ISLAND COUNTY HEARING EXAMINER

RE: Appeal ) File No. APP 337/08 FERGUSON
Appellants: Ralph Ferguson & ) APP 338/08 DANIELSON
Ginette Danielson ) FINDINGS OF FACT
) CONCLUSIONS OF LAW
) AND DECISION

SUMMARY OF APPEAL AND DECISION

APPEAL: The above named appellants have filed a timely appeal of Island County Planning and Community Development decision approving SPR 447/07. The decision Appealed granted Site Plan Approval to a proposal to allow construction of four storage buildings on two adjacent parcels containing a total of 6.5 acres, located between Smith and Ell Roads, south of SR 532 and north of Juniper Beach Community, on Camano Island Washington. The four storage buildings are to be segmented and leased for personal storage. The Personal Storage Facility will not exceed 16,330 square feet, has been subjected to specific design requirements including the building design, materials used, colors, and has the buildings clustered in two groups of two buildings located approximately 800 feet apart in an attempt to make the Facility compatible with the surrounding Rural zoned area.

DECISION: The Hearing Examiner upholds the approval of SPR 444/07 subject to conditions, including some modification of the conditions attached to the staff approval.

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 February 5, 2009 and again on April 3, 2009.

I.

PRELIMINARY INFORMATION

Appellants: APP 337/08 Ferguson
APP 338/08 Danielson

Property Location: Between Smith and Ell Roads, south of SR 532 on Camano Island
Publication: 1/20/09 Stanwood/Camano News
1/21/09 Whidbey News Times/South Whidbey Record
Mailing of Notice to Appellant: 12/23/08

Mailing of Staff Report: 1/26/09

Date of Appeal: APP 337/08 Ferguson – 11/26/08; APP 338/08 Danielson – 12/01/08

Date of Comprehensive Statement: APP 337/08 Ferguson – 12/19/08;
APP 338/08 Danielson – 12/16/08

Hearing Date: 2/05/09 and second limited hearing 4/3/09

Exhibit Log:
1. Staff Response to Appeals
2. Staff Decision and Final SEPA Threshold Determination with attachments, dated 11/19/08
   a. Memorandum from Aneta Hupfauer to Ginger Burgess, dated 11/30/07
   b. Memorandum from Keith Higman to Ginger Burgess, dated 1/4/08
   c. Memorandum from John Bertrand to Ginger Burgess, dated 8/5/08
   d. Memorandum from Mattia Boscolo to Ginger Burgess, dated 12/26/07
   e. Email from Jeff Tate to Justin Erickson, Jaime Thomson, Mitzi Hall, Joe Burcar, Keeva Kroll, Adam Flaiatos and Mathew Kukuk, dated 4/12/2004
   f. Copy of color rendering of buildings, (no dates)
   g. Copy of Approved Site Plan Map, received 10/15/08
3. Land Development Permit Application and Site Plan Review Application, received 11/2/07
4. Site Plan of Storage Unit Plan, received 11/2/07
5. Site Plan of Exterior Elevations, received 11/2/07
6. Site Plan of Floor Plan, received 11/2/07
7. Site Registration, received 11/2/07
8. Certificate of Transportation Concurrency, no date
9. Traffic Impacts for Proposed Project Letter from David Schuurman to Pam Bartlett, received 11/2/07
10. Application for Access to County Road Right of Way, received 11/2/07
11. Wetland Reconnaissance Report from Jason Knight to Pam Bartlett, received 11/2/07
12. Preliminary Drainage Report, received 11/2/07
13. Environmental Checklist, received 11/2/07
14. Email from Susan Meyer DOE to Pam Bartlett, received 11/2/07
15. Review comments from Aneta Hupfauer to Ginger Burgess, dated 11/30/07
16. Review comments from Tamra Patterson to Ginger Burgess, dated 12/5/07
17. Review comments from John Bertrand to Ginger Burgess, dated 12/7/07
18. Memorandum from Mattia Boscolo to Ginger Burgess, dated 12/26/07
19. Review Comment letter from Ginger Burgess to Pam Bartlett, dated 12/28/07
20. Review comments from Keith Higman to Ginger Burgess, dated 1/4/08
21. Review Comment letter from Ginger Burgess to Pam Bartlett, dated 2/1/08
22. Letter from Pam Bartlett to Ginger Burgess, with attached Storage Unit Plan with attached Storage Unit Plan, received 6/9/08
23. Memorandum re: new information from Ginger Burgess to John Bertrand and Aneta Hupfauer, dated 6/10/08
24. Review comments for additional information submitted from Aneta Hupfauer to Ginger Burgess, dated 6/10/08
25. Review comments for additional information submitted from John Bertrand to Ginger Burgess, dated 6/17/08
26. Review Comment letter from Ginger Burgess to Pam Bartlett, dated 6/27/08
27. Letter with revised information from Pam Bartlett to Ginger Burgess, received 7/23/08 with attached
   a. Site Plan Review Proposal
   b. Storage Unit Plan Color Map with open space & development info
   c. Storage Unit Plan Color Map with landscaping information
   d. Sample color pictures of other barns
   e. Picture of exterior light fixture
   f. Spane Buildings, Inc. color sample for roof and siding.
28. Memorandum from Ginger Burgess to John Bertrand and Aneta Hupfauer, dated 7/24/08
29. Review comments for additional information submitted from Aneta Hupfauer to Ginger Burgess, dated 7/30/08
30. Review comments for additional information submitted from John Bertrand to Ginger Burgess, dated 8/5/08
31. Review Comments from Ginger Burgess to Pam Bartlett, dated 9/18/08
32. Letter from Pam Bartlett to Ginger Burgess, with color samples of project, received 10/15/08
33. Memorandum from Ginger Burgess to John Bertrand and Aneta Hupfauer, dated 10/15/08
34. Review comments for additional information submitted from John Bertrand to Ginger Burgess, dated 10/17/08
35. Review comments for additional information submitted from Aneta Hupfauer to Ginger Burgess, dated 10/20/08
36. Public comment letter from Mary McIntyre Lee to Ginger Burgess, received 12/7/07
37. Public comment letter from Douglas Heinzen to Ginger Burgess, received 12/7/07
38. Public comment letter from Chuck and Tanya Atilano to Ginger Burgess, received 12/7/07
39. Public comment letter from Nicolaas and Margaret Van Veen to Ginger Burgess, received 12/7/07
40. Public comment letter from Barry Ruchty to Ginger Burgess, received 12/7/07
41. Email from Linda and John Hadley to Chuck Atilano and Ginger Burgess, dated 12/7/07
42. Email from John Dalton to Chuck Atilano and Ginger Burgess, dated 12/7/07
43. Email from Mark Thurston to Chuck Atilano and Ginger Burgess, dated 12/7/07
44. Email from Norma Mathies to Ginger Burgers, dated 12/9/07
45. Email from Gary Mickelsen to Ginger Burgess, dated 12/9/07
46. Email from Connie Carter to Ginger Burgess, dated 12/9/07
47. Email from Barbara Buchanan to Ginger Burgess, dated 12/9/07
48. Email from Fran Ennis to Ginger Burgess, dated 12/9/07
49. Email from James Morrow to Ginger Burgess, dated 12/9/07
50. Email from Thomas Ketttwig to Ginger Burgess, dated 12/9/07
51. Email from Alvin and Patricia Orsland to Ginger Burgess, dated 12/9/07
52. Email from Dianne Miller to Ginger Burgess, dated 12/9/07
53. Email from Claire McIntyre to Ginger Burgess, dated 12/9/07
54. Email from Nancy Gruber to Ginger Burgess, dated 12/9/07
55. Email from Gary Hess to Ginger Burgess, dated 12/9/07
56. Email from Mark and Nancy Thurston to Ginger Burgess, dated 12/10/07
57. Email from Terry Lytle to Ginger Burgess, dated 12/10/07
58. Email from Jana Swenson to Ginger Burgess, dated 12/10/07
59. Email from Margaret McAteer, Gary Hess, and Claire McIntyre to Ginger Burgess, dated 12/10/07
60. Email from Claire McIntyre to Ginger Burgess, dated 12/10/07
61. Email from Lindsey Caton to Ginger Burgess, dated 12/10/07
62. Email from Brian McIntyre to Ginger Burgess, dated 12/10/07
63. Email from Gretchen Otness to Ginger Burgess, dated 12/10/07
64. Email from John and Leola Stomieroski to Ginger Burgess, dated 12/10/07
65. Email from Lou Berg to Ginger Burgess, dated 12/10/07
66. Email from Mark Leaf to Ginger Burgess, dated 12/10/07
67. Email from Jim and Judy McAteer to Ginger Burgess, dated 12/10/07
68. Email from William Oseran to Ginger Burgess, dated 12/10/07
69. Email from Mary Hendron to Ginger Burgess, dated 12/10/07
70. Email from Bill Krueger to Ginger Burgess, dated 12/10/07
71. Email from Tim Dawson to Ginger Burgess, dated 12/10/07
72. Email from Joan Dever to Ginger Burgess, dated 12/10/07
73. Email from William Oseran to Ginger Burgess, dated 12/10/07
74. Public Comments from David and Shannon Smythe to Ginger Burgess, received 12/10/07
75. Email from Paula Kvam to Ginger Burgess, dated 12/11/07
76. Email from Dave McAninch to Ginger Burgess, dated 12/11/07
77. Email from Randy Hoffmeyer to Ginger Burgess, dated 12/11/07
78. Email from John Morrow to Ginger Burgess, dated 12/11/07
79. Email from Ray Cresap to Ginger Burgess, dated 12/11/07
80. Email from Anne McAteer-Berg to Ginger Burgess, dated 12/11/07
81. Email from John Dalton to Ginger Burgess, dated 12/11/07
82. Email from Ed Garipe to Ginger Burgess, dated 12/11/07
83. Email from Joanne Wilson to Ginger Burgess, dated 12/11/07
84. Email from Jerry Magelssen to Ginger Burgess, dated 12/11/07
85. Email from Elaine Rickman to Ginger Burgess, dated 12/11/07
86. Email from Leroy Moses to Ginger Burgess, dated 12/11/07
87. Email from Gretchen Leaf to Ginger Burgess, dated 12/11/07
88. Public Comment letter from Jeannie Heinzen to Ginger Burgess, received 12/11/07
89. Public Comment letter from Richard Wallenberg to Ginger Burgess, received 12/11/07
90. Public Comment letter from Jason and Helen Carter to Ginger Burgess, received 12/11/07
91. Public Comment letter from Rick and Patty Junco to Ginger Burgess, received 12/11/07
92. Public Comment letter from Karim Khoury to Ginger Burgess, received 12/11/07
93. Public Comment letter from Clay and Risa Livingston, received 12/12/07
94. Public Comment letter from Bernhard Berg to Ginger Burgess, received 12/12/07
95. Public Comment letter from Addison and Tamzan Johnson to Ginger Burgess, received 12/12/07
96. Public Comment letter from Ralph Ferguson to Ginger Burgess, received 12/12/07
97. Notice of Complete Application, dated 11/16/07
98. Affidavit of Mailing Decision to Parties of Record, dated 11/19/07
99. Email from Ginger Burgess to Party of Records who submitted public comments, dated 11/19/08
100. Affidavit of Posting the Public Notice Sign 11/7/07, received 11/21/07
101. Island County Notice of Application with SEPA, dated 11/27/07
102. Affidavit of Publication, received 11/29/07
103. Affidavit of Mailing hearing notice letter, dated 12/23/08
104. Notice of Appeal Letter from Paula Bradshaw to Sundberg Homes /Pam Bartlett
105. Site Data for 444/07 SPR
106. **Notice of Appeal from Ralph Ferguson, received 11/26/08**
107. Acknowledgment letter from Paula Bradshaw to Ralph Ferguson, dated 12/1/08
108. **Comprehensive Statement of Appeal, 337/08**, received 12/19/08
   a. Large Color Coded Map of project area
   b. Island County Zoning Code with highlighted sections
   c. Comprehensive Plan excerpt with highlighted sections
109. Letter to Ralph Ferguson from Paula Bradshaw setting hearing, dated 12/22/08
110. Letter requesting continuance of hearing from Ralph Ferguson to Michael Bobbink, Island County Hearing Examiner, dated 12/26/08
111. **Notice of Appeal from Ginette Danielson**, dated 12/1/08
112. Acknowledgment letter from Paula Bradshaw to Ginette Danielson, dated 12/1/08
113. **Comprehensive Statement of Appeal 338/07**, received 12/16/08
114. Letter to Ginette Danielson from Paula Bradshaw setting hearing, dated 12/22/08
115. Large Map, Cover Sheet & Vicinity Map 1 of 3, received 11/2/07
116. Large Map, TESC Plan, 2 of 3, received 11/2/07
117. Large Map Site Development Plan, 3 of 3, received 11/2/07
118. Storage Building Unit A Design, received 7/23/08
119. Storage Building/Inter-Floor Detail Unit A Design, received 7/23/08
120. Letter from Ralph Ferguson to Hearing Examiner, Michael Bobbink requesting extension of hearing date, received 12/26/08
121. Letter from Kevin Sundberg to Paula Bradshaw, received 12/31/08
122. Letter from Paula Bradshaw to Ralph Ferguson, Ginette Danielson, Sundberg Homes, resetting hearing dated 1/5/09
123. Letter from Ginette Danielson to Paula Bradshaw replacing herself with John Morrow for the Citizens of Juniper Beach, received 1/9/09
124. Affidavit of publication of the February 5, 2009 hearing in the January 20th issue of the Stanwood /Camano News
125. Affidavit of publication of the February 5, 2009 hearing in the January 17th issue of the Whidbey News Times, dated 1/22/09
126. Letter from Paula Bradshaw to Ralph Ferguson, John Morrow dated 1/26/09
127. Affidavit of Mailing, dated 1/27/09
128. Documents submitted by Ralph Ferguson at the 2/5/09 hearing
129. Zoning maps pulled from the web, submitted by Ralph Ferguson at the 2/5/09 hearing.
130. Letter from Ralph Ferguson to the Hearing Examiner, Michael Bobbink, with attachments, received 2/19/09
131. Letter from Andrew Hicks to Hearing Examiner, Michael Bobbink with enclosures, dated 2/18/09
132. Letter from Michael Bobbink, Island County Hearing Examiner to Ralph Ferguson, John Morrow & Pam Bartlett, advising of an additional public hearing on a specific limited issue, dated 3/5/09
133. Letter from Ralph Ferguson to the Hearing Examiner, Michael Bobbink, with attachments, received 4/7/09

**HEARING TESTIMONY**

John Morrow
822 Juniper Pointe Lane
Camano Island, WA 98282

Island County Hearing Examiner
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II.

On November 19, 2008 Island County Planning and Community Development issued a written Decision which contained a final SEPA Threshold determination of environmental non-significance and approved, subject to numerous conditions the proposal of the applicants to build a personal storage facility on the subject parcels. In the staff decision, Exhibit No. 2 in the Hearing Examiner file, Island County Planning and Community Development set forth its factual findings, and its Analysis and Conclusions of Law. The factual findings contained in the staff decision were supported by the Record as a whole and are hereby adopted by the Hearing Examiner as Findings of Fact herein acceptance so far as other findings the Hearing Examiner may directly contradict findings made by staff. A copy of the staff decision, Exhibit No. 2 in the Hearing Examiner file, along with staff’s attachments thereto is hereby adopted by the Hearing Examiner as Findings of Fact.

After the timely Appeal and timely filing of a Comprehensive Statement of the grounds for the Appeal by the appellants, staff prepared a response to the appeal, prepared by Jeff Tate, Director of Island County Planning and Community Development, and admitted into the Hearing Examiner Record as Exhibit No. 1. The Findings of Fact contained within Exhibit No. 1 are supported by the Record as a whole and are hereby adopted by the Hearing Examiner through this reference. A copy of Exhibit No. 1 is attached hereto.

After carefully reviewing the entire Record, the Hearing Examiner concludes that staff has adequately addressed all of the issues raised on appeal either in the original decision, Exhibit No. 2 attached hereto, or in staff response to the appeal, Exhibit No. 1 attached hereto. In general the Hearing Examiner finds that stormwater generated by the approximately 17,000 square feet of building plus the gravel surfaces of roads and building access will not result in stormwater runoff which will affect properties offsite. Island County Public Works has approved a proposed Stormwater Plan and the appellants have produced no evidence that this plan is inadequate or will fail to mitigate the offsite impacts.

The Hearing Examiner also finds that personal storage facilities generate little traffic and that there will be no significant impacts related to traffic from the operation of this facility. There is no evidence to support any of the contentions that there will be significant adverse impacts from this proposal. The one potential significant adverse impact from allowing a personal storage facility containing approximately 17,000 square feet of building footprint on this site would be
potential adverse aesthetic impacts. In this case the staff Decision imposed numerous conditions regarding landscaping and the design and appearance of the buildings to ensure that the proposed facility will be aesthetically compatible with the Rural Character of this area.

Aesthetic compatibility with the surrounding area has been obtained by having two clusters of two buildings each located at opposite ends of this six plus acre site. No structures other than the four storage structures are proposed and a condition of approval will not allow any future structures or any outside storage without a Site Plan Amendment approved by Island County.

The only development allowed on this site will be the approved landscaping, the four buildings, the gravel access roads, and gravel areas in front of the buildings to allow access to the storage unit themselves.

The site itself is located in an undeveloped area consisting of open fields with little development located between State Highway 532 and the more densely developed small lot subdivisions which include the plats of Domerude Beach, Jacobson Park, and Juniper Beach. The subject parcel is located approximately in the middle of the undeveloped area, between the developed areas located to both the north and the south.

The conditions of approval require final approval of a landscaping plan designed to break up (not to screen) the view of the storage facility buildings, which will be located in two clusters roughly eight hundred feet apart. All proposed landscaping will be native. Landscaping should include small clusters of trees which will break up the longer aspects of the buildings when approaching the site either from the north or the south along Smith Road or Ell Road. Since the facility is located in the middle of an undeveloped area consisting of many acres of open pasture type land it would be inappropriate to attempt to screen the facility by running a long line of trees in a hedge type layout along either the northern or southern boundaries. The landscaping should retain the general open pasture character of the area in the area between the two building clusters.

III.

Interesting legal arguments raised by the appellants suggested that the proposed site for the personal storage facility is subject to regulations which apply to Rural Residentially zoned parcels rather than Rural zoned parcels. On the zoning maps of Island County the subject site is zoned Rural. However the appellants cite ICC 17.03.050 and .070 to support their argument that the zoning regulations which apply to this site are the Rural Residential regulations.

This argument requires the Hearing Examiner to make a factual finding as to whether or not the subject site is contained within a subdivision, short subdivision or PRD created prior to July 1, 1990. In order to determine whether or not the subject properties are within the subdivision, short division or PRD the Hearing Examiner requested Planning and Community Development to research the issue. Planning and Community Development responded with a memorandum to the Hearing Examiner dated February 18, 2009. The information provided by staff showed that the parcels in question were legally created through real estate contracts in 1968 and were not
part of a subdivision, short subdivision, or PRD. It should also be noted that the two parcels in question exceed three acres each and prior to final approval will be combined into a single parcel containing more than six acres. The subject property is bordered by properties of the same size to both the north and the south. Based on these facts the Hearing Examiner will address the argument that the property should have been considered under the Rural Residential zoning regulations and since personal storage facilities are not allowed in the Rural Residential Zone the application should have been denied, in the Conclusions of Law.

IV.

The Hearing Examiner finds that the gravel areas surrounding the two clusters of buildings are larger than what is necessary to provide the needed traffic circulation to allow safe and appropriate access to the personal storage buildings. By graveling less of the site and leaving more in pasture grass the aesthetics of the proposed facility will be improved and the Rural Character of the site better maintained.

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 Record shows that subject to the conditions of approval requested by Island County Planning and Community Development, including those requested by the Department of Engineering and the Public Works and Health Departments, the proposal is consistent with all applicable regulations for establishing a personal storage facility in the Rural Zone. Subject to the conditions, as modified by the Hearing Examiner, the proposal will be consistent with and maintain the Rural Character of the area, will not have significant offsite impacts, and should be approved.

II.

As indicated above the site is zoned Rural and shows as a Rural zoned parcel on the county maps. However as pointed out by one of the appellants, ICC 17.03.050C.5 suggests that the written Designation Criteria may prevail over Zoning Atlas or zoning maps where there is a conflict between the Designation Criteria and the zone depicted in the Zoning Atlas. ICC 17.03.050C.5 reads as follows:

5. Designation criteria have been established for certain zone classifications. These written criteria control when there is a conflict between the criteria and the zone depicted in the zoning atlas.

The appellants argue that application of this section will result in a conclusion that the site meets the criteria for a Rural Residential designation and that development on the site should be
required to meet the requirements of the Rural Residential Zone even though the Zoning Atlas shows the property as Rural. The language of ICC 17.03.050C.5 does indicate that there may be times when the written Designation Criteria could be used to set aside the zoning for a parcel as depicted in the Zoning Atlas, and replace it with the zone whose Designation Criteria the property or area meets.

ICC17.03.050.E.1.b states:

b) Properties meeting the new designation criteria for Rural Residential will be classified in the Rural Residential Zone.

ICC17.03.050.E.2 states:

2. Residential. All properties classified Residential will be classified Rural Residential only if they meet the new designation criteria for the Rural Residential Zone. All other Existing Residential properties meeting the designation criteria for other zones will be classified in such Zone, depending on location. (Emphasis added).

ICC17.03.070.E discusses the designation criteria for the Rural Residential Zone and in full reads as follows:

E. Designation Criteria and Areas. Areas with a predominant pattern of development and density existing on July 1, 1990 that is greater than the Base Density permitted in the R zone may be designated RR when the criteria set forth below are met. The areas designated Rural Residential are listed in ICC 17.03.075 and depicted in the Zoning Atlas. Specific conditions can be found in Appendix A.

1. Subdivisions, Short Subdivisions and PRDs created prior to July 1, 1990;
   a) with an average Lot size less than two and one-half (2.5) acres
   b) that exceed ten (10) Lots with water system hook-ups
   c) If created prior to 1966 must be at least forty percent (40%) developed and adjacent to higher density development.

2. Subdivisions and Short Subdivisions created after July 1, 1990 may be included that are adjacent to areas defined by designation criterion 1 and form a Logical Outer Boundary.

3. Parcels may be included that are adjacent to or between areas defined by designation criterion 1 and 2, considering the need to preserve the character of existing natural neighborhoods and communities; physical boundaries such as roads, land forms and contours and water bodies; the need to prevent abnormally irregular boundaries; and, to use approved water and sewer service systems so that low density sprawl is avoided. (Emphasis added).

The property which is the subject of this application does not meet the Designation Criteria for Rural Residential set forth in ICC 17.03.070 and, therefore staff properly applied the Rural Zone regulations to the Site Plan Review which is the subject of this appeal.
First it must be noted that this section is permissive not mandatory. It allows a property to be designated Rural Residential when the Designation Criteria are met but does not require it. Furthermore the property in question was not part of a subdivision, short subdivision or PRD and therefore subsections 1 and 2 of the Designation Criteria in ICC 17.03.070E do not apply. Paragraph 3 of ICC17.03.050 does not apply because it is also permissive not mandatory. Paragraph 3 states that certain parcels may be included in the Rural Residential Zone if they are adjacent to or between areas defined by Designation Criteria 1 and 2. Since the legislative body declined to apply a Rural Residential designation to the parcels which are the subject of this application the Hearing Examiner must conclude that the legislative body intentionally decided that Designation Criteria 3 should not apply to these properties.

The Designation Criteria for determining if an area should be zoned Rural Residential are permissive and not mandatory. Furthermore the subject parcels for this proposed development clearly do not meet the requirements of the Designation Criteria 1 and 2. Island County Planning and Community Development properly applied the Rural Zoning requirements to these parcels.

IV.

The appellants suggest that these kinds of commercial development, i.e. storage facilities, are inappropriate for the Rural Zone. However the inclusion of Personal Storage Facilities as a use that can be approved in the Rural Zone pursuant to the Site Plan Review requirements clearly indicates that the legislative body concluded that, under certain circumstances, personal storage facilities were appropriate in the Rural Zone. In this case Island County Planning and Community Development has imposed strict requirements, including design requirements, location requirements and landscaping to make this facility aesthetically or visually compatible with the various mixture of uses allowed in the Rural Zone. Since the Record indicates no other significant adverse impacts which are peculiar to this location Island County Planning and Community Development appropriately, after the imposition of a large number of conditions, approved this personal storage facility.

Since personal storage facilities are allowed conditionally in the Rural Zone approval for them cannot be denied based on general characteristics (such as the potential to invite criminal activity) which would apply to all such facilities irregardless of where they are located.

V.

The Hearing Examiner concludes that the only grounds for denying a personal storage facility at this location would be because it was visually not compatible with what the Island County Comprehensive Plan and Island County Code calls Rural Character. Island County Planning and Community Development has conditioned the project so it is visually compatible with the rural character of the area in which it will be located and the Decision approving the personal storage facility should be upheld. The appeal should be denied.
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 upholds the approval granted to SPR 444/07, allowing a four building personal storage facility on a parcel which is a combination of R33227-248-1830 and R33227-248-2400 subject to the following conditions:

1. All development shall be in conformance with the approved Site Plan Review and conditions of approval unless they are amended in conformance with Section 16.15.130 ICC.

2. The use of this site is limited to the uses described above and shown on the attached site plan map attached to Exhibit No.2, which is attached to this decision. The applicant shall minimize the graveled spaces around the building to the maximum consistent with allowing appropriate access to the storage buildings by those who rent or lease storage space. The applicant shall work with Island County Planning and Island County Public Works to determine the extent of graveled surfaces which is necessary to allow appropriate access to the storage buildings and appropriate safe traffic circulation on the site.

3. Applicant shall comply with Island County Engineering requirements as specified in the attached comments and conditions, dated August 5, 2008.

4. Applicant shall comply with Island County Public Health requirements as specified in the attached comments and conditions, dated November 30, 2007, and January 4, 2008.

5. Applicant shall comply with Island County Planning and Community Development Department requirements as specified in the attached comments and conditions from Mattia Boscolo, dated December 26, 2007.

6. Applicant shall obtain all applicable building permits.

7. Prior to issuance of building permits, a Lot Combination Application shall be submitted to the Island County Assessor’s Office to combine the two subject parcels into one parcel.

8. All utilities shall be installed underground.

9. Adhere to the submitted building design for all proposed storage buildings. This includes all proposed colors, trim, façade and design elements, agricultural details, location, and size specifications. No fencing shall be allowed on the site unless said fencing is approved by Island County Planning and Community Development, after concluding that the fencing proposed is consistent with the open pasture type rural environment surrounding the subject property.

10. The final landscaping plan shall be reviewed through the building permit process, and approved prior to issuance of any building permits. Landscaping through the center of the
11. Occupancy and final inspection of the structures will not be permitted until a final landscaping inspection by Island County representatives, at which time additional landscaping may be required if necessary to comply with ICC 17.03.180.P.

12. The Open Space, as designated on the approved site plan map, shall be left in its natural, undisturbed state, except where the proposed landscaping is to be implemented. In areas where additional landscaping is to be implemented, work may be done to remove non-native vegetation, create berms, and install native vegetation pursuant to approved landscaping maps. No structures or roads may be placed within the designated Open Space.

13. The proposed landscaping includes only native vegetation and as such, should have an adequate survival rate without irrigation. However, if at any time a significant amount of the vegetation shows signs of poor health, this department reserves the ability to require an irrigation system.

14. The only approved lighting for the site is the recessed can lights installed under the eaves over the garage doors, as proposed by the applicant. Between the hours of 8 p.m. and 6 a.m., lighting shall be dimmed or motion-sensitive. No other lighting of the property is permitted at this time. Additional lighting will require Island County review and approval.

15. Personal Storage shall be limited to dead storage. No outside storage is allowed on the site and no vehicles are allowed to be on the site overnight. Access to the storage buildings shall be only for the purpose of bringing or removing personal items from the storage units. Administrative Site Plan Approval amending the Site Plan Approval is required for outside storage and for the addition of structures beyond the four approved.

16. If at any time the Personal Storage facility fails to meet the requirements of ICC 17.03.180.P, this department reserves the ability to require additional landscaping/screening in order to bring the site into compliance with Island County Code.

17. The County shall be notified of changes in ownership of a Personal Storage facility within ninety (90) days.

18. If any condition of this permit is violated, this site plan review may be revoked and the Personal Storage facility removed at the expense of the owner.

19. The above requirements are subject to change if any other information provided by the applicant or their authorized representative proves inaccurate.

20. **The approval of the storage facility is valid for five (5) years from the date of this decision and shall expire on November 19, 2013.** Any building permits obtained pursuant to this site plan approval shall be utilized within five (5) years after the effective date of this site plan approval. If the construction work is not initiated within said time and carried out diligently in accordance with the conditions contained herein, this site plan shall become null and void, and any approval, permit, or conditions granted hereby
shall be deemed to have lapsed. A one-time, one-year extension may be approved if the applicant submits a written request with Planning and Community Development at least thirty (30) days before the expiration date. An extension may be granted only upon a finding that the applicant has attempted in good faith to complete the site plan requirements within the five (5) year period.

Entered this 24th day of April, 2009, pursuant to authority granted under the laws of the State of Washington and Island County.

________________________________________
MICHAEL BOBBINK
Island County Hearing Examiner

Appeal Process: This land use decision is a final determination which may be appealed by filing a land use petition in Island County Superior Court within twenty-one (21) days of its issuance. Specific requirements for the petitions contents, time and service of process, and payment of the cost of the transcription of the record of the hearing may be found in Chapter 70C of Title 36 RCW
STAFF DECISION AND FINAL SEPA THRESHOLD DETERMINATION
SITE PLAN REVIEW – TYPE II DECISION
SPR 444/07

Property Owner: John and Katherine Baker, 15229 SE 275th St, Kent, WA 98042
Applicant: Sundberg Homes, Inc., PO Box 1568, Stanwood, WA 98292
Contact Person: Pam Bartlett, PO Box 1568, Stanwood, WA 98292
Assessor Parcel No: R33227-248-1830, R33227-248-2400
Project Location: Between Smith and Ell Roads, south of SR 532 on Camano Island
Parcel Zoning: Rural (R)
Parcel Size: 6.58 acres (3.29 acres each)

Applicable Island County Ordinances: Site Plan Review Chapter 16.15 ICC, Land Use Review Process Chapter 16.19 ICC, Island County Environmental Policy Chapter 16.14C ICC, Zoning Ordinance Chapter 17.03 ICC, Critical Areas Ordinance 17.02 ICC

Proposal

Construct a Personal Storage facility on 6.58 acres in the Rural zone, with a building footprint of 16,330 square feet. The four (4) storage buildings will be one story, not to exceed 35 feet in height. Two (2) of the buildings will each have a footprint of 4,225 square feet, and the remaining will each have a footprint of 3,940 square feet. The total gross floor area of the Personal Storage facility will not exceed 16,330 square feet. The development will gain access off Smith Road. The proposal will not be plumbed.

Findings of Fact

The Community Development Division has considered said application and found that:

1. Project and Parcel History. Pre-Application Conference PRE 916/07 was held on May 24, 2007, at which time the applicant was advised of the procedures and standards necessary to construct a Personal Storage facility. The subject application was submitted on November 2, 2007, and determined to be complete by Island County on November 16, 2007. The review of the application followed the Type II Decision Process as required by 16.19.

The application was publicly noticed in the Stanwood-Camano News on November 27, 2007, which established a public comment period deadline of 4:30 p.m., December 11, 2007. An affidavit of posting was received by this office on November 21, 2007, which stated that the public notice sign had been posted on the site on November 20, 2007. Review comments were sent to the applicant on December 28, 2007, February 11, 2008, June 27, 2008, and September 18, 2008; new information was submitted to County staff on June 9, 2008, July 23, 2008, and October 15, 2008.
The initial proposal was for seven (7) buildings totaling 16,940 square feet, to be fully screened and fenced. The applicant was advised in an initial review letter that said proposal was likely to be denied based on the impact to the rural character of the area. A revised proposal was submitted by the applicant that called for four (4) buildings that were agricultural in appearance.

2. **Public Comments.**

Fifty-seven (57) public comments were received regarding this site plan review application. Some of the major concerns stressed in these public comments included: 1) Traffic, especially the intersection of Smith Road and SR 532. 2) Preservation of rural character and compatibility with surrounding Permitted Uses. 3) How drainage will be handled in an area where there are already drainage problems, and the possibility for mosquitoes in association with the proposed retention pond. 4) The possibility of criminal activity being attracted to and taking place at and in the vicinity of the facility. 5) Light pollution from 24-hour lighting. 6) Loss of animal habitat and feeding areas (birds, deer, etc.). 7) The soil perk problems in the area and that no sanitary facilities are being proposed for users of the development. 8) Impact to the aquifer and water rights, and contamination of water supply. 9) Negative impact on property values.

All persons who submitted comments during the public comment period were designated as legal parties of record.

3. **Site Description.**

a. **Location:** The property is located between Smith and Ell Roads, south of the intersection of those roads, being a portion of the NW ¼ of Section 27, Township 32 North, Range 3 East W.M., on Camano Island, Washington.

b. **Zoning:** The subject property is zoned Rural and subject to the requirements of 17.03.060 ICC. Personal Storage is listed as a Conditional Use in the Rural zone.

c. **Access:** The applicant has proposed one access point from the northeast corner of the property onto Smith Road approximately 1500 feet south of the intersection of Smith and Ell Roads. This access point was approved by the Island County Public Works under Access Permit Number APC 07-0110.

d. **Existing Structures:** According to information provided from the Island County Assessor’s Office and site visits conducted by staff, there are no structures on the subject property.

e. **Site Size and Condition:** The subject property consists of two parcels approximately 6.58 acres in size, and is approximately 265 feet from north to south and 1100 feet from east to west; it is bordered on the west by Ell Road and on the east by Smith Road. The site contains a small unregulated wetland, less than 1,000 square feet in size, in the central portion. The property consists mostly of an open grassy field, with a few trees and shrubs through the center, and a line of trees and understory along the boundary with Smith Road. The parcel has a gentle slope from north to south toward Port Susan.

f. **Shoreline and Critical Areas:** The subject property is not within Shoreline Jurisdiction. There are no known endangered species on the subject site. A wetland, which is too small to be regulated by ICC 17.02 (old code), is located towards the center of the property. According to the USDA Soil Survey for Island County - 1958, the predominant soil type found on the property is Bow loam (Bb) with 0 to 5 percent slopes. The FEMA flood zone designation is X – Areas of Minimal Flooding.

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

h. **Historic Districts:** The site is not within a Historic District.

i. **Accident Potential and/or Noise Zone:** The site is not located within an AICUZ Accident Potential or Noise Zone.

j. **Surrounding Properties:** The subject property is bordered to the east by property zoned Commercial Agriculture (CA), and on all other sides by parcels zoned Rural (R).
Analysis and Conclusions

A. The application was accepted and reviewed as a Type II Decision according to the timeframes and process established in ICC 16.19. This decision was not issued within the maximum 45-day time frame because additional requests for information were made.

B. The staffs of Island County Health, Engineering, and Community Development evaluated the proposed project for compliance with Titles 11, 8, 13, and 17 and with Chapters 16.15, 16.14C, and 16.19 of the Island County Code according to the Type II Decision Process. Other county and/or state agencies were consulted as appropriate. Island County Public Health has indicated that they have no objection to approval as listed in the memorandums from Aneta Hupfauer dated November 30, 2007, and from Keith Higman dated January 4, 2008. Engineering also has no objection to approval as described in the memorandum from John Bertrand dated August 5, 2008. The Critical Areas planners have no objection to approval as described in the memorandum dated December 26, 2007.

a. Upon conformance with the conditions of approval, the proposed Site Plan Review will be consistent with the intent, purpose and requirements of Chapter 17.03 ICC.

b. Upon conformance with the conditions of approval, the proposed Site Plan Review will be consistent with the applicable criteria and standards for site plans as required by ICC 16.15.060.

c. No dedications or reservations have been required; therefore, the proposed site plan conforms to Section 16.15.130 ICC, Dedications and Reservations.

d. County Environmental Policy, ICC 16.14C: According to WAC 197-11-800, this site plan review is not exempt from the requirements for a SEPA threshold determination. Pursuant to WAC 197-11-355, a notice that a SEPA threshold determination of non-significance would likely be issued for the proposal accompanied the notice of application. A SEPA determination of non-significance is issued concurrently with this staff report on November 19, 2008. Island County has determined that this proposal is not likely to have a significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030.2.c. This decision was made after review of a completed environmental checklist and other information on file with Island County.

e. Agriculture and Forestry Protection, ICC 16.25: The subject site is situated within 500 feet of property zoned Commercial Agriculture (CA). This Site Plan Review must comply with Chapter 16.25.040 ICC by including the required notices through the building permit process.

f. Consistency Review by Agencies, ICC 16.19.120: A Check for Consistency was performed according to ICC 16.19.120. Upon conformance with the conditions of approval, the proposed site plan review will be consistent with adopted Island County Comprehensive Plan and development regulations.

C. The following analysis has been conducted for compliance with Chapter 17.03 and 16.15 ICC.

a. ICC 17.03.060 lists Personal Storage as a Conditional Use in the Rural zone. In order to conduct a Conditional Use in the Rural zone an approved Site Plan Review must first be obtained. This Staff Report serves as Island County Planning and Community Development’s (ICPCD) decision to approve the Personal Storage facility on the subject property.

b. ICC 17.03.180.C. provides a list of approval criteria that must be met for a project to be in accordance with Island County Code.

i. As mentioned above in C.a., this Staff Report serves as ICPCD’s decision to approve SPR 444/07.

ii. The two parcels are each 3.29 acres in size; the parcels are to be combined, resulting in a single 6.58 acre parcel, which is larger than the five (5) acre minimum lot size required to conduct Personal Storage in the Rural zone.

iii. The Personal Storage facility will access onto Smith Road, a County Collector road, which is the road classification with second priority for acceptable access for Personal Storage. The only other road adjacent to the subject property is Ell Road, which is a local access road. Since local
access roads are not listed as suitable for access for personal storage facilities in this section of code, access from Smith Road is the only option.

iv. The proposal calls for a total building footprint of 16,330 square feet, which is within the 17,000 square foot maximum allowed for parcels less than 10 acres in size.

v. This Personal Storage facility will be limited to dead storage. Outside storage will not be permitted at this facility unless proper screening is provided.

vi. At this time, no on-site caretaker has been proposed. However, upon Site Plan Amendment approval, one on-site caretaker or manager may be hired in the future to oversee the security, maintenance, and day-to-day functions of this Personal Storage facility. Such a proposal would require soil perk tests and water availability verification.

vii. Only one (1) access has been proposed to serve the subject parcel.

viii. The Personal Storage facility complies with the design, landscape, open space, screening, buffering, signage, and lighting standards set forth in 17.03.180 as described below.

c. ICC 17.03.180.P: This section of code addresses non-residential design, landscape, and screening guidelines. In the Rural zone, an applicant has the option of complying fully with building design standards or totally screening the development from the view of adjacent properties and shoreline and roadway vistas. For this application (SPR 444/07), the applicant opted to comply with building design standards. The four (4) proposed structures will be similar in appearance to barns, with two different designs. Design A is 4,225 square feet and consists of “Weathered Copper” colored metal siding and “Brown” colored metal roof, with windows along the back and side walls. Design B is 3,940 square feet and consists of wood siding with a cedar stain and black composition roof, with windows along the back and side walls and cupola on the roof. The fronts of the buildings, which contain the large doors, will face the interior of the property, with landscaping at the corners and between buildings to soften the impact. The two building designs are of different heights and sizes, and will be set at an angle to each other to prevent a blocky, linear appearance. The site layout consists of two clusters, with a Design A and Design B structure in each cluster, located at the eastern and western ends of the property.

After a thorough review of a series of landscaping proposals, ICPCD staff has concluded that the current landscaping proposal provides an adequate overall balance of plantings to soften the impact of the development. However, further revisions are needed to ensure that landscaping is located in areas where it will be most effective. A landscape plan is not being approved through this decision, but will be reviewed and approved through the building permit process. The proposal consists of native vegetation and retention of existing vegetation; irrigation will be provided as needed with water that is brought in by the owner.

d. ICC 17.03.180.Q: This section of code addresses standards for loading/unloading areas, parking spaces, and access and internal circulation. The facility will have enough loading and unloading capabilities to serve the purpose of the development. Because the development does not include an office, the parking requirement for a specific number of marked spaces is waived because users of the facility will tend to go to their specific storage unit, park outside, unload/load their vehicles, and then leave; thus eliminating the need for set parking spaces. The driveway and parking surfaces will be graveled; further review of the access and circulation for the proposal has been done by Island County Public Works, and is referenced in their attached comments.

e. ICC 17.03.180.R: This section of code governs signage and outdoor lighting standards. Proposed lighting for the facility is recessed can lights under the eaves facing downwards over the garage doors; a sign has not been proposed as part of the application. Any sign or outdoor lighting that is added to the site at a future date must be reviewed for compliance with this section of code and approved by this department. All signs require separate building permits.

f. ICC 17.03.180.S: This section of code establishes site coverage ratios for non-residential Uses and setbacks in the Rural zone. The structures will be the only impervious surfaces for the proposal, and at 16,330 square feet, or 5.7% of the gross site area, will be within the 10% maximum limit established by
code. When applying this requirement, gravel is considered to be pervious and does not count toward the maximum Impervious Surface Ratio. As shown on the site plan, 150,800 square feet is designated as Open Space, which is 52.6% of the gross site area, exceeding the required minimum of 50%. The subject property has a building setback of five (5) feet from the north and south property lines, 20 feet from Ell Road, and 30 feet from Smith Road. The site plan shows a 50-foot setback from the north and south property lines, a 60-foot setback from Ell Road, and a 54-foot 5-inch setback from Smith Road.

g. Section 16.15.060 lists conditions of approval for non-residential uses in the Rural zone. This proposal meets those requirements in that: 1) the proposed use will not result in a significant adverse environmental impact, 2) the use will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, or services existing or planned to serve the area, 3) the proposed development/use is one conditionally permitted within the subject zone and complies with all of the applicable provisions of this Ordinance and all other applicable regulations, 4) the subject site is physically suitable for the type, density and intensity of the use being proposed, 5) the location, size, design and operating characteristics of the proposed development/use would not be detrimental to the neighborhood, nor be detrimental to the public interest, health, safety, or welfare of the County, 6) the proposed use and its design fulfill the definition of rural character as defined in Chapter 17.03 ICC.

Decision

Following review of the subject Site Plan Review application for conformity with the criteria of approval listed in ICC 17.02 (Critical Areas), ICC 17.03 (Zoning), and ICC 16.15 (Site Plan Review), application number SPR 444/07 is hereby granted approval subject to completion of the following conditions.

21. All development shall be in conformance with the approved Site Plan Review and conditions of approval unless they are amended in conformance with Section 16.15.130 ICC.

22. The use of this site is limited to the uses described above and shown on the attached site plan map.

23. Applicant shall comply with Island County Engineering requirements as specified in the attached comments and conditions, dated August 5, 2008.


25. Applicant shall comply with Island County Planning and Community Development Department requirements as specified in the attached comments and conditions from Mattia Boscolo, dated December 26, 2007.

26. Applicant shall obtain all applicable building permits.

27. Prior to issuance of building permits, a Lot Combination Application shall be submitted to the Island County Assessor’s Office to combine the two subject parcels into one parcel.

28. All utilities shall be installed underground.

29. Adhere to the submitted building design for all proposed storage buildings. This includes all proposed colors, trim, façade and design elements, agricultural details, location, and size specifications.

30. The final landscaping plan shall be reviewed through the building permit process, and approved prior to issuance of any building permits.

31. Occupancy and final inspection of the structures will not be permitted until a final landscaping inspection by Island County representatives, at which time additional landscaping may be required if necessary to comply with ICC 17.03.180.P.

32. The Open Space, as designated on the approved site plan map, shall be left in its natural, undisturbed state, except where the proposed landscaping is to be implemented. In areas where additional landscaping is to be implemented, work may be done to remove non-native vegetation, create berms, and install native vegetation.

1 e-mail from Jeff Tate, dated April 12, 2004
pursuant to approved landscaping maps. No structures or roads may be placed within the designated Open Space.

33. The proposed landscaping includes only native vegetation and as such, should have an adequate survival rate without irrigation. However, if at any time a significant amount of the vegetation shows signs of poor health, this department reserves the ability to require an irrigation system.

34. The only approved lighting for the site is the recessed can lights installed under the eaves over the garage doors, as proposed by the applicant. Between the hours of 8 p.m. and 6 a.m., lighting shall be dimmed or motion-sensitive. No other lighting of the property is permitted at this time. Additional lighting will require Island County review and approval.

35. Personal Storage shall be limited to dead storage. Outside storage shall not be allowed on the site unless adequate screening is approved by Island County.

36. If at any time the Personal Storage facility fails to meet the requirements of ICC 17.03.180.P, this department reserves the ability to require additional landscaping/screening in order to bring the site into compliance with Island County Code.

37. The County shall be notified of changes in ownership of a Personal Storage facility within ninety (90) days.

38. If any condition of this permit is violated, this site plan review may be revoked and the Personal Storage facility removed at the expense of the owner.

39. The above requirements are subject to change if any other information provided by the applicant or their authorized representative proves inaccurate.

40. The approval of the storage facility is valid for five (5) years from the date of this decision and shall expire on November 19, 2013. Any building permits obtained pursuant to this site plan approval shall be utilized within five (5) years after the effective date of this site plan approval. If the construction work is not initiated within said time and carried out diligently in accordance with the conditions contained herein, this site plan shall become null and void, and any approval, permit, or conditions granted hereby shall be deemed to have lapsed. A one time, one-year extension may be approved if the applicant submits a written request with Planning and Community Development at least thirty (30) days before the expiration date. An extension may be granted only upon a finding that the applicant has attempted in good faith to complete the site plan requirements within the five (5) year period.

SIGNED THIS _______ DAY OF ___________________, 2008.

___________________________________________
Ginger Burgess, Assistant Planner for:
Jeff Tate, Planning Director
I. General Information

**Summary:** Island County Planning and Community Development issued approval of SPR 444/07 on November 19, 2008. SPR 444/07 granted site plan approval of a 16,330 square foot personal storage facility located on a 6.58 acre Rural zoned parcel. The personal storage facility consists of 4 separate barn-like structures on a parcel located on the north end of Camano Island off of Ell Road. The Island County Hearing Examiner’s office received a timely appeal by Ginette Danielson on December 1, 2008 and by Ralph Ferguson on November 26, 2008. Comprehensive statements of appeal were filed on December 16, 2008 by Ginette Danielson and on December 19, 2008 by Ralph Ferguson.

This staff report responds to issues raised in both comprehensive statements of appeal.

**Applicant:** John and Katherine Baker, 15229 SE 275th St., Kent, WA. 98042

Applicant’s Agent: Pam Bartlett, P.O. Box 1568, Stanwood, WA. 98292

Appellant: Ginette Danielson, 1803 Ranch Rd., Camano Island, WA. 98282
Ralph Ferguson, 878 Juniper Pointe Lane, Camano Island, WA. 98282


Site Location: The property is located between Smith and Ell Roads, south of the intersection of those roads, being a portion of the NW ¼ of Section 27, Township 32 North, Range 3 East W.M., on Camano Island, Washington.

Hearing date: February 5, 2009

Report Prepared by: Jeff Tate, Director
January 26, 2009
II. Findings of Fact

1. SPR 444/07 was submitted on November 2, 2007. Planning and Community Development determined that the application was complete on November 16, 2007.

2. Pursuant to ICC 17.03.060.B.1.m personal storage facility is listed as a Type II Conditional Use. The process for Type II applications is established in Chapter 16.19 ICC.

3. SPR 444/07 was published in the November 27, 2007 Stanwood Camano News. A project description was provided and a two week public comment period established. The two week public comment period ended on December 11, 2007.

4. A yellow public notice sign was posted on the property prior to November 27, 2007. The sign includes information pertaining to the project description and announced the two week public comment period that ended on December 11, 2007. The original development proposal that was advertised described the project as 7 storage buildings that totaled 16,940 square feet. It was the stated intent of the applicant to fully screen the structures with vegetation and fencing. The applicant was advised that this proposal would likely be denied based on impacts to rural character. The applicant revised the proposal to reduce the number of buildings to 4 and the square footage to 16,330 square feet.

5. The staff report for SPR 444/07 describes the process for review of the proposal. On November 19, 2008 staff issued a written decision that grants approval for the construction of 4 barn like structures that, in aggregate, total 16,330 square feet of personal storage.

6. Two written statements of appeal were filed with the Hearing Examiner’s office; one on December 1, 2008 and the other on November 26, 2008. Subsequent comprehensive statements of appeal were filed with the Hearing Examiner’s office on December 16, 2008 and December 19, 2008 respectively.

IV. Response to Appeal – Ginette Danielson

1. The appellant has outlined 7 concerns that form the basis for her appeal. Those concerns are as follows:
   a. The current Rural designation of this area is not appropriate.
   b. The development will block a view corridor.
   c. There will be an increase in crime.
   d. Water runoff will be impacted.
   e. Water usage will be impacted.
   f. Traffic will be impacted.
   g. Animal habitat will be impacted.
   h. It will generate a mosquito problem.
   i. Wetlands will be impacted.
   j. It will create light pollution.
   k. It will allow vehicle storage that leads to leaking fluids and oils.
   l. There will be seepage into the ground water and into the bay.
   m. It will create noise pollution.
   n. Adjacent properties will be devalued.
   o. Commercial development moratorium along the highway is pushing commercial development into residential areas.

2. The current Rural designation of this area is not appropriate. ICC 17.03.060 establishes the list of uses that are permitted or conditionally permitted in the Rural Zone. While the Rural Zone is intended to be
predominantly low density residential it does allow for a range of non-residential uses that may be permitted provided other specified criteria can be met. ICC 17.03.060.B.1.m states that personal storage facilities may be permitted subject to adherence to other land development standards. ICC 17.03.040 defines personal storage as "structures containing separate self-service storage spaces that are leased or rented as individual units." ICC 17.03.180.C sets forth the development standards for personal storage facilities. After careful review of these standards Planning and Community Development has determined that the proposal meets all applicable code standards and is therefore an allowed use on the subject parcel.

3. **The development will block a view corridor.** View corridors are not regulated under Island County regulations, nor have view corridors been identified as being significant (vs. those corridors that might not be significant). Staff’s review has focused on how to make this personal storage facility appear as agricultural as possible with landscaping that further enhances the view and softens any visual impacts from the ability to see the subject structures.

4. **There will be an increase in crime.** The land use regulations are limited in their scope and do not include standards that are specifically intended to address this type of concern. Nonetheless, the proposal does include fencing that will be located around the perimeter of the personal storage facility along with safety lighting. As is the case with any land use activity, it is difficult to ensure that all activities within the confines of the development are legal activities. However, the County Sheriff responds to any suspicious activities that are reported.

5. **Water runoff will be impacted.** Island County Public Works has reviewed the proposal and has determined that it meets the requirements of Chapter 11.03 ICC for surface and storm water quality and control. The appellant has not provided any specific information that describes how Public Works failed to adequately address surface water runoff concerns.

6. **Water usage will be impacted.** Island County Health has reviewed the proposal and has determined that it meets the requirements of Chapter 8.09 ICC for potable water. The appellant has not provided any specific information that describes how Health failed to adequately address water usage. In fact, water usage associated with a personal storage facility is less than that which would be associated with the development of a single family residence on each of the existing two parcels.

7. **Traffic will be impacted.** Island County Public Works has reviewed the proposal and has determined that it meets the requirements of Chapter 11.04 ICC for transportation concurrency and the requirements of Chapter 11.01 ICC for access and other land development standards. The appellant has not provided any specific information that describes how Public Works failed to adequately address traffic concerns.

8. **Animal habitat will be impacted.** Planning and Community Development has evaluated the environmental impacts associated with the proposal. The site does not contain any protected species or critical areas as they are defined in Chapter 17.02 ICC. The appellant has not provided any specific information regarding this concern.

9. **It will generate a mosquito problem.** It is assumed that the appellant has raised this concern because there is a storm water detention facility located on the property. The facility is designed to hold water during storm events and during winter months when rainfall levels increase. While it is impossible to state that mosquito’s will not be attracted to the facility, it is not like a wetland feature where standing water is present year round. The storm water detention facility is needed in order to address concern #5 above.

10. **Wetlands will be impacted.** There are no wetlands present on the site. The storm water detention facility is designed to hold water back so that the post-development rate of runoff does not exceed the pre-development rate of runoff. This design will help mitigate any potential impacts to wetlands that are located down slope of the development.

11. **It will create light pollution.** Condition #14 of the staff decision states that lighting is limited to can lights that are installed under the eaves and that between 8 pm and 6 am lighting is limited to dimmed or motion sensitive lights. Additionally, the County lighting ordinance governs light pollution and requires that light shall not “spray” beyond property lines or onto streets.

12. **It will allow vehicle storage that leads to leaking fluids and oils.** Outdoor storage and auto repair are not permitted in conjunction with this approval. Additionally, outdoor storage is only permitted in the Rural...
Center, Rural Village and Rural Service zoning designations. Auto repair is only permitted as a home industry and after site plan approval. Unless a site plan review application is applied for and approved, auto repair is not permitted. Planning and Community Development does not usually list prohibited uses within site plan approvals. Site plan approvals generally focus on the uses that are permitted through the application process. However, it may be appropriate to clarify that these types of uses are not permitted in order to avoid confusion in the future.

13. **There will be seepage into the ground water and into the bay.** Island County Health has reviewed the proposal and has determined that it meets the requirements of Chapter 8.07 ICC for on site sewage. The appellant has not provided any specific information that describes how Health failed to adequately address ground water concerns. In fact, septic usage associated with a personal storage facility is less than that which would be associated with the development of a single family residence on each of the existing two parcels.

Additionally, Island County Public Works has reviewed the proposal and determined that it meets the requirements of Chapter 11.03 ICC for storm water and surface water concerns. The appellant has not provided any specific information that describes how Public Works failed to adequately address ground water concerns.

14. **It will create noise pollution.** All human presence results in some level of noise emission. The applicant is required to adhere to the State established standards for noise pollution. The appellant has not provided any information that indicates how this proposal fails to comply with those standards.

15. **Adjacent properties will be devalued.** Different personal storage facilities have had different impacts on property value. Traditional mini storage has the potential to impact property values when not properly mitigated. Other personal storage facilities in the rural parts of Island County have had minimal impact on property value. Provided that the facility appears agricultural in nature, and because the traffic volume for mini storage is so minimal, personal storage facilities can fit into the rural landscape without any impact on nearby property values. No information has been provided that substantiates this statement which makes it nothing more than speculative.

16. **Commercial development moratorium along the highway is pushing commercial development into residential areas.** There is no moratorium for commercial development on Camano Island. The Board of Island County Commissioners adopted an official interim control that modifies some of the commercial development regulations that were in place on State Highway 532. Those rules were adopted on August 18, 2008, nearly 9 months after SPR 444/07 was submitted. Personal storage facilities have been allowed in the Rural zone since December 1, 1998. The adoption of the interim official control has not resulted in pushing commercial development into residential areas. The County has not received an application for a personal storage facility on Camano Island since the interim control was adopted.

VII. Response to Appeal – Ralph Ferguson

1. The appellant has outlined 5 concerns that form the basis for his appeal. Those concerns are as follows:
   a. Even though the property is designated as Rural the written designation criteria of the Rural Residential zone are more applicable. Because the Rural Residential zone does not allow Personal Storage Facilities the application should have been denied.
   b. The Planning Department is setting an improper precedent that authorizes the conversion of residential properties into commercial uses. This precedent is in conflict with Chapter 36.70A RCW, the Comprehensive Plan, the Zoning Ordinance, SEPA, and the Coordinated Water System Plan.
   c. The Planning Department has bypassed the lot size limitations.
   d. The Planning Department will compromise its objectivity in reviewing a lot combination if it is a condition of approval.
   e. The application was not properly noticed. Landowners should have received a mailed notice.

2. **Even though the property is designated as Rural the written designation criteria of the Rural Residential zone are more applicable.** Because the Rural Residential zone does not allow Personal
Storage Facilities the application should have been denied. The appellant indicates that the original G & G residential development provides a clear logical outer boundary that defines the residential area. This logical outer boundary more closely meets the designation criteria for the Rural Residential zone because it has an average lot size of 1.83 acres and because the lots are served by public water systems. The appellant also states that the Planning Department erred in applying a Rural zone designation to the subject parcels.

The Board of Island County Commissioners adopted the Comprehensive Plan, Chapter 17.03 ICC and the Zoning Atlas maps on September 29, 1998. These documents went into effect on December 1, 1998. These GMA documents were subject to a 60 day appeal period that offers individuals the opportunity to appeal the County’s decision to the Western Washington Growth Management Hearings Board. No appeals were filed that challenged the designation of the subject parcels as Rural as shown in the Comprehensive Plan and on the officially adopted zoning atlas maps. Planning and Community Development staff does not have the authority to change the zoning of parcels. The Hearing Examiner does not have this authority either. Delineation of zoning boundaries is a legislative action. The appropriate process for appealing a zoning designation is to the Growth Management Hearings Board after a decision by the legislative authority.

The appellant argues that the ICC 17.03.050.C.5 provides staff with the authority to apply the designation criteria when there is a conflict between the zoning designation provided for a parcel and the criteria listed in the code.

The appellant provides further support by citing ICC 17.03.050.F which states that when there is a conflict the restrictive standard applies. He then states that the Rural Residential zone is clearly more stringent because it does not allow commercial development. While it may be true that the Rural Residential zone does not allow commercial it does provide for significantly higher residential densities that have a far greater impact on surface water quality, traffic, ground water quality, the environment, impervious surfaces, and light and noise pollution. On balance, the Rural zone is far more restrictive than Rural Residential because it is primarily a low density rural zone. If the appellant’s argument that the property should be zoned Rural Residential is accepted, the result is that the 6.58 parcel can be developed at high density residential intensities.

3. The Planning Department is setting an improper precedent that authorizes the conversion of residential properties into commercial uses. This precedent is in conflict with Chapter 36.70A RCW, the Comprehensive Plan, the Zoning Ordinance, SEPA, and the Coordinated Water System Plan.

The appellant provides a speculative analysis of what could happen if the personal storage facility is permitted. In essence, the appellant is stating that it will create a domino effect for adjacent properties. While it is difficult to argue against the wide variety of “what if” scenarios, it has yet to happen in other locations in the County where a personal storage facility has been permitted. The reality is that the Rural zone allows for personal storage facilities when it is demonstrated that they meet all other code standards.

The appellant further argues that the allowance of a personal storage facility on the subject parcel will reduce the availability of housing, will result in sprawl, and damage the environment. Staff has reviewed the environmental impacts and has determined the proposal complies with the Critical Areas Ordinance. Staff has also concluded that because the Rural zone allows personal storage facilities that it is an appropriate use and does not significantly diminish the availability of housing. In 1998 the County evaluated the housing capacity for Island County and determined that the land use scenario adopted by the County could provide housing for population out to 2050 and beyond.

4. The Planning Department has bypassed the lot size limitations. Presumably, the appellant is indicating that because there are two adjacent parcels that are both below 5 acres in size that the personal storage facility is prohibited. Anybody at anytime can combine adjacent parcels into a single parcel. Condition #7 requires that the parcels be combined. Staff advised the applicant not to combine the parcels unless the site plan review application was approved. This advice was provided because once they are combined they can not be re-divided. Staff did not want to see the applicant combine the lots first and then deny the application so that the result would be a denial and a loss of one property.

5. The Planning Department will compromise its objectivity in reviewing a lot combination if it is a condition of approval. Lot combinations are ministerial decisions that preclude the exercising of any
discretion by staff. There are no circumstances under which a lot combination would be denied if it meets the basic criteria established in ICC 16.06.080. Furthermore, we would not suggest a lot combination unless we were confident that it met these criteria.

6. The application was not properly noticed. Landowners should have received a mailed notice. Personal storage in the Rural zone is listed as a Type II conditional use. Notification requirements for Type II conditional uses are established in ICC 16.19.140. Notice of Type II conditional uses is provided through posting of the property and publication (ICC 16.19.140.A.1). The application was properly noticed as described in the staff report.

VIII. Recommendation

Island County Planning and Community Development recommends that the Hearing Examiner deny the appeals submitted by Ginette Danielson and Ralph Ferguson and uphold the County’s site plan review approval subject to inclusion of a new condition #10 which would read as follows:

10. Uses. This site plan approval is limited to indoor storage of personal goods. Outdoor storage is strictly prohibited and other types of land uses are not allowed without amendment to this site plan approval or submittal of a new site plan review application. Space within the individual units is limited to dry storage. Units may not be used to operate other business ventures by the owner, manager or tenants of said units.