recording of the final plat.

18. Upon completion of the above requirements, the applicant shall submit:

   A. The original Final Long Plat application and all required materials, along with three copies.
   B. An original, complete Certificate of Title, formatted to meet the Washington State Recording requirements dated no earlier than 30 days prior to submittal.
   C. Four paper copies of the proposed final plat.
   D. A signed and notarized statement by the owner that all conditions of preliminary approval have been met.
   E. Established application fees for a Final Plat application.
      
      Note: The information shall be collated into four, separate, identical packages each to include the above listed items.

19. On the final plat map, ALL certification stamps and signatures must be in permanent black ink.

20. The Island County Auditor will only accept the following for recording:

   Sheet size must be 24 x 18 inches. Borders must be 2 inches on the left edge and ½ inch on the top, bottom, and right edges. If any part of a signature, seal, drawing, or any other mark is located in the required borders, the Auditor’s Office will not accept the plat for recording.
This Staff Report and Recommendation was prepared by:

Andrew Hicks, Assistant Planner November 5, 2007

Attachments:

Memorandum from Island County Public Works Department, dated October 8, 2007
Memorandum from Island County Health Department, dated October 4, 2007
Memorandum from Island County Planning and Community Development Critical Areas Planner, dated October 15, 2007
Final Long Plat Application

cc: Firchau Construction Company, Inc.
Sound Planning Services, agent
Aneta Hupfauer, Island County Health Department
John Bertrand, Island County Public Works Department
Parties of Record
Michael Bobbiak, Hearing Examiner
File PLP 225/07