APPLICATION: This proposal consists of two related components:

First is to address lifting a forest practices development moratorium resulting from previous non-conversion forest practices on a portion of contiguous 240 acres by the same ownership to allow for Planned Residential Development (PRD) applications (The Estates At Whidbey IV under PRD 277-07 and The Estates At Whidbey V under PRD 345-07) and to allow construction of single family residences on (8) individual 10-acre parcels located southerly of the referenced PRD’s.

Secondly to review proposal to clear and grade a portion of the main access roadway to serve the PRD’s and residences, clear individual residential driveways and building sites for 8 single family residences.

DECISION: Approved subject to conditions.

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 September 18, 2008.

I.

PRELIMINARY INFORMATION

Applicant: Dogwood Whidbey Development, LLC

Property Location: Located to the west of State Route 525 and easterly of Smugglers Cove Road, in portions of the NE and NW 1/4 of Section 05, Township, 29 North, Range 2 East, W.M., the SE and SW 1/4 of Section 32, Township, 30 North, Range 2 East, W.M. and within the NE 1/4 of Section 32, Township, 30 North, Range 2 East, W.M.
Applicable Ordinances, Statutes and Regulations: Chapter 11.02 Clearing and Grading Ordinance, Chapter 11.03 Stormwater and Surface Water Ordinance Chapter 17.03, Zoning Ordinance; Chapter 17.02, Critical Areas, Chapter 16.19, Land Use Review Process, and Chapter 16.14C, County Environmental Policy.

SEPA: A Determination of Non-Significance was issued on July 7, 2008 pursuant to WAC 197-11-355 and ICC 16.19.150.D.

South Whidbey Record – September 3, 2008

Mailing of Notice to Applicant: August 25, 2008

Sign Posted: August 21, 2007

Mailing of Staff Report: August 29, 2008

Date of Application: August 10, 2007

Hearing Date: September 18, 2008

Exhibit Log:
1. Staff Report
4. Forest Practices Application/Notification FPA/N No: 2807540, dated 5/2/2005
5. Island County Environmental Checklist, dated 6/21/2007
6. Notice of Moratorium on Non-Forestry Use Of Land, received 8/1/2007
7. Legal Descriptions of parcels affected by moratorium, received 8/1/2008
9. Clearing and Grading/Timber Harvest Permit Application, no dates
10. Environmental Checklist, received 8/1/2007
11. Wetlands and Streams Assessment, received 8/1/2007
15. Remaining parcels affected by moratorium, no dates
17. Placement of the Sign, received 8/21/2007
19. Letter to Bill Poss and Andrew Hicks from Gordon, received 9/5/2007
20. Email from Marianne Edain to Bill Poss, dated 9/10/2007
24. Email from Loren Wheeler to Bill Poss and John Bertrand, dated 12/6/2007
29. Map 3 of 6 Existing Conditions Drawing C-3, received 12/28/2007
31. Map 5 of 6 Road Plan and Profile, received 12/28/2007
32. Map 6 of 6 Road Plan and Profile, received 12/28/2007
33. Memorandum from Bill Poss to Justin Craven, dated 12/31/2007
34. Memorandum from Justin Craven to Andrew Hicks and Bill Poss, dated 2/22/2008
35. Letter from Bill Poss to Neil Latta, dated 2/25/2008
36. Mitigation ad Restoration Plan Addendum for The Estates at Whidbey, dated 4/1/2008
37. Letter from Mathew Mahaffie with Skagit Wetlands and Critical Areas, dated 4/16/2008
40. Memorandum from Bill Poss to Justin Craven, dated 4/30/2008
41. Memorandum from Justin Craven to Andrew Hicks and Bill Poss, dated 5/21/2008
42. Email from Bill Poss to Marianne Edain, dated 5/22/2008
43. Letter from Bill Poss to Neil Latta, dated 5/22/2008
45. Email from Justin Craven to Neil Latta, CC: Andrew Hicks and Bill Poss, dated 6/10/2008
46. Letter from Andrew Hicks to Interested Party, dated 7/7/2008
47. Email from Bill Poss to Marianne Edian, dated 8/27/2008
49. Affidavit of Mailing to Neil Latta, dated 8/28/2008
50. Letter from Paula Bradshaw to Neil Latta, dated 8/29/08
51. Affidavit of Mailing Staff Report, dated 9/2/08

HEARING TESTIMONY

Bill Poss
Island County Public Works
PO Box 5000
Coupeville WA 98239

Island County Hearing Examiner
CGP 344/07
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II.

Island County Public Works has recommended approval of this application subject to conditions. The Findings of Fact entered by Island County in the staff report are supported by the record as a whole. The Hearing Examiner hereby adopts the Findings of Fact set forth in the staff report, Exhibit #1 in the Hearing Examiner’s file, a copy of which is attached hereto and incorporated herein by this reference.
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 Island County Public Works Department has entered Conclusions of Law in the staff report, a copy of which is attached hereto. The Conclusions of Law entered by the Planning Department in the staff report are supported by the record as a whole and are hereby adopted by the Hearing Examiner as Conclusions of Law herein.

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 approves CGP 344/07, approving grading permits for Dogwood Whidbey Development, LLC. This decision approves the lifting of a forest practices development moratorium on the parcels described in the staff report and further approves clearing and grading permits associated with PRD 274/07, 275/07, 276/07, 277/07 & 345/07 and allows conversion of and construction on eight (8) individual 10 acre parcels located southerly of the above named PRD’s. The lifting of the forest practices moratorium and the granting of the clearing and grading permits is subject to the following conditions:

1. All development shall be in conformance with the approved *Master Plan, Existing Conditions, Clearing Plans, Road Plan and Profiles* dated June 2007, revised 6-22-07 and 11-26-07 by Web Engineering and the following conditions of approval unless they are amended in conformance with applicable code.

2. If this permit is approved by the Hearing Examiner, the applicant shall provide a copy of this approved permit and SEPA Determination to the Department of Natural Resources (DNR) with an application for a State Forest Practices Permit. No timber harvest may commence until a forest practices permit is obtained from the DNR.

3. A copy of this permit, the approved plans, and the approved DNR Forest Practices Permit shall be kept on site at all times until completion of the work on the site.

4. Within 60 days from completion of the proposed road and/or prior to any building permit issuance for property served by the roadway, certification of road construction and associated drainage facilities per the project engineer shall be submitted to Island County. Such certification shall confirm the road was constructed and will perform in substantial compliance with the submitted and approved road plans prepared the engineer of record.

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Page 5 of 17
5. Applicant bears the full responsibility of notifying site crews of the permit conditions and shall be held fully accountable for any activity which results in on- or off-site hazards or damages.

6. This permit expires twenty-four (24) months after date of issuance.

7. Hours of operation shall be limited to those associated with normal business hours (8:00 a.m. to 6:00 p.m. Monday through Saturday).

8. Appropriate fire control practices shall be adhered to on this site.

9. In case of any damage to any roads, streets, public places, structure or public property of any kind as a result of the work approved under this permit, you must repair such damage at your own cost and expense.

10. Clearing boundaries and work areas shall be clearly flagged prior to the start of any clearing activities.

11. No grading or placement of materials shall take place within any setback areas unless shown on the approved plans. Side-casting or deposition of slash, site debris, or any materials into the wetland/buffer or on a steep slope is prohibited.

Control of Runoff and Erosion

12. Stormwater/drainage and erosion control plans by Web Engineering dated July 7, 2007 have been submitted with the application and are approved by Island County. The measures proposed in these plans shall be installed and maintained as approved, in addition to any other requirements contained in this permit.

13. Clearing to bare earth shall be limited to that shown in the approved plans. Any areas cleared to bare earth (i.e., dozing stumps, clearing underbrush, and grading topsoil) shall be stabilized by application of Best Management Practices (BMPs), including but not limited to sod or seeding or other vegetation, hydro-seeding, plastic covering, mulching, or application of gravel on areas subject to heavy traffic immediately following clearing. Applicant is responsible to ensure site development activity does not impact neighboring properties or the adjacent State Highway from the uncontrolled transport of sediment.

14. Compaction of exposed earth material shall not result in the diversion of surface water, or create new drainage channels, increasing runoff and hazard to regulated critical areas or down slope properties.

15. Consideration should be given to potential windfall damage to adjacent properties and appropriate action taken to minimize blow-downs.

16. From October 1 through April 30, in areas where work has been completed or will not undergo additional disturbance for a period of 30 days or greater, no soils shall remain unstabilized for more than 2 days. From May 1 through September 30, in areas where construction has been completed or will not undergo additional disturbance for a period of 30 days or greater, no soils shall remain unstabilized for more than 7 days.

17. Cut or fill slopes shall be graded/finished to a maximum 1.75H:1V slope and seeded/stabilized immediately following completion of grading unless revised and approved via anticipated engineered road plans.

CRITICAL AREAS

Conditions of approval:

18. All work shall be in substantial conformance with the approved plans.
19. Mitigation shall occur as proposed. Planting shall occur in the next planting season, being between November of 2008 and March of 2009 regardless of project start date. An extension may be considered if this department is contacted in writing.

20. While reasonable means to determine the presence of critical areas, including wetlands and streams, were made during the review of this permit, it is possible that there are such features present on the subject properties that were not discovered by staff. It is the property owners responsibility to identify and appropriately protect wetlands, streams, and their buffers. No clearing or grading, brush removal, construction, logging activity or roads are allowed within any wetlands and streams or within the buffers of any such features unless shown on the approved plans. **Should you encounter any saturated areas or areas suspected to be wetlands or streams during the work on this site, all work shall immediately cease and Island County Community Development contacted for a site evaluation. Alteration or disturbance to regulated wetlands, streams or their buffers may have serious consequences, including fines and denial of any and all permits for up to 10 years.**

Entered this 29th day of September, 2008, pursuant to authority granted under the laws of the State of Washington and Island County.

________________________________
MICHAEL BOBBINK
Island County Hearing Examiner

APPEAL PROCESS:

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.
ISLAND COUNTY PUBLIC WORKS
ROADS DIVISION
P.O. BOX 5000, COUPEVILLE, WA 98239
(360) 679-7331

William E. Oakes, P.E., Director/County Engineer
Randall C. Brackett, P.E., Asst. County Engineer

ISLAND COUNTY PUBLIC WORKS
STAFF REPORT

Clearing and Grading Permit
Proposal, Findings, Analysis,
Conclusions and Recommendations

SUMMARY

Application No: CGP 344/07
Applicant: Dogwood Whidbey Development LLC

Abbreviated Application Description:

This proposal consists of two related components:

First is to address lifting a forest practices development moratorium resulting from previous non-conversion forest practices on a portion of contiguous 240 acres by the same ownership to allow for Planned Residential Development (PRD) applications (The Estates At Whidbey IV under PRD 277-07 and The Estates At Whidbey V under PRD 345-07) and to allow construction of single family residence on (8) individual 10- acre parcels located southerly of the referenced PRD’s.

Secondly to review proposal to clear and grade a portion of the main access roadway to serve the PRD’s and residences, clear individual residential driveways and building sites for 8 single family residences.

Recommendation: Approval with conditions.

Property Owner: Dogwood Whidbey Development LLC, 333 156th Street NE, Arlington, WA 98223.
**Property Location:** Located to the west of State Route 525 and easterly of Smugglers Cove Road, in portions of the NE and NW 1/4 of Section 05, Township, 29 North, Range 2 East, W.M., the SE and SW 1/4 of Section 32, Township, 30 North, Range 2 East, W.M. and within the NE 1/4 of Section 32, Township, 30 North, Range 2 East, W.M.

**Applicable Island County Ordinances:** Chapter 11.02 Clearing and Grading Ordinance, Chapter 11.03 Stormwater and Surface water Ordinance Chapter 17.03, Zoning Ordinance; Chapter 17.02, Critical Areas, Chapter 16.19, Land Use Review Process, and Chapter 16.14C, County Environmental Policy.

**SEPA:** A Determination of Non-Significance was issued on July 7, 2008 pursuant to WAC 197-11-355 and ICC 16.19.150.D.

**Procedural Requirements:**
Decision Type: Type III (Lifting of Forest Practices Development Moratorium per ICC 17.03.270.D)
Community Meeting Date: *Not required*
Pre-Application Conference Date: *Not required per determination of Planning Director pursuant to ICC 16.19.070*
Notice of Complete Application: August 10, 2007
Notice of Application:
  - Sign Posted: August 22, 2007
  - Whidbey Record: August 22, 2007
  - Mailed Notice: August 17, 2007
Public Comment Period: August 22, 2007 to September 5, 2007
Notice of Hearing in South Whidbey Record: TBD

**Hearing Date:** TBD

**ISLAND COUNTY PUBLIC WORKS**

**STAFF REPORT**

**Clearing and Grading Permit**
Proposal, Findings, Analysis, Conclusions and Recommendations

**Application No:** CGP 344-07

**Applicant:** Dogwood Whidbey Development LLC

Proposal:
Two elements to this proposal as follows:

- Application to lift a Forest Practices Moratorium on 80 contiguous acres (parcels R22905-511-3080, R23032-033-2340, R23032-033-2990, R23032-100-2350, R23032-100-3010, R23032-167-2360, R23032-168-3030, R23032-235-2370) within a total of 240 acres intended for development. Approximately 50 of said acres are proposed to be developed as a part of concurrent Planned Residential Development (PRD) applications (The Estates At Whidbey IV under PRD 277-07 and The Estates At Whidbey V under PRD 345-07). Lifting of the Forest Practices Moratorium is necessary to allow for a decision to be rendered on the PRD applications on the parcels encumbered by the moratorium.

- Selective clearing of approximately 25,000 board feet of timber and 6,000 cubic yards of grading proposed to construct 6000 feet of new primary access road (station 38+50 to station 100+00) to serve Planned Residential Developments (PRD’s) and construct 8400 linear feet of individual lot access driveways and clear 8 single-family residence sites on eight 10 acre parcels.

Property owner intends to develop a Planned Residential Development on a portion of the subject parcels as well as on adjacent contiguous parcels under same ownership to the north and east.

The review of the PRD’s is being conducted concurrently under 5 separate PRD applications. This permit will consider if appropriate to lift the forest practice development moratoriums to allow for a decision on the PRD’s that are encumbered by the moratoriums.

Planned Residential Development (PRD) and clearing and grading for single family development is proposed for parcels covered under this permit. Said PRD applications have been submitted but may not be approved until the forest practice moratorium has been removed or expires per ICC 17.03.270. A Non-Conversion Forest Practice permit (FPA No. 2807068) was issued on September 2, 2004 for parcels R22905-511-3080, R23032-033-2340, R23032-033-2990, R23032-100-2350, R23032-100-3010, R23032-167-2360, R23032-168-3030, R23032-235-2370. Therefore a Six (6) year development moratorium became effective for six years and will expire on September 2, 2010.

This permit will allow for lifting the forest practices moratorium prior to expiration that currently encumbers development activity.
Findings

1. **Project and Parcel History.** A Clearing and Grading Permit application with an Environmental Checklist for the project was submitted on August 1, 2007. A Notice of Complete Application was sent to the applicants on August 10, 2007.

2. **Site Description.**
   
a. **Location.** Located to the west of State Route 525 and easterly of Smugglers Cove Road, in portions of the NE and NW 1/4 of Section 05, Township, 29 North, Range 2 East, W.M., the SE and SW 1/4 of Section 32, Township, 30 North, Range 2 East, W.M. and within the NE 1/4 of Section 32, Township, 30 North, Range 2 East, W.M.

b. **Access.** The parcels will access onto State Route 525 via a proposed private access easement across other properties under same ownership. An Access Connection Permit from the Washington Department of Transportation has been submitted and is being considered under the concurrent PRD applications. Prior to issuance of any construction permits on the eight 10-acre parcels copy of an approved Access Connection Permit from the Washington Department of Transportation to be provided to Island County.

c. **Size and Condition.** The parcels are configured into 10 acre sizes from larger parcels via unregulated segregation processed via the Island County Auditor’s office. The parcels are primarily forested with very dense secondary re-growth from previous forest practices activity with areas of secondary to mature conifer and deciduous species. Primitive gravel and soil access roadways traverse the parcels from north to south and east to west.

d. **Surrounding Development.** Surrounding parcels are zoned Rural to the west and south with a few scattered single family residences and Rural Forest to the east and north. Dogwood Whidbey LLC is also the owner of parcels to the immediate north and northeast which are currently under review for Planned Residential Development. Dogwood Whidbey LLC is also the owner of parcels to the immediate east and southeast. No development is currently under permit process and no home sites exist on those parcels.

e. **Natural Features.** Critical Areas such as wetlands and streams are located on portions of the subject properties and are shown on the site plans. Intermittent areas of steep slopes (40% or greater) are located along western portions of the subject parcels. According to the USDA Soil Survey for Island County - 1958, the predominant soil types found on this parcel are Whidbey gravelly sandy loam (Wc) with 15 to 30% slopes, and Whidbey gravelly sandy loam (Wb) with 5 to 15% slopes. Isolated areas of wetlands will exhibit hydric soils.

f. **Noise Zone.** The parcel is not within an AICUZ noise zone.

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

h. **Historic Sites.** The project is not within the boundaries of a historic district.
3. **Land Use Controls**
   
a. **Chapter 17.03 Island County Code.**

   **Section 17.03.110, Rural Forest Zone.** All of the subject parcels are zoned Rural Forest (RF) and subject to the regulations listed in ICC 17.03.110.

   (1) A Non-Conversion Forest Practice permit (FPA No. 2807068) was issued on September 2, 2004 for parcels R22905-511-3080, R23032-033-2340, R23032-033-2990, R23032-100-2350, R23032-100-3010, R23032-167-2360, R23032-168-3030, R23032-235-2370. Therefore a *Six (6) year development moratorium* became effective for six years and will expire on September 2, 2010.

   (2) **Per Subsection 17.03.270.C  Forest Practices Moratorium.**

   “*Six (6) year moratorium per RCW 76.09.060(3)(b)(i). For any lands harvested under a non conversion forest practices permit, or for any lands harvested without a permit when a forest practices permit was required, no development permits or approvals incompatible with continued forest use or production on the land and which involve or include physical conversion of the land from continued forest growth, shall be issued for a period of six (6) years from the date of forest practice permit application, except as provided for in this policy*”

   (3) **Per ICC Subsection 17.03.270.E**

   “*Lifting of the moratorium for developments other than single-family residences per RCW 76.09.060(3)(b)(i)(D). For development other than one single family residences and appurtenances per section D which involve or propose conversion, the standards (including all critical area regulations) and processes applicable to such development shall be fully applied. The matter of lifting any applicable moratorium for such development shall be determined by the Island County Hearing Examiner through an open record hearing as prescribed in Chapter 16.19 ICC, after a complete application for the proposed development action has been submitted. The decision of the Hearing Examiner in such cases may be appealed to the Board of County Commissioners in a closed record appeal process*”

   This Clearing and Grading permit is to lift the moratorium, pursuant to ICC Subsection 17.03.270.E, on the parcels so encumbered to allow for development activity (Planned Residential Developments and single family residences on individual 10 acre parcels).

   Additionally this application will provide review of the associated development activity on contiguous parcels under same ownership that are not encumbered with FPA moratoriums (access road and driveway construction, clearing for single family residential development of 10 acre parcels).

   The Planning and Community Development Director has determined that, pursuant to ICC Subsection 17.03.270.E, the forest practices moratorium must be lifted or expire
prior to issuance of a decision on the PRD’s proposed for properties encumbered by the moratoriums.

4. Approximately 45% of the timber was selectively thinned under the forest practice permit (FPA 2807068). A pre-harvest biological site assessment was performed by the owner to determine locations of wetlands, streams and flag the buffers for avoidance by harvest activity. The Washington Department of Natural Resources forester (Loren Wheeler) for the site has provided confirmation via e-mail to Island County Public Works Development Coordinators Bill Poss and John Bertrand, dated December 6, 2007, indicating the parcels encumbered by forest practices moratorium (FPA 2807068) are currently in compliance with the FPA permit conditions.

5. SEPA. A Determination of Non-Significance was issued on July 7, 2008 pursuant to WAC 197-11-355 and ICC 16.19.150.D.

6. Shoreline Designation. Not applicable to this parcel

7. Agency Comments.
   a. Island County Planning and Community Development Department. The Planning and Community Development Department Critical Areas Planner Justin Craven has reviewed all application materials for compliance with Island County Code Chapter 17.02, including the following: Biological Site Assessment by ASTI Inc. dated 9-22-99, Wetlands and Stream Assessment by Skagit Wetlands and Critical Areas dated 4-20-06, Critical Areas Review response letter from Skagit Wetlands and Critical Areas Inc. dated November 15, 2007, Mitigation and Restoration Plan Addendum by Skagit Wetlands and Critical Areas dated April 1, 2008, Critical Areas Review response letter from Skagit Wetlands and Critical Areas dated April 16, 2008 and Mitigation and Restoration Plan Addendum by Skagit Wetlands and Critical Areas dated May 9, 2008. Justin concluded that Planning has no objection to approval of the application subject to conditions as described in an e-mail to Bill Poss dated June 10, 2008. (attached). Conditions will be referenced under “Recommendations” below

   b. Island County Engineering Division. Public Works has reviewed all the application materials for compliance with Island County Clearing and Grading Ordinance (ICC 11.02) including: Responses to Island County Review Comments letter from Nelson Geotechnical Associates dated November 29, 2007 providing recommendations for structural setbacks from steep slopes (40% or greater) of 35 feet. Clearing or grading on steep slopes were not considered by the geotechnical engineer nor are approved under this permit. Additionally, no grading within the 35 foot setback is allowed without prior geotechnical review, as recommended, and approval by Island County. Additionally the geotechnical engineer indicated the previous forest practices impacts to steep slopes were minimal, not resulting in any signs of instability or erosion. Additionally, the application included a Master Plan, Existing Conditions, Clearing Plans, Road Plan and Profiles dated June 2007, revised 6-22-07 and 11-26-07 by Web Engineering that were also reviewed and found to be substantially consistent with ICC 11.02.
Public Works has reviewed all the application materials for compliance with Island County Stormwater and Surface Water Ordinance (ICC 11.03) including a Drainage Report by Web Engineering dated July 7, 2007. Said Report provides pre-development analysis, post development flow control design recommendations and erosion control methods to be employed. Said report was reviewed and found to be substantially consistent with ICC 11.03.

Recommended conditions of approval related to Clearing, Grading and Drainage will be referenced under “Recommendations” below.

Transportation Concurrency and traffic impacts analysis was not performed for this application as said review was performed for the concurrent 5 PRD applications and single family residences in the Rural Forest zone are exempt from Concurrency review per ICC 11.04.050.2.a.

Fire Flow is not applicable to this application as no new lots are being created under this permit and fire flow is being reviewed under the concurrent PRD applications. However, per ICC 11.13.03A.100 Fire Flow Requirements subsection A. New water systems and expansion of existing water systems shall be designed and constructed to provide for fire flows in a manner consistent with the standards outlined in this chapter.

8. Public Comments. Public comments were received regarding this Clearing and Grading Permit application. The following is a summary of said comments:

- Concern was expressed about the lack of code to allow for lifting a moratorium for “major developments”. (The applicable code section is referenced in the “Findings” section 3.A.3 above).

- Concern was expressed about water supply for the PRD’s and the annexation of the property into the Freeland Water District. (Water supply issues are being addressed under each concurrent PRD application. Annexation or expansion of water service boundaries is reviewed under a process administered by the County Health, Planning Departments and the Washington State Department of Health. A verification of water supply will be required prior to issuance of a building permit on any of the eight single family 10-acre parcels considered under this permit).

- Concern was expressed about proposed Drainage design methods and assumptions. (applicant’s drainage report appears to incorporate isopluvials consistent with those in the Island County Stormwater Design Manual and the 25-year, 24 hour storm is the design event for major development activity per the Manual. Drainage review for this application is limited to access road/driveway construction and 8 single family residences-proposed PRD applications address each PRD Drainage Management. Proposed areas of impervious surfaces are not inconsistent with intended uses and conditions of approval will address future drainage management).

- Concern was expressed regarding wetland impacts, categorization of the wetlands, hydrologic connectivity and cumulative impacts (All wetland reports and wetland...
impacts were reviewed and considered by Island County Critical Areas Planner Justin Craven as discussed in his findings).

- Concern was expressed regarding potential traffic impacts (traffic impacts from the five PRd’s are being addressed under the PRD applications).
- Concern was expressed regarding water resources (water supply issues/impacts from the five PRd’s are being addressed under the PRD applications).
- Concern was expressed regarding runoff from logging (Drainage impacts are being considered and the application has met requirements of ICC 11.03 Stormwater and Surface water Ordinance).
- Concern was expressed regarding impacts from septic drain fields from numerous residences (septic issues/impacts from the five PRd’s are being addressed under the PRD applications).

Conclusions

1. The staffs of Island County Public Works and Community Development evaluated the proposed project for compliance with Titles 11 and 17 and with Chapters 16.14C, and 16.19 of the Island County Code according to the Type III Decision Process. Other county and/or state agencies were consulted as appropriate. Island County issued a Determination of Consistency according to ICC 16.19.120. The proposal that was evaluated was limited to a lifting a forest practices moratorium to allow for Planned Residential Developments under separate application review and construction of an access roadways, driveways and single family residences. No other uses were evaluated for consistency with Island County Codes, plans or policies.

2. The proposed Clearing and Grading Permit will be consistent with the criteria for approval listed in ICC 11.02 (Clearing and Grading Ordinance), ICC 11.03 (Storm water and Surface water Ordinance), ICC 17.02 (Critical Areas) and ICC 17.03 (Zoning) if the conditions described throughout the Recommendation sections of this staff report are adopted as conditions of approval.

Recommendations

Based on the foregoing Findings, Analysis and Conclusions, the Public Works and Planning and Community Development Departments recommend that Clearing and Grading Permit application number 344-07, submitted by Dogwood Whidbey Development LLC be approved with the following conditions:

21. All development shall be in conformance with the approved Master Plan, Existing Conditions, Clearing Plans, Road Plan and Profiles dated June 2007, revised 6-22-07 and 11-26-07 by Web Engineering and the following conditions of approval unless they are amended in conformance with applicable code.

22. If this permit is approved by the Hearing Examiner, the applicant shall provide a copy of this approved permit and SEPA Determination to the Department of Natural Resources.
(DNR) with an application for a State Forest Practices Permit. No timber harvest may commence until a forest practices permit is obtained from the DNR.

23. A copy of this permit, the approved plans, and the approved DNR Forest Practices Permit shall be kept on site at all times until completion of the work on the site.

24. Within 60 days from completion of the proposed road and/or prior to any building permit issuance for property served by the roadway, certification of road construction and associated drainage facilities per the project engineer shall be submitted to Island County. Such certification shall confirm the road was constructed and will perform in substantial compliance with the submitted and approved road plans prepared the engineer of record.

25. Applicant bears the full responsibility of notifying site crews of the permit conditions and shall be held fully accountable for any activity which results in on- or off-site hazards or damages.

26. This permit expires twenty-four (24) months after date of issuance.

27. Hours of operation shall be limited to those associated with normal business hours (8:00 a.m. to 6:00 p.m. Monday through Saturday).

28. Appropriate fire control practices shall be adhered to on this site.

29. In case of any damage to any roads, streets, public places, structure or public property of any kind as a result of the work approved under this permit, you must repair such damage at your own cost and expense.

30. Clearing boundaries and work areas shall be clearly flagged prior to the start of any clearing activities.

31. No grading or placement of materials shall take place within any setback areas unless shown on the approved plans. Side-casting or deposition of slash, site debris, or any materials into the wetland/buffer or on a steep slope is prohibited.

Control of Runoff and Erosion

32. Stormwater/drainage and erosion control plans by Web Engineering dated July 7, 2007 have been submitted with the application and are approved by Island County. The measures proposed in these plans shall be installed and maintained as approved, in addition to any other requirements contained in this permit.

33. Clearing to bare earth shall be limited to that shown in the approved plans. Any areas cleared to bare earth (i.e., dozing stumps, clearing underbrush, and grading topsoil) shall be stabilized by application of Best Management Practices (BMPs), including but not limited to sod or seeding or other vegetation, hydro-seeding, plastic covering, mulching, or application of gravel on areas subject to heavy traffic immediately following clearing. Applicant is responsible to ensure site development activity does not impact neighboring properties or the adjacent State Highway from the uncontrolled transport of sediment.

34. Compaction of exposed earth material shall not result in the diversion of surface water, or create new drainage channels, increasing runoff and hazard to regulated critical areas or down slope properties.
35. Consideration should be given to potential windfall damage to adjacent properties and appropriate action taken to minimize blow-downs.

36. From October 1 through April 30, in areas where work has been completed or will not undergo additional disturbance for a period of 30 days or greater, no soils shall remain unstabilized for more than 2 days. From May 1 through September 30, in areas where construction has been completed or will not undergo additional disturbance for a period of 30 days or greater, no soils shall remain unstabilized for more than 7 days.

37. Cut or fill slopes shall be graded/finished to a maximum 1.75H:1V slope and seeded/stabilized immediately following completion of grading unless revised and approved via anticipated engineered road plans.

CRITICAL AREAS

Conditions of approval:

38. All work shall be in substantial conformance with the approved plans.

39. Mitigation shall occur as proposed. Planting shall occur in the next planting season, being between November of 2008 and March of 2009 regardless of project start date. An extension may be considered if this department is contacted in writing.

40. While reasonable means to determine the presence of critical areas, including wetlands and streams, were made during the review of this permit, it is possible that there are such features present on the subject properties that were not discovered by staff. It is the property owners responsibility to identify and appropriately protect wetlands, streams, and their buffers. No clearing or grading, brush removal, construction, logging activity or roads are allowed within any wetlands and streams or within the buffers of any such features unless shown on the approved plans. Should you encounter any saturated areas or areas suspected to be wetlands or streams during the work on this site, all work shall immediately cease and Island County Community Development contacted for a site evaluation. Alteration or disturbance to regulated wetlands, streams or their buffers may have serious consequences, including fines and denial of any and all permits for up to 10 years.

Prepared by

Bill Poss, Public Works Development Coordinator
for William E. Oakes, P.E., Public Works Director/County Engineer

Enc: E-mail to Bill Poss from Critical Areas Planner Justin Craven dated June 10, 2008
E-mail to Island County Public Works Development Coordinators Bill Poss and John Bertrand, dated December 6, 2007 from Washington Department of Natural Resources forester Loren Wheeler

cc: Michael Bobbink, Hearing Examiner

File CGP 344/07