

ISLAND COUNTY HEARING EXAMINER

RE: SEPA Appeal)	File Numbers: APP 266/10
Preliminary Long Plat)	PLP 030/07
Substantial Development Permit)	SDP 176/08
)	
Applicant: Geoffrey Anderson)	FINDINGS OF FACT
		CONCLUSIONS OF LAW
Appellant: Maple Grove Community		AND DECISION
Committee		

SUMMARY OF APPLICATION AND DECISION

APPLICATION: The Applicant is seeking Preliminary Long Plat Approval and a Shoreline Substantial Development Permit for the proposed subdivision of 42.34-acres into 60 single-family residential lots and six lots to be developed with one 4-plex on each lot. The Substantial Development Permit is sought for a stormwater tight-line and discharge system within shoreline jurisdiction. No other development is proposed within shoreline jurisdiction.

APPEAL: The Maple Grove Community Committee has filed an Appeal of the SEPA Mitigated Determination of Non-significance issued for the proposed Long Plat and Development Permit.

DECISION: Preliminary Plat Approval and a Shoreline Substantial Development Permit are approved for the proposed residential subdivision, subject to conditions. The Appeal of the SEPA Mitigated Determination of Non-significance is denied; however, it should be noted that the community involvement has resulted in a development of the Preliminary Adaptive Management Plan designed to monitor, manage, and mitigate potential impacts from the quantity and quality of water reaching the down-gradient aquifers and the impacts from stormwater runoff on slope stability.

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 hearings on April 21, 2011 and May 19, 2011.

I.

PRELIMINARY INFORMATION

Applicant: Geoffrey Anderson

Appellant: Maple Grove Community Committee

Property Location: 510 North Camano Drive
North Camano Island - West of the Intersection of North Camano
Drive and Maple Grove Road

Applicable Ordinances, Statutes and Regulations:

Rural Residential (RR) – Sections 17.03.070 & 17.03.075

Land Divisions & Dedications – Chapter 16.06

Agriculture, Minerals, and Forestry Protection – Chapter 16.25

Shoreline Use Regulations – Chapter 17.05

Critical Areas Ordinances – Chapters 17.02 & 17.02A

Public Health – Title 8

Public Works – Titles 11 & 13

SEPA: MDNS, issued December 2, 2010

Publication: April 7, 2011

Mailing of Notice to Applicant: February 1, 2011

Sign Posted: February 26, 2007

Mailing of Staff Report: April 6, 2011

Date of Application: February 16, 2007

Hearing Date: April 21, 2011 and May 19, 2011

Exhibit Log:

1. Staff Report
2. Appeal Response
3. Environmental Checklist; date received 1/26/07
4. Environmental Checklist; date received 6/2/08
5. Environmental Checklist; date received 12/2/09
6. Final SEPA Threshold Determination; date signed 12/6/1
7. Letter of Final SEPA Threshold Determination to Parties of Record from Andrew Hicks; dated 12/6/10
8. Letter from Jim Shields & Jim Schelle of the Maple Grove Community Committee to Robert Pederson, **RE: Appeal of Final SEPA Threshold Determination. Application Numbers: PLP 030/07 and SDP 176/08**; date received 12/20/10
9. Letter of Acknowledgment of receipt for SEPA appeal from Paula Bradshaw for Michael Bobbink RE: APP 266/10 Maple Grove Community Committee; dated 12/23/10
10. Letter of Receipt of Appeal of the Final SEPA Threshold from Paula Bradshaw to Dan Nelson RE: 030/07 PLP Anderson Point Long Plat; dated 12/23/10
11. Letter RE: SEPA Appeal 030/07 PLP Anderson Extension Request from Appellant; from Geoffrey H. Anderson to Michael Bobbink; date received 12/28/10
12. Request for Public Records from Jim Shields of Maple Grove Community Committee; dated 12/29/10
13. Request for Public Records from James M. Schelle; dated 12/29/10
14. Letter of acknowledgement of request for information from Terri Jorgenson to Maple Grove Community Committee c/o Jim Shields; dated 12/30/10
15. Invoice # 12-30-10/1 to Maple Grove Community Committee from Island County Planning & Community & Development; dated 12/30/10
16. Email from Joan Schrammeck to Bob Pederson, Paula Bradshaw and cc: Jim & Betsy Shields and Jim Schelle RE: APP 266/10 of PLP 030/07; date emailed 1/2/11
17. Email correspondences between Paula Bradshaw, Andrew Hicks, Jim & Betsy Shields, Robert Pederson, Justin Craven and Jim & Martha Schelle RE: Anderson Long Plat; SEPA Threshold Appeal, Request for Extension of Appeal Hearing Date; dates emailed 1/3/11
18. Invoice # 12-30-10/2 to Maple Grove Community Committee from Island County Planning & Community Development; dated 1/3/11
19. Email correspondences between Paula Bradshaw, Andrew Hicks, Jim & Betsy Shields, Robert Pederson, Justin Craven and Jim & Martha Schelle RE: Anderson Long Plat; SEPA Threshold Appeal, Request for Extension of Appeal Hearing Date; dates emailed 1/4/11
20. Memorandum granting continuance & extensions RE: APP 266/10 – PLP 030/07 SEPA MDNS; from Michael Bobbink to Jim Shields, Jim Schelle & cc: Andrew Hicks, Joan Schrammeck and file; dated 1/5/11
21. Letter RE: Appeal of Final SEPA Threshold Determination. Application Numbers: PLP 030/07 and SDP 176/08 from Jim Shields & Jim Schelle of the Maple Grove Community Committee to Robert Pederson; date received 1/6/11
22. Attachment A-Maple Grove Community Committee (MGCC) Comprehensive SEPA Appeal Statement; dated 1/6/11
23. Appendix A. Letter RE: North Point Water Supply Meeting-June 25, 2008 from Jim Schelle to Dan Nelson; dated 7/8/08
24. Appendix B. Letter RE: Appeal of Final SEPA Threshold Determination from Jim Shields & Jim Schelle to Robert Pederson; dated 12/20/10
25. Appendix C. WAC 197-11-330 Threshold determination process; no date
26. Appendix D. Emails from Bill Poss to Andrew Hicks and Andrew Hicks to Joan Schrammeck RE: future offsite hookups; date emailed 12/15/10
27. Appendix E. Camano Action for a Rural Environment (C.A.R.E.) comments

28. Appendix F. Email RE: 030/07 PLP 72 lots / 84 du-Anderson-North Point from Joan Schrammeck, Allison Warner to Andrew Hicks; date emailed 2/10/10
29. Appendix G. letter from Doug Kelly of Pacific Groundwater Group to Bill Poss RE: North Point Project Hydrogeology Review; date received 3/2/10
30. Appendix H. Technical Memorandum RE: Response to Pacific Groundwater Group Comments from Charles S. Lindsay to Dr. Geoffrey H. Anderson; date received 3/18/10
31. Appendix I. Letter RE: Adaptive Management Plan Proposed Development PLP 030/07 Project No. EH090094A from Associated Earth Sciences, Inc to Dr. Geoffrey Anderson; dated 4/30/10
32. Appendix J. Puget Sound Shorelines: Species Surf Smelt online article from the Department of Ecology; dated 1/5/11
33. Appendix K. Best Available Science-October 2003 article regarding Bainbridge Island Nearshore Assessment pgs IV-15 thru IV-17
34. Appendix L. 3 Map Outputs from Department of Fish & Wildlife; dated 1/5/11
35. Appendix M. Maple Grove Stream Witness sheet
36. Replacement Comprehensive Statement of Appeal; date received 1/18/11 (includes appendix A – M, listed above)
37. Additional Information Submitted by Appellant; date received 1/20/11
38. 38. Pre-Application Conference (PRE) Application; date received 7/23/06
39. Engineer's Summary Narrative Anderson Project at Maple Grove; date received 7/26/06
40. Letter RE: Geohazard Assessment for Job #06B072 from Matthew Veenstra of Materials Testing & Consulting, Inc., along with letter from Jeffery Holbeck of Camano Hills Water Co., Inc & letter from Kevin Teague of Harmsen & Associates; date received 7/26/06
41. Site Registration; date received 7/26/06
42. Letter RE: Critical Area Determination for Anderson E. North Camano Dr.; from Jamie Kelly of Wetland Resources, Inc.; date received 7/27/06
43. Quarter section map depicting 4 parcels: R23223-496-2930, R23223-433-3280, R23223-441-4010 and R23223-358-3010
44. Zoning printout for R23223-358-3010
45. Zoning printout for R23223-441-4010
46. Zoning printout for R23223-433-3280
47. Zoning printout for R23223-496-2930
48. Color printout depicting W. North Camano
49. Account summary Snapshot of R23223-358-3010
50. Account Land Snapshot of R23223-358-3010
51. Account Structure Snapshot of R23223-358-3010
52. Permits Snapshot of R23223-358-3010
53. Account summary Snapshot of R23223-441-4010
54. Account Land Snapshot of R23223-441-4010
55. Account Structure Snapshot of R23223-441-4010
56. Permits Snapshot of R23223-441-4010
57. Account summary Snapshot of R23223-433-3280
58. Account Land Snapshot of R23223-433-3280
59. Account Structure Snapshot of R23223-433-3280
60. Permits Snapshot of R23223-433-3280
61. Account summary Snapshot of R23223-496-2930
62. Account Land Snapshot of R23223-496-2930
63. Account Structure Snapshot of R23223-496-2930
64. Permits Snapshot of R23223-496-2930
65. Notification of schedule for Pre-Application Conference from Monica Felici to Dan Nelson RE: #926/06 PRE for Anderson; dated 7/28/06
66. Memo of Shoreline Pre-Application comments from Matt Kukuk to Andrew Hicks; dated 8/23/06
67. Pre-Application #926/06 Staff Comments from Andrew Hicks to Dan Nelson; dated 8/24/06

68. Public Health Department Pre-Application review comments from Aneta Hupfauer to Dan Nelson; dated 8/24/06
69. Public Works Pre-Application review comments from Bill Poss to Andrew Hicks; dated 8/24/06
70. Pre-Application Meeting Sign In; dated 8/24/06
71. Memo of Critical Area Pre-Application review comments from Justin Craven to Andrew Hicks; dated 8/29/06
72. Land Development Permit Application; date received 1/26/07
73. Application Authorization Form; date received 1/26/07
74. Application Checklist; date received 1/26/07
75. Map depicting Project Site; date received 1/26/07
76. Quarter section map depicting 4 parcels: R23223-496-2930, R23223-433-3280, R23223-441-4010 and R23223-358-3010 also depicts zoning; date received 1/26/07
77. Form I- Application for Long Plat Preliminary; date received 1/26/07
78. Letter from Connie Bowers of Island County Public Works RE: North Point SFR & Townhomes; date received 1/26/07
79. Certificate of Transportation Concurrency; date received 1/26/07
80. Certificate of Transportation Concurrency Attachment "A"; date received 1/26/07
81. Application for Access to County Road Right of Way, Quarter section map depicting a driveway access onto Maple Grove Road and Draft Lot Development Plan for R23223-433-3280; date received 1/26/07
82. Application for Access to County Road Right of Way , Quarter section map depicting driveway onto W. North Camano Drive and Draft Lot Development Plan for R23223-358-3010; date received 1/26/07
83. Application for Access to County Road Right of Way, Quarter section map depicting driveway onto W. North Camano Drive and Draft Lot Development Plan for R23223-358-3010; date received 1/26/07
84. Site Registration for R23223-441-4010, #C06-515; date received 1/26/07
85. Custom eagle plan from Washington Department of Fish and Wildlife; date received 1/26/07
86. Letter and Map from Jamie Kelly of Wetland Resources, Inc. RE: Critical Area Determination for Anderson – E. North Camano Dr.; date received 1/26/07
87. Letter RE: Supplemental Letter Anderson Development from Randolph Ross of Materials Testing & Consulting, Inc., to John Cherry; date received 1/26/07
88. Letter RE: Geohazard Assessment for Job #:06B072 with Vicinity & Site Location Map, Site Plan, Slope Profile from Mathew Veenstra of Materials Testing & Consulting, Letter from Jeffery Holbeck of Camano Hills Water Co., Inc and Letter from Kevin Teague of Harmsen & Associates Inc. to Geoffrey Anderson; date received 1/26/07
89. Letter RE: Traffic Impact Analysis—GTC#06-295 from Matthew Palmer of Gibson Traffic Consultants to Connie Bowers; date received 1/26/07
90. North Point-300' Radius Addresses; date received 1/28/07
91. North Point- Lot Sizes; date received 1/28/07
92. Land Development Permit Application #176/08 (SDP Original); date received 6/2/08
93. Letter of Authorization; date received 6/2/08
94. Form Q-Application for Shoreline Development Permit (North Point, File #030/07 PLP; date received 6/2/08
95. Form P-Application for Critical Areas Permitted Use; date received 6/2/08
96. Form P-Supplement -Application for Critical Areas Permitted Use (revised 11/30/09); date received 12/2/09 (addendum to exhibit # 95)
97. FORM Q-Application for Shoreline Development Permit; revised 12/2/09 (addendum to exhibit # 98)
98. Form Q-Application for Shoreline Development Permit; date received 9/8/10
99. Request for Comment
100. Account Summary Snapshot for R23223-496-2930
101. Account Summary Snapshot for R23223-433-3280

102. Account Summary Snapshot for R23223-358-3010
103. Account Summary Snapshot for R23223-441-4010
104. Request for Information; dated 7/28/06
105. Letter from Douglas Kelly to Aneta Hupfauer, RE: Anderson (North Point) Long Plat—PLP 030/07; dated 2/22/07
106. WAC 173-160-381 What are the standards for decommissioning a well?
107. Off-site drain field easement and operation and maintenance agreement
108. Island County Bald Eagle Standard Management Plan; date received 2/26/07
109. Memo from Ryan Morrison to Andrew Hicks, RE: File No. PLP 030/07; Anderson 72 Lot Long Plan (Preliminary); dated 2/27/07
110. Public Health Review letter from Aneta Hupfauer to Andrew Hicks; dated 3/2/07
111. Public Works Review letter from Bill Poss to Andrew Hicks; dated 3/19/07
112. Public Works Review letter from Bill Poss to Andrew Hicks; dated 3/27/07
113. Review Comments--North Point 72 Lot Preliminary Long Plat from Andrew Hicks to Dan Nelson; dated 3/28/07
114. Memo of Critical Area Review comments from Justin Craven to Andrew Hicks; dated 4/16/07
115. Email from Nancy Darling of Division of Environmental Health to Doug Kelly, RE: Advanced Treatment; date emailed 7/7/08
116. Department of Ecology Letter RE: North Point Sewage Treatment, Antidegradation and On-Site Sewage Systems from John Stormon to Doug Kelly; dated 7/8/08
117. Letter from Doug Kelly to Aneta Hupfauer, RE: Anderson (North Point) Long Plat-PLP 030/07; dated 7/10/08
118. Public Health Review Comments from Aneta Hupfauer to Andrew Hicks; dated 7/14/08
119. Public Works Review Comments along with Private Drainage Facility Maintenance Agreement, Appendix A-Declaration of Covenant Requiring Private Maintenance of approved Private Road and dedication to County when required, Appendix D from Bill Poss to Andrew Hicks; dated 7/29/08
120. Review Comments—North Point 72 Lot Preliminary Long Plat from Andrew Hicks to Dan Nelson; dated 8/8/08
121. Review Letter from Mattia Boscolo to Kim Williams; dated 9/2/08
122. Review Comments- North Point 72 Lot Preliminary Long Plat from Andrew Hicks to Dan Nelson; dated 3/11/09
123. Public Works Review Comments from Bill Poss to Andrew Hicks; dated 1/7/10
124. Public Health Review Comments from Aneta Hupfauer to Andrew Hicks; dated 1/29/10
125. Review Comments—North Point Shoreline Development Permit from Bobak Talebi to Kim Williams; dated 2/23/10
126. Review letter-- North Point 72 Lot Preliminary Long Plat from Andrew Hicks to Dan Nelson; dated 2/23/10
127. Public Works Review letter from Bill Poss to Andrew Hicks; dated 3/29/10
128. Public Works Review Email from Bill Poss to Andrew Hicks; date emailed 9/30/10
129. Public Health Review comments from Aneta Hupfauer to Andrew Hicks; dated 9/30/10
130. Public Works Review comments with Appendix A Private Road Maintenance Agreement and private Drainage Facility Maintenance Agreement from Bill Poss to Andrew Hicks; dated 10/7/10
131. Public Works Revised Review comments from Bill Poss to Andrew Hicks; date revised 11-2-2010
132. Critical Area Review comment Email from Justin Craven to Andrew Hicks; date emailed 10/18/10
133. Confirmation Letter from Daniel Nelson of Designs Northwest Architects to Brandon Sweeza; date received 11/29/10
134. Memo-Shoreline Review from Brandon Sweeza to Andrew Hicks; dated 12/2/10
135. Electric System Review letter from Dean Saksena of Snohomish County PUD to Andrew Hicks; date received 3/5/07
136. 136. Public comment email from Joan Schrammeck to Andrew Hicks; date emailed 3/3/07

137. 137. Public comment email from Jean Varbel to Andrew Hicks; date emailed 3/5/07
138. Public comment email correspondence between Joan Schrammeck and Andrew Hicks; date emailed 3/6/07
139. 139. Public comment letter from Gayle & Betty Craig, Dick & Tammy Caldwell, Jeff & Monja O'Boyle, Jim & Martha Schelle, Bill & Signe Powell to Andrew Hicks; date received 3/7/07
140. Public comment letter from Mr. and Mrs. Martin Bloom; date received 3/9/07
141. Public comment email with attachment from Patricia Spaulding and Penelope Pfister to Andrew Hicks; date emailed 3/11/07
142. Public comment letter from Bo Bodnarchuk to Andrew Hicks; dated 3/11/07
143. Public comment email from Barbara Brock to Andrew Hicks; date emailed 3/12/07
144. Public comment letter from Maple Grove Beach Water Association to Andrew Hicks; date received 3/12/07
145. Public comment email with attachment letter from Margaret Ann Lilliquist to Andrew Hicks; dated 3/12/07
146. Public comment letter from Nancie Weston; no date
147. Public comment fax from Mark Cleary; date faxed 3/12/07
148. Public comment letter from Paul and Shirley Rochon to Andrew Hicks; date received 3/12/07
149. Public comment email from Barbara Brock to Andrew Hicks; date emailed 3/12/07
150. Public comment letter from Maple Grove Beach Community Association and Individual Property Owners; date received 3/12/07
151. Public comment letter from Mike and Lynda Towne; date received 3/12/07
152. Public comment letter from Jim and Betsy Shields; date received 3/12/07
153. Public comment email with 2 attachments: Maple Grove pictures & CARE Comments from Joan Schrammeck to Andrew Hicks; date emailed 3/13/07
154. Public comment email from Joan Schrammeck; date emailed 6/24/08
155. Public comment email from Meg LoDolce to Andrew Hicks; date emailed 7/5/08
156. Public comment email from Tom and Virginia Sharp to Andrew Hicks; date emailed 7/7/08
157. Public comment email from Wally Costello to Andrew Hicks; date emailed 7/7/08
158. Public comment email from Joan Schrammeck to Andrew Hicks, Matt Kukuk, Mattia Boscolo; date emailed 7/7/08
159. Public comment email from Wally Costello to Andrew Hicks; date emailed 7/7/08
160. Public comment email from Steven & Sheryl Baker to Andrew Hicks; date emailed 7/8/08
161. Public comment email with attachment from Allison Warner; dated emailed 7/8/08
162. Public comment email with attachment from James and Betsy Shields; date emailed 7/8/08
163. Public comment letter from Roland Clark to Andrew Hicks; date received 7/8/08
164. Public comment email with attachment from James & Betsy Shields; date emailed 7/14/08
165. Affidavit of Mailing the Public Notice to Parties of Record and/or Property Owners within 300 feet; date notarized 2/23/07
166. Affidavit of Mailing the Public Notice to Geoffrey Anderson; date notarized 2/23/07
167. Affidavit of Posting the Public Notice Sign; date received 2/26/07
168. Notice of Complete Application from Monica Felici for Andrew Hicks to Geoffrey Anderson; dated 2/26/07
169. Affidavit of Publication In the Matter of Notice of Application with SEPA, 030/07 PLP; date notarized 2/27/07
170. Return to Sender the Notice of Application with SEPA to A Brian Howe from Island County Planning & Community Development; date received 2/27/07
171. Notice of Application with SEPA mailed to Robert & Roseanne Stafford from Island County; date received 3/5/07
172. Letter to complete second public notice from Andreana Richardson for Andrew Hicks to Kim Williams; dated 6/13/08
173. Notice of Complete Application from Andreana Richardson for Matt Kukuk & Mattia Boscolo; dated 6/13/08
174. Affidavit of Posting the Public Notice Sign from Geoffrey Anderson; date notarized 6/20/08

175. Affidavit of Publication the Notice of Application with SEPA, 030/07 PLP & 176/08 SDP; date notarized 6/24/08
176. Affidavit of Mailing the SEPA Threshold Determination to Parties of Record; date notarized 12/7/10
177. Notification of Hearing Date letter from Paula Bradshaw to Dan Nelson & Joan Schrammeck; dated 2/1/11
178. Affidavit of Mailing the notification of the Hearing Date to Dan Nelson & Joan Schrammek; date notarized 2/1/11
179. Email from Joan Schrammeck to Andrew Hicks, RE: Maple Grove Road on Camano; date emailed 4/21/07
180. Email from Kim Williams to Andrew Hicks, RE: File 030/07 PLP-Questions; date emailed 5/1/07
179. Email with attachment from Kim Williams to Bill Poss, RE: File 030/07 PLP—PW Questions; date emailed 5/21/07
180. Email from Kim Williams to Andrew Hicks, RE: North Point Plat #030/07 PLP—ROW access permits; date emailed 5/23/07
181. Email correspondence & attachment between Todd Powell, Geoffrey Anderson, John Burkholder, Kim Williams, Andrew Hicks, Bill Poss; dates emailed 9/23/10-9/28/10
182. Preliminary Engineering Report & Storm Water Pollution Prevention Plan (SWPPP) For the Proposed Plat of North Point Camano Island, Washington; Island County File #926/06; date received 1/26/07
183. Hydrogeologic Investigation for the Anderson Property: North Point; date received 1/26/07
184. North Point Residential Neighborhood Reclaimed Water System Pre-Engineering Report prepared by ADC Wastewater Engineering; dated 1/30/09.
185. Pre-Engineering Report—North Point Residential Neighborhood Reclaimed Water System from Dotti Ramey of ADC wastewater engineering; dated 1/30/09: REVISED 5/21/09 (addendum to exhibit # 186)
186. Geologic, Soils, and Ground Water Conditions Addendum Report for North Point Residential Neighborhood PROJECT #EH090094A by Associated Earth Sciences, Inc.; date received 12/2/09 (addendum to exhibit # 233)
187. Traffic Impact Analysis—GTC#06-295 by Gibson Traffic Consulting; date received 12/2/09 (replaced exhibit # 221)
188. Preliminary Engineering Report 030/07 Island County File #030/07; date received 12/2/09 (addendum to exhibit # 216)
189. Storm Water Discharge Alternatives Evaluation for the Proposed Plat of 030/07 Camano Island, Washington; Island County File #030/07 PLP; date received 12/2/09
190. Custom Eagle Plan from Washington Department of Fish and Wildlife; date received 12/2/09
191. Letter of Response to “Review Comments-North Point 72 Lot preliminary Long Plat” from Dan Nelson of Designs Northwest Architects to Andrew Hicks; date received 12/2/09
192. Project Approval letter from Department of Health to Geoffrey Anderson DOH Project #R09-007; date received 12/2/09
193. Biological Site Assessment and Shoreline Development Plan for 030/07 Development—Wetland Resources, Inc. Project #06171; date received 12/2/09 (addendum to exhibit # 212)
194. Application for Access to County Road Right of Way #APC09-0067; date received 12/2/09 (replaced exhibit # 218)
195. Certificate of Transportation Concurrency letter for North Point SFR & Townhomes from Connie Bowers to Kim Williams; date received 12/2/09 (replaced exhibit #'s 222, 79, 80)
196. Slope stability Modeling and Analysis project #EE090411A letter from Charles Lindsay of Associated Earth Science, Inc. to Geoffrey Anderson; date received 12/2/09
197. Conceptual Tram Design Recommendations project #EH090094A from Charles Lindsay of Associated Earth Science, Inc. to Geoffrey Anderson; date received 12/2/09
198. Streetscape Sketches Preliminary Long Plat 030/07; date received 12/2/09

199. DRAFT Storm Water Pollution Prevention Plan (SWPPP) for Infrastructure Construction for the Proposed Plat of 030/07 by HBA Design Group; date received 12/2/09 (addendum to exhibit # 217)
200. Visual Analysis Preliminary Long Plat 030/07; date received 12/12/09
201. Review comments- North Point 72 Lot Preliminary Long Plat with attached memos 7/14/08 & 7/29/08 from Andrew Hicks to Dan Nelson; date received 12/12/09
202. Review comments- North Point 72 Lot Preliminary Long Plat with enclosures from Aneta Hupfauer, Bill Poss & Bobak Talebi from Andrew Hicks to Dan Nelson; date received 2/25/10
203. North Point Project Hydrogeology Review email with attachment letter from Doug Kelly of Pacific Groundwater Group to Bill Poss; date received 3/2/10
204. Technical Memo-Response to Pacific Groundwater Group Comments-project #EH090094A technical memo from Charles Lindsay to Geoffrey Anderson; date received 3/18/10
205. Bald Eagle Nest site Management Plan; date received 9/8/10 (replaced exhibit #'s 214, 215)
206. Adaptive Management Plan Project #EH090094A from Charles Lindsay of Associated Earth Sciences, Inc. to Geoffrey Anderson; date received 9/8/10
207. Letter of Response to "Review Comments- North Point 72 Lot Preliminary Long Plat" from Dan Nelson & Kim Williams of Designs Northwest Architects to Andrew Hicks; date received 9/8/10
208. Public Health Solid Waste Management Plan; no date
209. Letter of Response to "Review Comments-North Point" from Dan Nelson & Kim Williams of Designs Northwest to Andrew Hicks; date received 6/2/08
210. Biological Site Assessment and Shoreline Development Plan for North Point Development project#06171; date received 6/2/08
211. Review Comments- North Point 72 Lot Preliminary Long Plat with memos from Bill Poss & Aneta Hupfauer from Andrew Hicks to Dan Nelson; date received 6/2/08
212. Washington Department of Fish & Wildlife Eagle plan; date received 6/2/08 (replaced by exhibit # 207)
213. Washington Department of Fish & Wildlife Eagle plan; date received 6/2/08 (replaced by exhibit # 207)
214. Revised Engineering Report for the Proposed Plat of North Point; date received 6/2/08 (addendum to exhibit # 39)
215. DRAFT Storm Water Pollution Prevention Plan (SWPPP) for Infrastructure Construction for the Proposed Plat of North Point; date received 6/2/08
216. Application for Access to County Road Right of Way, permit # APC 08-0007; date received 6/2/08
217. Application for Access to County Road Right of Way, permit # APC 08-0009; date received 6/2/08 (replaced exhibit # 81)
218. Application for Access to County Road Right of Way, permit # APC 08-0010; date received 6/2/08 (replaced exhibit # 82)
219. Addendum to Traffic Impact Analysis review letter from Matthew Palmer of Gibson Traffic Consultants, Inc., to Connie Bowers; date received 6/2/08
220. Public Works Letter with enclosed Certificate of Transportation Concurrency from Connie Bowers to Dan Nelson; date received 6/2/08
221. Email from Kim Williams to Bill Poss, RE: North Point Development; date received 6/2/08
222. Email from Kim Williams to Bill Poss, RE: North Point-School Dist. Comments; date received 6/2/08
223. Memo- RE: Expansion of Service Area to N. Camano Rd & Maple Grove Dr.; from George Bratton to Jeff Holbeck; date received 6/2/08
224. Public Works Letter RE: Franchise #335—Acceptance Documents with enclosed Water Distribution System Current Retail Service Area Map from William Oakes to Mr. & Mrs. Jeff Holbeck; date received 6/2/08
225. Asbestos Findings letter from Denise Willmaser to Geoffrey Anderson; date received 6/2/08
226. Faxed letter RE: Asbestos Abatement Project Completion from Catherine Marquez to Geoffrey Anderson; date received 6/2/08

227. Building Permit #07-0240C with attached final approval inspection card; date received 6/2/08
228. Building Permit #07-0241C with attached final approval inspection card; date received 6/2/08
229. Account Apr Summary Snapshot, Account Structure Snapshot & Permits Snapshot for Parcel R23223-358-3010; date received 6/2/08
230. Site Registrations—See manila folder for all site registrations
231. Geologic Soils, and Ground Water Conditions Technical Report for North Point Residential Neighborhood project #EH070153A; date received 6/2/08
232. Storm Water Discharge Alternatives Evaluation for the Proposed Plat of North Point-County File#030/07; date received 6/2/08
233. Map FIGURE 2 for project #EH070153A-Existing Conditions Site Plan- Oversize Color, in manila folder; date received 6/2/08
234. Map FIGURE 3 for project #EH070153A-Proposed Conditions and Site Exploration Plan- Oversize Color, in manila folder; date received 6/2/08 Map marked at 4/21/11 hearing to show infiltration test site.
235. Map FIGURE 4 for project #EH070153A-On and Off-Site Well Location- Oversize Color, in manila folder; date received 6/2/08
236. Map FIGURE 12 for project #EH070153A-Geologic Cross-Sections A-A, B-B, C-C- Oversize Color, in manila folder; date received 6/2/08
237. Map FIGURE 13 for project #EH070153A- Geologic Cross-Sections D-D, E-E & F-F- Oversize Color, in manila folder; date received 6/2/08
238. Map FIGURE 16 for project #EH070153A-Groundwater Contour Map-Aquifer D- Oversize Color, in manila folder; date received 6/2/08
239. Map FIGURE 17 for project #EH070153A-Groundwater Contour Map-Aquifer E- Oversize Color, in manila folder; date received 6/2/08
240. C1.0 030/07, Preliminary Plat Map Plan Set; date received 10/1/10
241. C4.0 030/07, Road & Drainage Plan (south); date received 10/1/10
242. C4.7 030/07, Road & Drainage Plan (RV Parking Area); date received 10/1/10
243. W1.1 030/07, Water Plan (North); date received 9/8/10
244. C3.1 030/07, Clearing, Grading and T.E.S.C. Plan (North); date received 9/8/10
245. W1.3 030/07, Water Plan Standard Specifications; date received 9/8/10
246. W1.2 030/07, Water Plan Standard Details; date received 9/8/10
247. C6.0 030/07, Site Lighting Plan, Sign Plan and Mailbox Locations; date received 9/8/10
248. C5.3 030/07, Drainage Notes and Details; date received 9/8/10
249. C5.2 030/07, Vault Details; date received 9/8/10
250. C5.1 030/07, Off-Road Drainage Profile (South); date received 9/8/10
251. C5.0 030/07, Off-Road Drainage Profile (North) date received 9/8/10
252. C4.6 030/07, Frontage Improvements Details; date received 9/8/10
253. C4.5 030/07, Frontage Improvements; date received 9/8/10
254. C4.4 030/07, Clipper Loop Road and Drainage Profile; date received 9/8/10
255. C4.3 030/07, Anchor drive, Spar Drive and Harbor Court Road and Drainage Profiles; date received 9/8/10
256. C4.2 030/07 Off-Road Drainage Plan; date received 9/8/10
257. C4.1 030/07 Road and Drainage Plan and Profile (North); date received 9/8/10
258. C4.0 030/07 Road and Drainage Plan (South); date received 9/8/10
259. C3.6 030/07 B.E.M.P. Exhibit “C” Tree Classification Map; date received 9/8/10
260. C3.5 030/07 Tree Removal Plan-Exhibit B Full Build-Out; date received 9/8/10
261. C3.4 030/07 Tree Removal Plan-Exhibit A Plat Construction Only; date received 9/8/10
262. C3.3 030/07 Bald Eagle Management Plan Conditions, and Exhibit D; date received 9/8/10
263. C3.2 030/07 T.E.S.C. Notes and Details; date received 9/8/10
264. C3.0 030/07 Clearing, Grading and T.E.S.C. Plan (South); date received 9/8/10
265. C1.0 030/07 Cover Sheet / Site Plan; date received 9/8/10
266. P1.2 030/07 Easements and Lot Dimensions Plan; date received 9/8/10
267. P1.0 030/07 Preliminary Plat Map; date received 9/8/10

268. P1.1 030/07 Site Development Plan; date received 9/8/10
269. C2.0 030/07 Existing Conditions (Survey); date received 9/8/10
270. W1.0 030/07 Water Plan (South); date received 9/8/10
271. Appeal Response to Maple Grove Community Committee (MGCC) from ADC wastewater engineering on behalf of Geoffrey Anderson received 4/5/11. (sent via email – email attached to back)
272. Appeal Response Technical Memorandum to Maple Grove Community Committee (MGCC) from Associated Earth Sciences, Inc. received 4/5/11. (sent via email – email attached to back)
273. Notice of Hearing for PLP 030/07 & SDP 176/08 and Appeal of SEPA from Andrew Hicks to parties of record, dated April 5, 2011
274. Staff Report & Appeal Response letter from Paula Bradshaw, Office of the Island County Hearing Examiner, dated 4/6/11 to Dan Nelson, Joan Schrammeck / Communications Focal for MGCC
275. Affidavit of mailing Staff Report & Appeal Response or Notice of Hearing, dated 4/6/11
276. Affidavit of publication of hearing in the Whidbey News Times /SW Record, dated 4/7/11, rcv'd 4/11/11
277. Affidavit of publication of hearing in the Stanwood Camano News, dated 4/8/11, rcv'd 4/13/11
278. RH2 Technical Memorandum; Project file: MGCC 111.033, Independent Hydrogeologic Review of Proposed North Point Residential Neighborhood. Final Revised April 15, 2011 – submitted by appellant. With attached email from Joan Schrammeck to Paula Bradshaw asking that it be added as an exhibit, replacing the exhibit #280 submitted on 4/13/11 at Ms. Schrammeck's request.
279. Water Reclamation and Reuse Standards, dated September 1997, Washington State Department of Health, submitted by appellant. With attached email from Joan Schrammeck to Paula Bradshaw submitting as an exhibit referenced in exhibit # 280.
280. Shoreline Master Program Reach Map and Summary from the March 2011 draft of the Island County Shoreline Inventory and Characterization Report – *ReachCam11* (submitted by appellant 4/18/11)
281. USDA Natural Resources Conservation Service Soil Quality Information Sheet - *Available Soil Water Capacity, Jan 1998* (submitted by appellant 4/18/11)
282. Indianola loamy sand, 15–25% slopes soil survey description, Snohomish County Soil Survey (submitted by appellant 4/18/11)
283. WAC 197-11-055, WAC 197-11-060, WAC 197-11-070, WAC 197-11-080, WAC 197-11-100, WAC 197-11-300, WAC 197-11-330, WAC 197-11-782, WAC 197-11-335, WAC 197-11-340, WAC 197-11-402, WAC 197-11-444, WAC 197-11-460, WAC 197-11-650, WAC 197-11-655, WAC 197-11-660 – *WAC_197_11 (excerpts in one word document)* (submitted by appellant 4/18/11)
284. WA Dept of Ecology – Coastal Atlas Map of the Project area showing project site, (submitted by appellant 4/18/11)
285. WA Dept. Fish and Wildlife Salmonscape Map Frame Showing Documented surf smelt spawning at the project site – *ecology coastal atlas* (submitted by appellant 4/18/11)
286. Email received from Joan Schrammeck requesting exhibit # 280 submitted on 4/13/11 be replaced with a new document as exhibit # 280, received 4/15/11 – included for the purpose of documented the record.
287. Letter from Camano Hills Water Co., Inc. to Maple Grove Heights Water System, dated 4/1/11, (submitted by appellant 4/18/11)
288. Letter from Camano Hills Water Co., Inc. to Maple Grove Beach Water System, dated 3/22/11, (submitted by appellant 4/18/11)
289. Photo 1950 Maple Grove Resort, submitted at 4/21/11 hearing
290. Series of 12 photos of 1990 slide on Maple Grove Rd., submitted at 4/21/11 hearing
291. Series of 6 photos of April 2010 slide on NW side of Maple Grove Rd., submitted at 4/21/11 hearing
292. Series of 5 photos of March 2011 Slide on Maple Grove Rd., top of hill submitted at 4/21/11 hearing

293. Photo of Holmes Harbor, Freeland – Percolation Ponds, submitted at 4/21/11 hearing
294. Photo of TR Development at SR532, submitted at 4/21/11 hearing
295. Group of 4 Anderson Plat Maps, submitted at 4/21/11 hearing
296. Series of photos of seven photos of January 2011 slide behind Palin cabin on Maple Grove Rd., submitted at 4/21/11 hearing.
 - a. Landslides over the last 40 years
 - b. Maple Grove Community, Anderson project
 - c. Same map as b
 - d. Community wells
297. Public comment from Georgia & David Lyster, rcv'd 4/20/11
298. Cover letter to Mr. Bobbink / Dr. Anderson from MGCC provided with printed PowerPoint presentation, submitted at 4/21/11 hearing
299. PowerPoint presentation (printed copy), submitted at 4/21/11 hearing
300. **302 – 399 not used in order to avoid duplication due to confusion at hearing regarding large map exhibit numbers.**
400. Email from Craig Riley to Doug Kelly dated 4/20/11 re: nitrate & nitrogen, submitted at 4/21/11 hearing.
401. Part of exhibit 185 (fig. 7) submitted at 4/21/11 hearing & testified to by Allison Warner.
402. Page 55 from PowerPoint presentation (exhibit # 301), re: Hillside access, submitted at 4/21/11 hearing
403. Existing conditions water balance PowerPoint presentation by Andrew Dunn, submitted at 4/21/11 hearing.
404. Page 12 of Staff Response (exhibit # 2) dated March 9, 2011, submitted at 4/21/11 hearing.
405. Public comment from Charles Ingram, submitted at 4/21/11 hearing.
406. Public comment from Shirley Hutchinson, submitted at 4/21/11 hearing.
407. Group of 4 petitions, cut from newspaper, submitted at 4/21/11 hearing.
408. Petition to the I.C.H.E., submitted at 4/21/11 hearing.
409. C.A.R.E. written testimony, submitted at 4/21/11 hearing.
410. Email from Craig Riley to Rocky Anderson, dated 4/19/11, testified to, submitted at 4/21/11 hearing.
411. Public comment from Paul Booker, submitted at 4/21/11 hearing.
412. Excel spreadsheet, Post Development Conditions handed in by Charles Lindsey during his testimony, submitted at 4/21/11 hearing.
413. Group of petitions, cut from newspaper received between hearings.
414. Email from Andrew Hicks to Paula Bradshaw, dated 5/13/11 with:
 - a. Modified Staff Report & Recommendation from Andrew Hicks, dated 5/13/11
 - b. Draft Adaptive Management Plan-Development PLP 030-07, dated 5/6/11
415. Email from Joan Schrammeck to Andrew Hicks, dated 5/17/11 with two attachments:
 - a. Draft – Ground Water Quantity and Quality Adaptive Management Plan Proposed Development PLP 030-07 with MGCC mark up in tracked changes.
 - b. Matrix of differences in adaptive management approaches.
416. Emails from Joan Schrammeck to Andrew Hicks & Chuck Lindsay, dated 5/18/11 with attachments.
 - a. Rebuttal points from MGCC to Hearing Examiner
 - b. Beach access (Attach A label)
 - c. Page 14 of 5/13/11 staff report (Attach B label)
 - d. Scanned web page (Attach C label)
 - e. Cost Page Update (Attach D label)
 - f. Topic paper water system coordination (Attach E label)
417. Email forwarded by Paula Bradshaw to Hearing Examiner, outlining a timeline for how the changes to the Adaptive Management Plan were reviewed.
418. Email from Chuck Lindsay, dated 5/18/11 with attached
 - a. Final Ground Water Quantity and Quality Adaptive Management Plan.

419. Email from Andrew Hicks to Joan Schrammeck, Jim & Betsy Shields, Dr. Geoffrey Anderson, Dan Nelson, dated 6/9/11, with attached draft conditions.
 - a. PLP 030/07; SDP 176/08 Staff Report & Recommendations
420. Email from Andrew Hicks to Dr. Geoffrey Anderson, Joan Schrammeck, Jim & Betsy Shields, Dan Nelson dated 6/10/11 with attached Final draft Adaptive Management Plan.
 - a. Final Draft Ground Water Quantity and Quality Adaptive Management Plan Proposed Development PLP 030/07.
421. Email string from Andrew Hicks to Joan Schrammeck, Paula Bradshaw, dated 6/10/11 with attached 5/18/11 version of the Adaptive Management Plan as requested by Ms. Schrammeck.
422. Email from Joan Schrammeck to Andrew Hicks, Paula Bradshaw dated 6/11/11 with a question regarding page 15 of the staff report
423. Email from Joan Schrammeck to Andrew Hicks, Paula Bradshaw dated 6/11/11 advising she found the answer to her question.
424. Email from Jim Schelle to Paula Bradshaw with a response to Andrew Hicks' email of 6/9/11 with the following attachments:
 - a. MGCC comments June 15, 2011
 - b. 030-07 PLP Staff Report (updated 6-2-11) Modified Wednesday 6-15-11
 - c. Proposed Development PLP 030 May 24, 2011
 - d. Cost Page Update June 15, 2011
 - e. Water Balance Data – June 15, 2011
425. Email of exhibit # 424 with attachments forwarded from Paula Bradshaw to Bob Pederson, Keith Higman, Bill Poss, Dr. Geoffrey Anderson, Dan Nelson, dated 6/15/11
426. Forwarded email from Andrew Hicks to Paula Bradshaw, dated 6/16/11 with email string from Dr. Geoffrey Anderson with Rocky Anderson's email comment.
427. Revised Final Draft Ground Water Quantity and Quality Adaptive Management Plan, May 24, 2011, not reviewed by Staff

**HEARING TESTIMONY
4-21-11**

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II.

The Applicant is the owner of four adjacent parcels totaling approximately 42.34-acres in total. The Applicant seeks Preliminary Plat Approval for the subdivision of the parcels into sixty single-family residential lots, six multi-family lots, each of which would be developed with one four-plex, and six community tracts. The proposed development will result in a total of 84-dwelling units.

The subject parcels are located within the Utsalady-Residential Area of More Intense Development (RAID) and are zoned Rural Residential.

The property is located on the north end of Camano Island and west of the intersection of North Camano Drive and Maple Grove Road. There are three proposed accesses to the residential development, all off of North Camano Drive.

Maple Grove Road bisects the parcel near the northern end of the parcel. A majority of the parcel and virtually all of the development onsite will be to the south and west of Maple Grove Road. A waterfront tract will lay to the south of Maple Grove Road.

The only development proposed on the waterfront portion of the property is a stormwater drainage pipe which will drain stormwater from the development upslope through a tight-line system to an outfall proposed to terminate seaward of the ordinary high water mark.

III.

The lots proposed for development onsite range from 0.18-acre in size to 1.36-acres.

IV.

The base density in the Utsalady-RAID is two dwelling units per acre. The proposed development would consist of residential units which meet the base density requirement and are the maximum number allowed for this site.

The minimum lot size in the RAID is one-half acre. The Applicant has proposed using lot size averaging to create numerous lots less than the minimum lot size of one-half acre. Lot size averaging is allowed, provided that the proposed density does not exceed the maximum density for the site and that the proposed lot sizes are not less than the lot size required by County Health requirements. Additionally, all lots are required to contain a sufficient building envelope to allow residential development without needing a variance.

Since the Applicant has proposed to handle sewage disposal for all of the proposed residential units within the plat through the development of a Class A - Reclaimed Water System, none of the lots will be required or allowed to have an onsite septic system for wastewater treatment. For this reason, there would be no applicable County Health requirements which would need to be met to establish a minimum lot size. All of the lots proposed appear to contain a sufficient building envelope within setback requirements to allow reasonable residential development. Lot size averaging is appropriate for this development.

The Applicant proposes to create six community tracts which will range in size from 11,839-square feet to 120,911-square feet.

Tract F has been designated to serve two uses. One of the uses is to provide a community tract for outdoor storage of recreational vehicles and vessels. The use will be limited to owners of residential units within the subdivision and is required to be totally screened from the view of adjacent properties and roadways.

Tract F is also designated as the location of the proposed Class A - Reclaimed Water treatment facility which is the main component of the sewage disposal method proposed for the entire plat. Sewer and residential wastewater will be tight-lined and pumped to the proposed Class A – Reclaimed Water System facility. Reclaimed water released from the sewer facility will be allowed to infiltrate in the upper portion of the parcel.

Tract E, which is located in the northern end of the parcel, just to the south and west of the northeastern part of Maple Grove Road, will contain a stormwater retention and treatment facility. Treated stormwater will be released from this facility via tight-line under Maple Grove Road, terminating below the ordinary high water mark in Saratoga Passage. The stormwater drainage plan includes collecting all of the runoff from impervious surfaces and some of the runoff from lawns within developed lots and tight-lining it to the stormwater storage and treatment facility on Tract E. This stormwater collection system will be used to manage the amount of water infiltrating the site to maintain slope stability

Tract A includes a wetland and its buffer. Tract C has been designated as an open space park-like tract. There is a proposed pedestrian walkway from the upper portion of the parcel down to Tract E.

Originally, the application included a proposed tramway which would run from Maple Grove Road down to the beach. The proposed tramway was removed from the proposed plans and no shoreline permit is requested for a tramway.

V.

Staff issued a Determination of Complete Application for the proposal on February 16, 2007. Due to significant changes in the proposal, including eliminating the request for individual onsite septic systems to handle sewage treatment, a new Notice of Application was issued on June 24, 2008. The re-publication of Notice of Application included a second public comment period. A total of twenty-one comments were received during the comment period and a Final SEPA Threshold Mitigated Determination of Non-significance was issued on December 2, 2010. This MDNS was appealed in a timely manner and the hearing on the SEPA Appeal was held contemporaneous with the hearing on the Preliminary Long Plat and Shoreline Substantial Development Permit Applications. Both the Applications and the Appeal are being dealt with jointly in this Decision. On page 3 of the Island County Planning Staff Report, Staff summarized the public concerns and comments as follows:

- Impacts to the stability of the steep slopes within vicinity of development (history of landslides in vicinity cited)
- Increase in traffic resulting from the subdivision
- Impacts to critical areas onsite (e.g. wetland, stream, etc.)
- Potential effects to a critical recharge area for aquifer and negative effects on drinking water (e.g. seawater intrusion, decreased water quality, etc.)
- Preservation of open space
- Impacts to surrounding community due to increase in nearby population (e.g. increased use of public boat launch in Maple Grove)
- Potential for nitrate contamination
- Impacts to wildlife and habitat (e.g. Blue Herons, Bald Eagles, etc.)
- Impacts stemming from routing stormwater directly into Puget Sound

- Ability of site to support proposed density of houses and appropriateness of density in the Rural Residential zone
- Potential for developer to abandon project part way through development
- Impacts to known archaeological sites

In issuing a Mitigated Determination of Non-significance, the Responsible Official under SEPA determined that the application of the conditions contained within the MDNS, and the application of existing regulatory authority by local, State, and potentially Federal agencies would adequately mitigate adverse environmental impacts from the proposed development sufficiently to ensure that there were no significant adverse environmental impacts from the proposed development.

VI.

The Hearing Examiner file in this matter has approximately 320 exhibits. Included within the exhibits are numerous professional reports, Staff responses, and Citizens' comments.

The file contains numerous requests from Island County agencies for additional information, requests to State agencies for review and comment, and responses from the Applicant to the issues raised by Staff and the public.

The proposal has undergone significant scrutiny throughout the four year period from the initial application until the date of this Decision. The reason for the intense scrutiny and high level of concern is directly a result of the fact that the proposed development is on a sensitive site. The site slopes significantly from the southern upper portion down to the shoreline of Saratoga Passage. The site contains areas of steep and unstable bluffs. Development on this site has the potential to interfere with the potable water supply of three small public water systems with wells down-gradient from the proposed development. Development of this site to the density proposed potentially could affect the stability of the steep slopes onsite, further increasing instability and landslides.

Development also has the potential to affect both the quantity and quality of the water serving existing development down-gradient of the site.

Because of these concerns, residents in the area, concerned citizens on Camano Island, and representatives of three water districts combined to form the Maple Grove Community Committee (hereinafter referred to as “the Committee”), filed an Appeal of the SEPA Determination, and prepared and took an active part in the processing of the permit, including well prepared and organized presentation of their concerns at the two public hearings held on the matter.

The major issues raised by development of this site all revolve around water. Any significant increase in the amount of water allowed to infiltrate on this site would likely increase the severity and frequency of landslides. The Committee established that this site, in its current undeveloped and mostly forested condition, has been subject to significant and potentially dangerous instability and landslide activity in the past.

Additionally, impacts from the development could affect the quantity and quality of groundwater reaching the aquifers which provide potable water to a significant number of people through the Utsalady, Maple Heights, and Maple Grove Water Associations. These water association wells are located down-gradient from the proposed development, have a limited supply of water, and are already subject to relatively high levels of nitrates. Additional nitrate loading into the aquifers served by these wells could have significant adverse impacts.

The issue with nitrate levels was the original reason the Island County Health Department expressed strong reservation about the proposal to serve residential development on this site by individual onsite septic systems. In response to this concern, the Applicant proposed a reclaimed water system, which would treat wastewater from the development to the high standards established by the State Department of Ecology and the Department of Health for Class A-Reclaimed Water. Although the reclaimed water, after

treatment, will not be used for human consumption, it does meet the standards for potable water. The standards for nitrates in reclaimed water will result in treated water which should not increase nitrates in the down-gradient wells serving the water associations.

The reclaimed water will be infiltrated over much of the developed area at the upper end of the parcel and will be withdrawn again, at times, to provide irrigation water for lawns and landscaping within the developed portion of the site.

The proposed development will receive and use potable water from the Camano Hills Water System. This will bring in water from outside of the watershed where the subject parcel is located. Additionally, increased amounts of water from stormwater runoff associated with the impervious surfaces and clearing of a significant portion of the parcel as a result of the development have the potential to add significant additional water to the site which could further destabilize the down-gradient bluffs that are already subject to landslide activity.

The amount of water infiltrating into the soils and aquifers on and down-gradient from this site cannot be significantly increased as a result of this development without increasing the already existing hazards from the unstable bluffs toward the north end of the site.

Significantly decreasing the amount of water infiltrating into the soils and aquifers under and down-gradient of this site could result in significant impacts by less water being available to service the wells of the water associations and other residents drawing water from the two aquifers under or down-gradient from the development site.

The Applicant proposes to solve potential aquifer water quality problems through the use of the reclaimed water system and through water quality monitoring using a number of test wells on the site, but down-gradient from the areas to be developed, and through application of an *Adaptive Management Plan*, also designed to mitigate potential

impacts to the stability of steep slopes located along the northern portion of the site. The purpose of the Plan is both to control and minimize potential additional nitrate contamination in the area aquifers, and to mitigate impacts to slope stability which would likely result from any significant increase in the amount of water infiltrating into the site above the unstable steep slopes and bluffs.

The Applicant has proposed capturing all of the stormwater runoff from the impervious areas and some of the stormwater runoff from the developed lots and to tight-line it to a storage and treatment facility on Tract E and then to tight-line water released from the treatment facility into Saratoga Passage.

Significant and legitimate concerns were raised at the initial public hearing on this matter regarding the proposals to deal with the various aspects associated with water quality and water quantity, post development. A preliminary *Adaptive Management Plan* and some discussion of how the issues of water quality and quantity could be handled for this sensitive site were contained in reports submitted by the Applicant's Hydro-Geologist.

Because of the sensitive nature of the site, Island County requested a peer review of the information submitted by the Applicant's Hydro-Geologist. The peer review was performed by Doug Kelly. Additionally, the Committee also hired a Hydro-Geologist, who appeared at both of the public hearings and gave testimony regarding the proposed *Adaptive Management Plan* and proposed monitoring designed to address the potential significant adverse impacts from the proposed development of this parcel. This resulted in the Hearing Examiner having available written submissions and/or testimony from three separate Hydro-Geologists addressing the water quality and quantity issues. At the end of the initial hearing, the Hearing Examiner requested that the Applicant produce a more detailed *Adaptive Management and Monitoring Plan* for the project and scheduled an additional hearing for further review of the Plan and its proposals to monitor and address potential adverse impacts on water quality, quantity, and slope stability.

The Applicant's Hydro-Geologist prepared a draft Groundwater Quantity and Quality Adaptive Management Plan (Exhibit 15-a). This Plan was submitted to the Hydro-Geologist hired by the County and the one hired by the Committee. As a result of comments received, the Applicant's Hydro-Geologist prepared a final draft of the Plan, dated May 18, 2011 (Exhibit 418-a in the Hearing Examiner file). This "final" Plan was discussed in detail at the second hearing on the matter and had been "peer reviewed" by Doug Kelly, and incorporated his proposed changes. At the second hearing, it became obvious that this "final" Plan would need a thorough review and possible amendment after additional information from monitoring was obtained, and prior to any actual site development activity. The Plan will be reviewed after the collection of a significant additional amount of background data gathered from the groundwater monitoring wells currently located on the site and additional information about any impacts to water levels in the wells serving the concerned Water Associations. This monitoring will take place over a period of one to two years and will include data loggers being placed in the monitoring wells for a minimum of six months prior to the start of any development activities.

Prior to the start of development, all background information will be reviewed by the Applicant's Geo-Hydrologist, and by Island County's Public Works and Health Departments. With the information provided, the *Adaptive Management Plan* now proposed can, and is expected to, be modified to reflect the additional information then available. Any modification of the Plan as now proposed will require approval from Island County and proposed changes are to be provided to the Committee for review and comment before the changes are approved by Island County.

The purpose of the *Adaptive Management Plan* is to provide the Developer with tools to modify the way that stormwater and household/sewage water is treated and introduced onto, or removed from the site, to mitigate potential impacts to the stability of the steep slopes located along the northern portion of the site, as well as to mitigate potential groundwater quality and quantity in the shallow aquifer beneath and down-

gradient of the development. The purpose is simply to have post-development impacts mimic pre-development conditions, although some drying out of the unstable slope/bluff may be accomplished to actually increase stability without affecting water quality and quantity reaching the down-gradient water association wells.

The Hearing Examiner concludes that the significant issues surrounding stormwater and wastewater management of this site can be appropriately mitigated through the proposed *Adaptive Management Plan* process and that changes in the method of stormwater collection and discharge, reclaimed water discharge, and water quality can be appropriately identified, allowing appropriate future actions to be taken, which will result in adequate mitigation of identified adverse impacts from this development.

VII.

Staff review of new archeological information submitted by the Department of Archeology and Historic Preservation indicates that archeologically significant cultural resources potentially may exist within the boundaries of the plat and have requested a condition requiring an archeological assessment prior to Final Approval. The Applicant has not objected.

VIII.

Development onsite requires a Bald Eagle Management Plan. Such a Plan has been submitted to Fish and Wildlife and has been approved. The Bald Eagle Management Plan includes required tree retention. The Applicant has submitted a Tree Retention Plan, which retains approximately 50% of the large trees onsite. The site also includes large areas which will remain undeveloped and, in some cases, undisturbed open space.

IX.

The Committee has testified that there is important and significant surf smelt habitat along the shoreline associated with this development. Other than the location of a stormwater outflow, no development is proposed within 200-feet of the ordinary high water mark. The proposed stormwater drainage outfall will require Hydraulic Permit

Approval from the Washington State Department of Fish and Wildlife. As the agency with expertise in regard to fish habitat, potential impacts to such habitat will be addressed by Fish and Wildlife as part of their review of the Hydraulic Permit Approval.

X.

Island County Public Works has issued a Certificate of Transportation Concurrency and is requiring payment of approximately \$15,000 to Island County as transportation mitigation, as recommended by the Traffic Impact Analysis provided by Gibson Traffic Consultants.

Island County Public Works has recommended Preliminary Approval of the subdivision as proposed, subject to numerous conditions.

XI.

Island County Public Works has reviewed a Preliminary Stormwater Drainage Plan and has indicated requirements to be fulfilled prior to Final Plat Approval, including conformance with a Private Drainage Facility Maintenance Agreement, certification of the drainage facility's installation by a Civil Engineer, and submission of as-built documentation.

XII.

The Island County Public Health Department has recommended approval of the project, subject to numerous conditions. The Findings of Fact entered above discussed in some detail issues regarding water quality, sewer disposal, and potential adverse impacts on the aquifer and offsite wells. The Health Department has concluded that, subject to an appropriate *Adaptive Management Plan*, issues concerning water quality have been adequately addressed.

XIII.

The Applicant has demonstrated an adequate source of potable water for the development, adequate protection of critical areas onsite, and adequate provisions for sewage treatment.

XIV.

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 Applicant is seeking Preliminary Long Subdivision Approval for a subdivision consisting of 60-single-family lots and 24-multi-family units on a 42.34-acre site, zoned Rural Residential and located within the Utsalady RAID. The proposed residential use is a Permitted Use in this zone. The density requirements of no more than two dwelling units per acre have been complied with.

The Committee has urged the Hearing Examiner to reduce the density allowed. The Hearing Examiner is not required to allow a developer to achieve the maximum density allowed within any given zone. However any requirement to reduce the density would need to be based on necessary mitigation for identified impacts. There has been no showing that reduced density is necessary to mitigate potential substantial adverse environmental impacts. Density reduction is not necessary to protect critical areas onsite. The Committee's request that density be reduced based on questions of the appropriateness of the density allowed in the Rural Residential zone is misplaced. The Board of Island County Commissioners has already determined the appropriate density for this area and any challenge to the maximum density allowed would have had to have been brought before the Growth Management Hearings Board as an Appeal of the Ordinance allowing the current density at the time it was passed. The Hearing Examiner has not identified any appropriate reason to limit the density of this development.

The Committee has requested the Hearing Examiner require the Developer to build a retaining wall along the southern portion of the property where it abuts Maple Grove Road. Subject to proper implementation of the *Adaptive Management Plan*, the proposed development should not have an adverse impact on slope stability. While the building of a retaining wall may, in fact, protect Maple Grove Road and other properties from landslide activity, it would be inappropriate to require this Developer to install the requested retaining wall since there is no anticipated increase in slope instability resulting from the development, as conditioned. Therefore there would not be the required nexus between the development and the harm prevented by such a retaining wall.

The Committee has requested the Hearing Examiner require the Developer to include and build the originally proposed tramway reaching from Maple Grove Road to the beach tract. The Hearing Examiner concludes there is no legal basis which would allow the Examiner to require the Developer to apply for permits and construct a tram access to the beach.

The Committee has requested the Hearing Examiner to order the Developer to pay for the Hydrologist hired by the Committee. While acknowledging the value of an extra Hydrologist's opinion, there is no legal basis for the Hearing Examiner to require the Applicant to pay for expert witnesses hired on behalf of concerned citizens or opponents to the proposed development. Island County, using its authority to require the Developer to pay for a peer review of the Applicant's Hydro-Geologist's work provided the necessary, independent review of the work of the Applicant's Hydro-Geologist at County expense.

The Committee has requested the Hearing Examiner condition Final Approval upon the Developer or Homeowners Association posting and maintaining a bond/insurance for cost related to implementation of the *Adaptive Management Plan* designed to protect water quality and quantity. The *Adaptive Management Plan* and Covenants and Restrictions associated with this development will require implementation

of the plans designed to protect water quality and quantity and for any work required to address any future identified problems. In a similar vein, the Committee has requested that the Developer and/or Homeowners Association should be required to post a \$20,000,000 bond/insurance for potential loss of life and property damage due to slope failure.

While the Hearing Examiner understands the Community's concern that sufficient funds be available to fund the implementation of the *Adaptive Management Plan* and any modifications required under the Plan, the Hearing Examiner sees no authority which would allow him to require posting of a \$20,000,000 bond or insurance "... for potential loss of life and property due to damage slope failure."

Island County Public Works has imposed conditions, none of which were objected to by the Applicant, requiring identification of a funding mechanism for the water quality treatment protocol and for implementing future stormwater quality testing, along with a funding mechanism to provide for implementing the *Adaptive Management Plan* and to fund potential future mitigation implementation. Additionally, prior to Final Approval, a Private Road Maintenance Agreement and Private Drainage Facility Maintenance Agreement, acceptable to Public Works, must be recorded with the Island County Auditor.

There is not sufficient evidence in the record to determine, as a condition of Preliminary Approval, what an appropriate funding mechanism would be or what an appropriate bond amount, if any, would be. The Subdivision Ordinance requires completion of required development and/or bonding prior to Final Approval.

Recommended Conditions of Approval, including notes to be placed on the Final Long Subdivision Map, should be adequate to deal with the issues raised by the Committee's request for bonds and insurance.

II.

Island County Planning and Community Development has concluded that, subject to the recommended Conditions of Approval, the proposed subdivision will meet the requirements for Preliminary Long Plat Approval, as set forth in ICC 16.06; will comply with the density and lot size requirements for a residential development in the Rural Residential zone; will meet the requirements of the Critical Areas Ordinance; and will be consistent with the requirements of RCW 58.17. The Hearing Examiner concurs in these conclusions.

RCW 58.17 and the Island County Subdivision Ordinance require written Findings of Fact and Conclusions of Law that state, as follows:

Appropriate provisions have been made for the public health, safety, and general welfare and for such open spaces, drainage ways, stormwater management, streets or roads, pedestrian and bicycle paths, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school, and the public use and interest will be served by the platting of such subdivision and dedication;

The Hearing Examiner concludes as a matter of law that, subject to the Conditions of Approval, this proposed subdivision is consistent with the above statutory and regulatory language.

III.

Subject to the required Conditions of Approval, the proposed subdivision meets the Public Health Requirements of Title 8, and the Public Works Requirements of Titles 11 and 15 of the Island County Code. Preliminary Long Plat Approval should be granted to the proposed North Point Subdivision.

IV.

Staff of Island County Planning and Community Development have reviewed the proposed work within shoreline jurisdiction and have recommended approval of a Substantial Development Permit, subject to the attached Conditions 19 through 40. The Hearing Examiner concurs in the conclusion reached by the Planning Department that the proposed development within shoreline jurisdiction is consistent with the requirements for a Shoreline Substantial Development Permit, subject to the attached Conditions 19 through 40.

V.

The Committee has appealed the Mitigated Determination of Non-significance issued by Planning on December 2, 2010. As lead agency, the Island County Planning and Community Development Department concluded that, subject to the conditions set forth in the Final SEPA Threshold Determination (Exhibit No. 6) and subject to regulation of the proposed development under existing Island County Ordinances, the Revised Code of Washington, the applicable parts of the Washington Administrative Code, and applicable Federal law, the proposed development would not have a probable significant adverse impact on the environment.

The Determination of the Responsible Official under SEPA is entitled to significant weight on Appeal. Another way of wording this is to state that the Appellants of a SEPA Determination must show by clear, cogent, and convincing evidence that an error has been made and that there are probable significant adverse impacts on the environment which will not be mitigated. The Appellants have shown that the proposed development of this site has the potential to result in significant adverse impacts on the environment. A combination of the geologically hazardous areas and potential impacts on groundwater quantity and quality, and water quality of stormwater and discharge into Skagit Bay, raise issues that, if not properly addressed, could result in probable significant adverse environmental impacts.

This Appeal has resulted in a more detailed and modified *Adaptive Management Plan* designed to deal with stormwater runoff impacts, water quality and quantity impacts,

and slope stability impacts. For this reason, Condition No. 2 of the Mitigated Determination of Non-significance should be modified to read as follows:

- 2) Implement the recommendations as described in the *Adaptive Management Plan* by Associated Earth Sciences, Inc. (AES), dated May 18, 2011, or any future modifications to the *Adaptive Management Plan* approved by Island County, and, at a minimum, including the following:
 - a. Phased development of the plat shall be required, consistent with the *Adaptive Management Plan*, as follows: *The proposed development project will be phased in that no more than one-third of the development (28 units) will be constructed each year until final build-out is achieved. Also, no more than one-third of the additional off-site residences (10) will be connected each year to the reclaimed water system during site development.*
 - b. All surface water runoff generated on impervious surface area and a portion of the lawn, landscaping and common areas of the site will be routed off-site via a pipeline that discharges to Skagit Bay.
 - c. Each future lot development will need to demonstrate that the impervious surfaces from the parcel will be captured and conveyed to the stormwater system.
 - d. Groundwater monitoring shall continue as proposed in the *Adaptive Management Plan* until at least five years past final building permit occupancy (final plat build-out).
 - e. An annual monitoring report, consistent with the *Adaptive Management Plan*, shall be submitted to Island County, commencing with one year from preliminary plat approval and until at least five years past final building permit occupancy (final plat build-out).
 - f. If significant changes in groundwater elevations related to site development are observed, the project Hydro-Geologist will immediately report the observed changes to Island County and propose an appropriate mitigation plan consistent with the *Adaptive Management Plan* by AES.

Subject to the modified condition set forth above, and all of the conditions attached to Approval of the Preliminary Plat Application and Shoreline Substantial Development Permit, the proposal is not likely to have a probable significant adverse environmental impact on the environment, and an Environmental Impact Statement is not required.

VI.

The Committee has requested a number of changes in the latest edition of the *Adaptive Management Plan*. The Hearing Examiner concludes that it is unnecessary to make changes to the Plan itself at this time. Some of the changes requested by the Committee have been addressed in the revised Conditions of Approval, attached hereto by the Hearing Examiner. The *Adaptive Management Plan* requires a significant amount of pre-construction data collection and the consideration of appropriate changes in the Plan as a result of the data collected prior to the commencement of any construction activity on this site. Since the terms of the *Adaptive Management Plan* will be revisited prior to construction activity associated with this development, further modifications to the last draft of the Plan, proposed by the Applicants and approved by Island County's peer review designated Hydro-Geologist, are not necessary at this time. Appropriate changes, if any, can be considered after the collection of the significant amount of extra data required by the *Adaptive Management Plan* and the Conditions of Approval.

VII.

The Committee has requested that the Hearing Examiner require ongoing monitoring of the water quality and quantity issues in perpetuity. The purpose of the monitoring and the *Adaptive Management Plan* is to reasonably insure no significant adverse impacts to slope stability, or water quality and quantity in the aquifer, or reaching Skagit Bay result from this development. Monitoring is required for five years after the final home constructed within the plat has been approved for occupancy. That is a minimum requirement which could be modified in the future should the water monitoring data indicate an extension of that period was appropriate.

VIII.

Both in the Committee's proposals to modify the Conditions of Approval and in the *Adaptive Management Plan*, the Committee has requested a requirement that they be notified regarding a large number of issues or changes which may or may not arise. Generally, the notice requirements for County Agencies are set forth in the County Code. The Hearing Examiner has made a couple of changes in the Conditions of Approval to

ensure the Committee gets notice prior to any amendment of the *Adaptive Management Plan* before construction starts, and a Plan which requires specific dates after construction starts for the submission of ongoing monitoring data to Island County. Since the Committee will know the dates when monitoring reports are due to be submitted to the County, the Committee will be able to request the data on those dates, which are identified with certainty in the *Adaptive Management Plan*, in place when construction starts.

The Hearing Examiner is also requiring notification to the Committee at the time of review of the *Adaptive Management Plan* prior to the commencement of any construction activities.

IX.

The Committee has requested a number of things, including easements and payment of costs involved in the hookup of the water associations represented by the Committee to the Camano Hills Water Association. As in a number of other areas, the Committee has failed to establish a nexus between the requirements they request be placed on the Developer and the impacts actually caused by the development. To require a Developer to undertake actions to alleviate problems or situations which are not a direct result of the proposed development is unconstitutional.

X.

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 Appeal of the SEPA Mitigated Determination of Non-significance is denied; however, it should be noted that the Community involvement has resulted in a development of the *Preliminary Adaptive Management Plan* designed to monitor potential impacts on the quantity of water reaching the down-gradient aquifers and the quality of infiltrated groundwater leaving the site.

Preliminary Plat Approval and a Shoreline Substantial Development Permit are hereby granted to Geoffrey Anderson, approving the proposed residential subdivision, subject to the following conditions.

Planning & Community Development Conditions

1. The final plat map must substantially conform to the approved preliminary plat map (Exhibit #269), except that any modifications necessary to meet conditions of approval may be allowed.
2. Prior to final plat approval, all on- and off-site improvements required as a condition of preliminary approval shall be complete, OR, at the discretion of the Board of Island County Commissioners by recommendation of the Planning Director and County Engineer, shall be bonded for.
3. A MDNS was issued on December 2, 2010 and includes a list of mitigating conditions. All conditions of the associated SEPA Threshold Determination, as modified herein, shall be complied with.
4. Prior to commencing any ground disturbing activities or submittal of the Final Long Plat Application, an archaeological assessment of the project area must be performed by a qualified professional. The assessment must be submitted to and approved by the Department of Archaeology and Historic Preservation (DAHP) prior to commencing land disturbing activities onsite. If DAHP determines that an excavation permit is required, said permit must be obtained prior to proceeding with ground disturbing activities or submitting the Final Long Plat application.
5. All proposed development shall comply with the State Noise Ordinance, Air Pollution Control Regulations, Water Quality Standards, and all other pertinent Codes and Ordinances.
6. The method of sewage disposal for all dwelling units within this plat is a Class A Reclaimed Water System. Preliminary approval of this plat provides for the Class A Reclaimed Water System to serve only lots within the North Point Plat boundaries. Approval of this plat does not grant approval for the Class A Reclaimed Water System to serve any lots outside of the plat boundaries. In order for the Class A Reclaimed Water System to serve any lots outside of the North Point Plat boundaries, it must first be approved as a public facility through any and all required permit processes.
7. In a letter dated November 24, 2010, the Applicant formally withdrew all portions of the proposal pertaining to construction of a tram within shoreline jurisdiction. However, this letter was submitted after the last set of plat maps, which still show

the tram feature. Therefore, the tram feature must be removed from all final plat maps. Additionally, all references to a tram shall be removed from all final plat maps (e.g. Map P1.0 references maintenance of tram system under Homeowner's Association Fees at #9).

8. The following shall appear under "RESTRICTIONS" on the final plat map:

"Tract F is designated for outdoor storage of Recreational Vehicles as well as the location for the reclaimed water/sewer treatment facility. All outdoor storage and above-ground features of the reclaimed water/sewer treatment facility shall be screened from the view of adjacent properties and roadway vistas. Appropriate screening consists of native vegetation, fences, walls, or vegetated berms."

9. The following shall appear under "RESTRICTIONS" on the final plat map:

"All outdoor storage within Tract F is limited to storage by residents of the plat. Any profit made through fees for use of the lot would constitute commercial use and is prohibited."

10. The following shall appear under "RESTRICTIONS" on the final plat map:

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

11. Of the lots created by this long plat, fifty-six (56) lots will be less than the minimum lot size as established by ICC 17.03.075. Therefore, the following shall appear under "Restrictions" on the final plat map:

"No variances shall be granted to reduce building setbacks for any lots within this subdivision."

12. No road names have been reviewed or approved by this decision. Prior to submittal of the Final Long Plat application, submit a Private Road Name Petition. During the Final Long Plat review process, approximate addresses will be provided. Pursuant to ICC 14.04, RCW 58.17.280, and Ordinance #C-32-96, addresses must appear on the final long plat map. The following must appear under "Notes" on the final plat map:

"Addresses assigned pursuant to RCW 58.17.280 are only approximate. Before or at the time of a building permit application submittal an application for address shall be applied for with a plot plan showing the location of the driveway. Only then shall a determination be made if the address assigned to meet the requirements of RCW 58.17.280 are accurate addresses or if they will need to be changed."

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

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

LONG PLAT NO. PLP 030/07 R23223-433-3280

R23223-496-2930

R23223-441-4010

R23223-358-3010

B. The name of the subdivision: **North Point**

C. (Approved Private Road Name/s) _____ **(Private)**

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

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

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

A. The original Final Long Plat Application and all required materials, along with three copies.

B. An original, complete Certificate of Title, formatted to meet the Washington State Recording requirements dated no earlier than 30 days prior to submittal.

C. Four paper copies of the proposed Final Plat.

D. A signed and notarized statement by the owner that all conditions of preliminary approval have been met.

E. Established application fees for a Final Plat Application.

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

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

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

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

Substantial Development Conditions

19. Applicant shall contact the Washington State Department of Fish & Wildlife to obtain a Hydraulic Project Approval (HPA) prior to installation of the proposed development and discharging stormwater into the waters of the State. Contact Doug Thompson at (360) 466-4345 ext. 251 or thompdst@dfw.wa.gov
20. Prior to initiating land-disturbing activities, appropriate Best Management Practices (BMP's) shall be installed for preventing and controlling any and all erosion within the project area. BMP's shall be inspected and maintained throughout the course of the project.
21. Upon completion of the outfall installation, all banks shall be restored to a suitable configuration and stability and shall incorporate native plantings into any re-vegetation of disturbed areas on the geologically hazardous/steep slope. Plantings shall be at an appropriate density and of species similar to adjacent areas along the slope. Hydro-seeding any denuded areas is not an appropriate form of re-vegetation. A Re-vegetation and Maintenance Plan must be submitted and approved by this department prior to final Building Permit inspection.
22. Within 30 days from completion of the project, certification of drainage improvements per the project engineer shall be submitted to Island County. Such certification shall confirm the facilities were constructed and will perform in substantial compliance with the approved engineered designs.
23. Applicant must maintain strict conformity to the submitted plans. Any minor modifications or revisions to the approved plan must first receive approval by the Planning Department. Major modifications or revision shall require a formal Hearing Process.
24. Hours of operation shall be limited to those associated with normal business hours (8:00 a.m. to 6:00 p.m.). If work must take place outside of normal business hours to coincide with low tides, please notify the immediately surrounding neighbors and the Island County Shoreline Planner (360) 678-7810.
25. Heavy equipment or construction materials shall not be parked, stored on the beach, seaward of the ordinary high water mark (OHWM).

26. Applicant bears the full responsibility of notifying site crews of the above noted permit conditions and shall be held fully accountable for any activity which results in on- or off-site hazards or damages.
27. In the event that items of possible archaeological or historic significance are uncovered during excavation, the permittee shall cease operation and immediately report such findings to the County.
28. Construction pursuant to a shoreline permit shall not begin or be authorized until twenty-one (21) days from the date the final order granting the permit was filed with the Washington State Department of Ecology pursuant to RCW 90.58.140(6), or until all review proceedings are terminated if such proceedings were initiated within twenty-one (21) days from the date of such filing, except as provided in RCW 90.58.140(5), (a) and (b). Issuance of a shoreline permit shall in no way be construed as excusing the applicant from compliance with any other local, state, or federal statutes, ordinances, or regulations applicable to the proposed substantial development.
29. Pursuant to WAC 173-27-090 (2)(a), construction shall be commenced or, where no construction is involved, the use or activity shall be commenced within two (2) years of the effective date of a shoreline permit; provided that, local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the department.
30. Pursuant to WAC 173-27-090 (2)(b), authorization to conduct development activities shall terminate five years after the effective date of a shoreline permit; provided that, local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the department.
31. Any future trams or proposed access to the beach must utilize the utility corridor established by the HDPE storm-water utility line. If this is not possible, the location of the HDPE line must be relocated to accommodate the location of any future tram within the utility corridor.
32. Staff will verify that the utility is upland of the OHWM during final building permit inspection.
33. The proposed tight-line system must be shown on the face of map P1.0 as well as on any other approved maps.

34. Any excess material shall be deposited in stable locations and not into shoreline corridors where such materials degrade water quality, impede flood waters, or alter naturally occurring geo-hydraulic processes.
35. Tract I must be retained as open space area.
36. No development shall be allowed in Tract I that would require bulk heading or other structural stabilization of the slope or bluff.
37. Building setbacks from the Ordinary High Water Mark (OHWM) for Tract A shall be at least 50 feet pursuant to ICC 17.03.200. This setback must be included on the face of the plat.
38. The proposed tight-line system shall not cause significant degradation to water quality, marine life and general shoreline ecosystems. A detailed Maintenance and Monitoring Plan must be developed and approved by Island County prior to final approval.
39. Include the following language on the face of the plat under "RESTRICTIONS":

"Natural vegetation between the OHWM and the top of banks and bluffs ten (10) feet or higher shall be retained pursuant ICC 17.03.200."
40. The applicant formally withdrew the elements of the proposal pertaining to a tram. Therefore, this decision does not approve any tram feature.

Engineering/Public Works Conditions

41. Subsequent to preliminary plat approval and SEPA Determination issuance, a forest practices permit obtained from the Washington Department of Natural Resources will be required prior to any harvesting or removal of timber. Provide a copy of said FPA to Island County prior to start of clearing activity.
42. All recommendations provided in the referenced geotechnical reports shall be adopted, complied with during all phases of site development unless amended in accordance with applicable regulations.
43. An NPDES General Construction Stormwater Permit from the Washington Department of Ecology will likely be required prior to start of clearing activity. Applicant is responsible to obtain any NPDES permit.
44. Clearing and Grading is limited to the areas as shown on the submitted *Clearing, Grading and TESC Plan and Road and Drainage Plans* by HBA Design Group dated September 10, 2010.

45. All TESC features and facilities to be adequately installed prior to start of clearing activity and maintained until site stabilization.
46. Prior to the start of any clearing or grading activities, clearing and grading boundaries shall be clearly flagged consistent with the approved *Clearing, Grading and TESC Plan and Road and Drainage Plans* by HBA Design Group dated September 10, 2010.
47. Prior to start of any clearing or grading activities and prior to Final Plat Approval, the Bald Eagle Management Plan shall be signed by the Applicant and a copy provided to Island County.
48. Prior to commencement of clearing activities, all trees identified to be retained in the Bald Eagle Management Plan shall be clearly flagged and marked for retention and protection, consistent with the Plan, during site development activity (permanent marking requirements discussed under Clearing and Grading below).
49. Prior to Final Plat Approval, mitigation planting per the Bald Eagle Management Plan shall be completed, documented in a letter from the applicant and approved by Fish and Wildlife. As noted in the plan, "Mitigation trees will remain into perpetuity."
50. No clearing, grading or placement of excavated materials shall take place within any steep slope setback areas unless shown on the approved plans.
51. Consideration should be given to potential windfall damage to adjacent properties and appropriate action taken to minimize blow-downs.
52. To prevent mud tracking on pavement, a stabilized construction entrance is required at all accesses to the County road used by heavy trucks or other construction equipment.
53. Any excess soils for export shall be disposed at a suitable location. Applicant is responsible to obtain any required permits for export and placement of excess soils.
54. All fills intended for structural support shall be of proper type, properly placed, compacted and observed/tested to meet the recommendations of the project geotechnical engineer (reference reports by *Geologic, Soils and Ground Water Conditions Technical Report* by Associated Earth Sciences Inc. (AES) dated May 27, 2008, a *Geologic, Soils and Ground Water Conditions Addendum Report* by Associated Earth Sciences Inc. (AES) dated May 28, 2009, a *Conceptual Tram Design Recommendations* by Associated Earth Sciences Inc. (AES) dated September 25, 2009 and a *Slope Stability Modeling and Analysis* report by AES

dated November 12, 2009.) and the requirements of the Building Official for structural fills.

55. Professional inspection of site development activity shall be provided by the civil and geotechnical engineers of record in accordance with the requirements of Sections 11.02.210 ICC and 11.02.220 ICC.
56. *Traffic Impact Analysis* by Gibson Traffic Consultants dated September 25, 2009. recommends a payment of \$15,087.30 to Island County as Transportation Mitigation related to proportionate share impacts for Island County Traffic Improvement projects (as listed on the 6-year TIP) that are impacted with 10 or more PM peak hour trips from the subject development. Traffic impact mitigation payment of to Island County is a recommended SEPA mitigation for project traffic impacts. Said payment of \$15,087.30 to Island County shall be completed and documented prior to final plat approval.
57. Prior to final plat approval, an Application to Perform Work in the County Right-of-Way shall be submitted for review/approval of county road improvements (North Camano Drive) prior to improvement construction. Said improvements to be completed and approved prior to final plat approval. Review of the final drawings for North Camano Drive guardrail improvements shall be performed under an Application to Work in County Right-of-Way required prior to guardrail installation.
58. Prior to final plat approval provide a specification for the proposed intersection lights for review by Public Works. Implementation of the lighting plan is required prior to final plat approval.
59. Prior to construction of the proposed trail, Island County will require an application for Work in the County Right-of-Way to be submitted for review/approval. A pair of Pedestrian Warning signs, consistent with MUTCD and approved by Island County Roads Department, may be required at the approaches to the Maple Grove Road crossing area.
60. A private road maintenance agreement in general conformance with the attached Appendix A must be recorded with the Island County Auditor's Office and the AFN indicated on the face of the plat map.
61. Prior to final plat approval, all plat stormwater infrastructure shall be constructed per the approved *Clearing, Grading and TESC Plans AND Road and Drainage Plans* by HBA Inc. dated September 10, 2010 and September 29, 2010, subject to any modifications arising as a result of predevelopment monitoring and the requirements of any revised *Adaptive Management Plan* adopted after this Preliminary Long Plat Approval. All surface water runoff generated on impervious surface area and portions of the lawn, landscaping and common areas of the site will be routed off-site via a pipeline that discharges to Skagit Bay per the approved

Stormwater Plans. Prior to Final Plat Approval the engineer of record to certify that the constructed roads and other impervious surfaces are constructed to perform said function.

62. Island County Public Works will require drainage review prior to final plat approval. The submittal requirements for drainage review include as-built documentation and certification of drainage facilities installation by the civil engineer of record, an operation and maintenance manual and a drainage maintenance covenant in general conformance with the attached PRIVATE DRAINAGE FACILITY MAINTENANCE AGREEMENT must be recorded with the Island County Auditor's Office and the AFN indicated on the face of the plat map.
63. Prior to final plat approval, a water quality treatment protocol and funding mechanism shall be established to provide for implementing future stormwater water quality testing.
64. Prior to final plat approval a final project certification by the geotechnical engineer, consistent with code references above, shall be provided to Island County. Such certification shall confirm the site grading, access roadways, any structural building fills and drainage facilities were constructed and will perform in substantial compliance with the approved plans, specifications and permit conditions.
65. Prior to final plat approval a final project certification by HBA Design Group, consistent with code references above, shall be provided to Island County. Such certification shall confirm the site grading, access roadways, utilities, and drainage facilities were constructed and will perform in substantial compliance with the approved plans, specifications and permit conditions.
66. Prior to final plat approval, a funding mechanism shall be established to provide for compliance with implementing the *Adaptive Management Plan* by AES and to fund potential for required mitigation strategy implementation.
67. Prior to final plat approval, all trees identified to be retained in the Bald Eagle Management Plan shall be clearly marked for retention consistent with marking protocols agreed to with the Washington State Department of Fish and Wildlife.
68. Prior to final approval of PLP 030-07 provide certification from water system engineer for the installation of water system with fire hydrants providing 500 gallons per minute for 30 minutes within 500 hose lay feet from all corners of proposed structures.
69. A Registered Land Surveyor must survey the property. The survey shall be in compliance with County policy on plat staking and monumentation. All survey

stakes/markers/monuments shall be clearly marked or flagged in the field, with vegetation cleared appropriately, to facilitate field inspection and verification

70. Reference the location of trees to be retained per the Bald Eagle Management Plan on the final plat map and remove the actual location of the Bald Eagle nest.

71. The following shall appear on the face of the final Long subdivision map:

A. "NOTES:

- i) **Island County has no responsibility to improve or maintain private roads contained within the property described in this development.**
- ii) **Island County has no responsibility to improve or maintain private stormwater facilities contained within the property described in this development.**
- iii) **The proposed plat roads will be private roads with no intent to be accepted as County public roads any time in the future as they will be substandard and there is no public benefit to establishing the roads as public roads.**
- iv) **The interior plat roads will not provide on-street parking.**
- v) **Dedication of 20 feet of additional Maple Grove Right-of-Way ROW dedication shall be accomplished via recording the final plat map with the indicated dedication on the face of the final plat map.**
- vi) **The Rain Garden water quality control feature shall be monitored for water quality as recommended in an approved protocol. If test data indicates the proposed Rain Garden water quality control feature discharges significant pollutant levels that adversely impact the shoreline environment, a new water quality treatment regimen will be required. (Note: this language may be revised or amended prior to Final Plat Approval pending review of the submitted testing protocol).**
- vii) **As noted in the project geotechnical report: *"If any significant additional erosion or slide activity occurs that would alter the top of bluff location shown hereon the setback distances should be reevaluated.* Therefore, a revised geotechnical site analysis may be required prior to building permit issuance per the discretion of the County Engineer pursuant to ICC 11.02.**
- viii) **Each future building permit submittal application shall demonstrate that the impervious surfaces from the parcel will be captured and conveyed to the stormwater system.**

- B. “RESTRICTIONS:
- i) Direct vehicular access to North Camano Drive is restricted to the approved location shown hereon.
 - ii) Access to Maple Grove Road is limited to the approved utility access (reference APC08-0035) shown on the hereon.
 - iii) An approved Bald Eagle Management Plan, as shown on the plat, applies to current and future landowners and the Homeowners Association for common tracts. As noted, the plan may be amended if approved by the Washington State Department of Fish and Wildlife and Island County. As noted in the Plan: “no construction activities will occur within 30 feet of any retained tree (except for parcel R23223-496-2930) and all buildings will be located out of the fall line of these retained trees, retained trees may not be removed”.
 - iv) No clearing, grading or placement of excavated materials shall take place within any steep slope setback areas unless shown on the approved plans or prior approval is obtained from Island County.
 - v) A portion of the property is encumbered by steep slopes (greater than 40% by definition), geohazardous areas, wetlands and buffer and regulated shorelines. No clearing, grading or construction is permitted within said areas until the appropriate permit or waiver has been obtained from Island County.
 - vi) Vegetation management within bluff setback areas shall be consistent with approved geotechnical reports and the Bald Eagle Management Plan where applicable.
 - vii) All future building permits shall adhere to steep slope structural setbacks, at a minimum, as shown on the plat face unless amended by the geotechnical engineer-of-record and approved by Island County.
 - viii) No blocking, diverting, or other alteration of existing, natural, or approved man-made drainage ways is permitted without the prior approval of the Island County Engineering Department.”
- C. The legal description of the land contained in the long subdivision. The description is to comply with document conveying title.
- D. Revise the proposed drainage easement on Lot 50 and 51 to a 15 foot width to be consistent with ICC 11.01.080.

- E. The boundary lines of the plat and of the lots within it showing the full extent of the parcel(s).
- F. The set survey corners for *each* corner of *each* lot within the plat.
- G. Geohazardous Areas, steep slopes, wetlands, tributary streams, drainage ways along with the associated buffers.
- H. Location, dimensions, and Auditor's File Number for all easements (e.g., access, utility, drainage) within or serving the plat and the purpose thereof, together with the names of all private rights-of-way within or adjoining the plat.
- I. All existing permanent fences, driveways, and structures, including those improvements made during development.
- J. Access locations and permit numbers. The final Plat map shall reference the Access Permit Number for each approved location.
- K. The status of all adjacent properties (e.g., unplatted, etc.).

Public Health Conditions

- 72. Plans and specifications for the proposed extension of the water system must be approved by the State Department of Health (DOH) or the water system as part of an approved water system plan.
- 73. A water service connection must be installed to each proposed lot and a Certificate of Installation must be received in this office.
- 74. The final engineering design for the proposed Class A Reclaimed Water System must be approved by the Washington State Department of Health and the approval letter must be received in this office.
- 75. The existing on-site sewage disposal systems must be abandoned and properly decommissioned in accordance with ICC 8.07C.270 (see enclosed) and applicable documentation must be received in this office.
- 76. The existing well must be decommissioned in accordance with WAC 173-160-381 and applicable documentation must be submitted to this office.
- 77. The following water system information must appear on the final map:
 - a) The waterlines and any easements benefiting the Camano Hills Water Company, Inc. or any lots created through this subdivision.

b) The applicable Auditor's File Numbers.

78. The following building permit statements must appear under "RESTRICTIONS" on the final map:

"Prior to building permit issuance, the following requirements must be met:

- a) A Water Availability Verification Form must be approved by the Island County Health Department.
- b) A Certificate of Sewer Availability must be approved by the Island County Health Department."

Additional Conditions:

79. The reclaimed water system serving this project shall be equipped with sensors that will provide full-time, uninterrupted monitoring of total nitrogen (tn) in the effluent stream. Further, the system shall be configured such that if the monitoring system detects tn in excess of 5mg/L, the effluent stream shall be automatically and immediately diverted to a holding tank. The effluent stream shall not be allowed to leave the reclaimed water system until conditions have been corrected and tn is at or below 5mg/L.

80. The Adaptive Management Plan, by Associated Earth Sciences, Inc. (AES) dated May 18, 2011, shall be implemented. Modifications to the plan may be necessary to account for new data obtained from monitoring. Any modification to the plan must be based on data obtained through annual groundwater monitoring and must first be approved by Island County. An annual groundwater monitoring report must be submitted to Island County, one year prior to when site development activities are proposed to begin and every year thereafter until at least 5 years after a Certificate of Occupancy is granted for the final dwelling unit (Final Plat build out). The Planning and Community Development Department shall review the annual groundwater monitoring report and issue a decision regarding implementation of any modifications to the Adaptive Management Plan. This decision shall be processed as a Type II (Administrative Decision) subject to the timeframes and appeal procedures established in Chapter 16.19 ICC. The North Point Homeowners' Association or controlling body and the Maple Grove Community Committee shall be notified of the County's decision.

The *Adaptive Management Plan* approved at the point just prior to the initiation of construction activities shall include the dates which future monitoring reports are due.

The purpose of the *Adaptive Management Plan* is to provide ongoing monitoring to require future changes necessary to maintain slope stability on this site and to ensure the water quality and quantity reaching the aquifer, or being discharged into Skagit Bay, does not result in adverse impacts on other wells in the vicinity or any

other significant adverse environmental impact. Possible changes that could be required may include modifications to the treatment systems, modifications to the stormwater collection system, and, if necessary, modifications to the plat itself, including a reduction in the size of the area developed and/or a reduction in the density allowed.

81. All covenants and restrictions (CC&Rs) to be recorded for the North Point Plat must be submitted to Island County prior to Final Plat Approval. The CC&Rs shall identify the entity responsible for adhering to all conditions of plat approval, implementation of the *Adaptive Management Plan*, and annual groundwater monitoring reports. The CC&Rs must also establish that the covenants and restrictions may not be altered or modified without Island County approval.

Entered this 23rd day of June 2011, pursuant to authority granted under the laws of the State of Washington and Island County.

MICHAEL BOBBINK
Island County Hearing Examiner

APPEAL PROCESS:

PLP
SDP

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.

The Decision of the Hearing Examiner in this matter shall be a final and conclusive unless a written statement of appeal is filed with the Board of Island County Commissioners within (14) calendar days following this decision, in accordance with the appeal procedures set forth in ICC 16.19.190, WAC 173-27 (Shoreline Civil Penalties), or Chapter 16.21 ICC (Shoreline Administration); or is appealed in accordance with RCW 90.58.180 (Shorelines Hearings Board Appeals).

APP (SEPA)

Appeal Process for SEPA Related Appeal Issues:

This decision of the Hearing Examiner is a final decision at the County level. Any further appeals must be taken in conformity with RCW 43.21C.075 and WAC 197-11-680.