WHEREAS, on September 28 and 29, 1998, the Board of County Commissioners
(Board) adopted the County's Growth Management Act Comprehensive Plan and Development
Regulations; and

WHEREAS, on February 27, 2009, the Board established the Planning Commission's
2009 Annual Review Docket which included the development of amendments to exempt division
of land to be used for siting electric utility facilities into lots or tracts that are less than three (3)
acres in size from the subdivision and short subdivision standards provisions contained in
Chapter 16.06 ICC, titled Land Divisions and Dedications; and

WHEREAS, pursuant to ICC 16.26.020, a public meeting and hearing was held on May
12, 2009 in Coupeville, and on May 26, 2009 on Camano Island, at which Planning and
Community Development Department staff presented proposed amendments to the Planning
Commission; and

WHEREAS, the Planning and Community Development Department thereafter amended
the proposed language to ensure that base density requirements would still apply for all
residential uses on properties that used the proposed subdivision exemption; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), Chapter 43.21C
RCW, and the County Environmental Policy, Chapter 16.14C ICC, an environmental checklist
on the proposed amendments was prepared and reviewed and a mitigated threshold determination
of non-significance (MDNS) was issued on May 28, 2009; and

WHEREAS, on July 14, 2009, the Planning Commission held deliberations and
concluded that this proposal is consistent with the goals and policies of the Comprehensive Plan,
unanimously recommended adoption, and on August 25, 2009, the Planning Commission signed
its Findings of Fact recommending adoption by the Board of Island County Commissioners; and

WHEREAS, the proposed amendments are consistent with Washington State law, RCW
58.17.040, exempting properties used for siting electric utility facilities from the subdivision
standards and review process; NOW, THEREFORE,

IT IS HEREBY ORDAINED that amendments to 16.06 ICC and 17.03 ICC, attached
hereto as Exhibit A, and the Findings of Fact approved by the Planning Commission, attached
hereto as Exhibit B, are adopted. Material underlined on Exhibit A is added to existing County
Code.
ADOPTED this 16 day of NOVEMBER, 2009 following public hearing.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

John Dean, Chairman
Helch Price Johnson, Member

Angie Homola, Member

ATTEST:

Elaine Marlow
Clerk of the Board

APPROVED AS TO FORM:

David L. Jamieson, Jr.
Deputy Prosecuting Attorney and Island County Code Reviser
EXHIBIT A
Revisions to 16.06 & 17.03 ICC

16.06.030 Applicability

Every division of land for the purpose of development, lease, sale, gift, transfer of Ownership, or other conveyance and every adjustment of property lines shall proceed in compliance with this Chapter. Use or development of all Lots shall comply with all County development regulations including Lots created following procedures that are exempt from the requirements of this Chapter. The Subdivision and Short Subdivision provisions of this Chapter shall not apply to:

A. Cemeteries. Any cemetery or burial plot, while used for that purpose;

B. Boundary Line Adjustments. A division made by adjusting boundary lines between platted or unplatted Lots or both, which does not create any additional Lot, Tract, Parcel, site or division, nor create any Lot, Tract, Parcel, site or division which contains insufficient area and dimension to meet the minimum requirements for width and area for a building site. Boundary Line Adjustments are subject to the applicable provisions of this Chapter;

C. Large Lot Segregation. Any Boundary Line Adjustment or division of land into Parcels each of which equals 1/64 of a section, or equals or exceeds ten (10) acres if the land, is not capable of description as a fraction of a section of land. Provided that, in the case of a Zone classification requiring a minimum Lot Area greater than ten (10) acres, each Parcel must comply with the Lot Area requirements of that classification. For purposes of computing the size of any Parcel for a large Lot segregation, the size of any Parcel which borders on a street and road shall be expanded to include the area which would be bounded by the center line of the road or street and the side Lot lines of the Parcel running perpendicular to such center line;

D. Condemnation. Division of land due to condemnation, or sale under threat thereof, by an agency or division of government vested with the power of condemnation;

E. Testamentary Divisions. Any division made by testamentary provision or the laws of descent;

F. Existing Legal Lots. The development, sale, lease, transfer, gift, or other conveyance of Existing legally created Tracts, Lots, or Parcels acquired by any Owner as separate Parcels, and having separate and distinct legal descriptions;

G. Existing Illegal Lots. Any division of land, created prior to August 10, 1970, in violation of County requirements;

H. Innocent Purchaser. Any Lot, Tract, Parcel, site or division of land, created prior to January 1, 1985, the Owner of which demonstrates, by notarized affidavit, that he or she is an innocent purchaser for value and had no actual or constructive notice of the violation;
I. Lot Combinations and Boundary Line Correction. Any adjustment of boundary lines that meets the criteria set forth in ICC 16.06.080; and

J. A division for the purpose of leasing land for Facilities Providing Personal Wireless Services while used for that purpose.

K. A division of land into Lots or Tracts of less than three (3) acres that is recorded in accordance with chapter 58.09 RCW and is used or to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities. Base density requirements shall continue to apply for purposes of residential development to any Lots, Tracts, or Parcels created pursuant to this provision. For purposes of this subsection, "electric utility facilities" means unstaffed facilities, except for the presence of security personnel, that are used for or in connection with or to facilitate the transmission, distribution, sale, or furnishing of electricity including, but not limited to, electric power substations. This subsection does not exempt a division of land from the zoning and permitting laws and regulations of cities, towns, counties, and municipal corporations. Furthermore, this subsection only applies to electric utility facilities that will be placed into service to meet the electrical needs of a utility's existing and new customers. New customers are defined as electric service locations not already in existence as of the date that electric utility facilities subject to the provisions of this subsection are planned and constructed.

17.03.060 Rural (R) Zone

The Rural Zone is the principal land Use classification for Island County. Limitations on density and uses are designed to provide for a variety of rural lifestyles and to ensure Compatible uses.

C. Lot/Density. Lot/density requirements shall be as follows:

1. Minimum Lot size shall be five (5) acres. Base Density shall be one (1) Dwelling Unit per five (5) gross acres.

2. Lot size averaging may be permitted for Subdivisions or Short Subdivisions, that are ten (10) acres or larger in size, provided that no Lot may be less than two and one-half (2½) acres in size; no more than three (3) Lots may be created that are less than five (5) acres in size; and the average Base Density for the subdivision or Short Subdivision is not less than one (1) Dwelling Unit per five (5) gross acres.

3. For Lots, Tracts or Parcels twenty (20) acres or larger in size the Base Density may be increased as specified in ICC 17.03.180.E through the approval of a PRD pursuant to Chapter 16.17 ICC, with fractional units rounded upward to the next whole number.

4. For a PRD located within the unincorporated portion of an Urban Growth Area, the Base Density may be increased up to two-hundred percent (200%).

5. For Lots legally created prior to or after effective date of this Chapter, variations of ten (10) percent in the five (5) acre Lot size may be allowed to account for special site conditions.
features, unusual topography or similar factors that make strict adherence to minimum lot size impractical.

6. Existing Lots with more than one (1) Existing Single Family Dwelling Unit legally established prior to the effective date of this Chapter, that are under ten (10) acres in size, may be divided so each Dwelling Unit is on a separate Lot.

7. A division of land into Lots, Tracts or Parcels that are less than three (3) acres is permitted, when the Lot(s) are or will be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities as they are defined in ICC 16.06.030.K. Divisions of lands fulfilling these requirements shall not be subject to the Subdivision and Short Subdivision provisions of Chapter 16.06 ICC and shall be recorded in accordance with chapter 58.09 RCW. Base density requirements shall continue to apply for purposes of residential development to any Lots, Tracts, or Parcels created pursuant to this provision.

17.03.070 Rural Residential (RR) Zone

The purpose of the Rural Residential Zone is to define the Logical Outer Boundary of a pattern of development and density that is more intensive than the density permitted in the R zone.

F. Lot/Density. Lot/Density requirements shall be as follows:

1. Base Density, shall be the average of Existing densities contained within the boundaries of the named area, as set forth in ICC 17.03.075.

2. Minimum Lot size shall be: as set forth in ICC 17.03.075 or the minimum Lot size required by County health requirements, whichever is larger. A Parcel that contains a Guest Cottage may not be subdivided into a lot less than one acre in size nor shall the boundary line of said Parcel be adjusted to reduce the lot size below one acre in size.

3. Lot size averaging may be permitted for Subdivisions or Short Subdivisions provided that the average density shall not exceed the Base Density established pursuant to subsection 1. above and the Lot size shall not be less than the Lot size required by County health requirements.

4. A division of land into Lots, Tracts or Parcels that are less than three (3) acres is permitted, when the Lot(s) are or will be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities as they are defined in ICC 16.06.030.K. Divisions of lands fulfilling these requirements shall not be subject to the Subdivision and Short Subdivision provisions of Chapter 16.06 ICC and shall be recorded in accordance with chapter 58.09 RCW. Base density requirements shall continue to apply for purposes of residential development to any Lots, Tracts, or Parcels created pursuant to this provision.
17.03.090  Rural Agriculture (RA) Zone

The primary purpose of the Rural Agriculture (RA) zone is to protect and encourage the long term productive Use of Island County’s agricultural land resources of local importance. It is established to identify geographic areas where Commercial farming practices can be conducted in an efficient and effective manner; and to help maximize the productivity of the lands so classified. Secondly, lands classified RA provide scenic Open Space, wildlife habitat and watershed management to the extent such Use is consistent with the primary purposes of the Zone.

D.  Lot/Density. Lot or density requirements shall be as follows:

1. Minimum Lot size shall be ten (10) acres. Base Density shall be one (1) Dwelling Unit per ten (10) gross acres of site area.

2. For a PRD ten (10) acres or larger in size, the minimum Lot size may be modified to an average density of one (1) Dwelling Unit per ten (10) gross acres of site area.

3. Earned Development Units may be used, Lot Size may be decreased and Density may be increased pursuant to an adopted Management Plan by boundary line adjustment, Short Subdivision, Subdivision or PRD.

4. For legally created Existing Lots, each Lot may be sold, leased or transferred. Provided that, said Lot, if it still meets the designation criteria set forth in ICC 17.03.090.C, said Lot shall continue to be used for RA Permitted or Conditional Uses.

5. The Lot size limitation set forth above shall not apply when:
   a) the new Lot is to be sold, exchanged or transferred through a boundary line adjustment pursuant to Chapter 16.06 ICC to an adjacent RF, CA or RA property Owner who will continue to maintain Permitted and Conditional Uses; or
   b) an Existing Lot is proposed to be modified through a boundary line adjustment and will not subsequently be further modified in size or used in combination with unregulated subdivision such that new Lots are created that are less than the required minimum lot size.

6. For Lots created pursuant to this section, a notation advising of the Lot creation in compliance with Chapter 16.25 ICC will be recorded and placed on the face of the boundary line adjustment, short plat, plat, or PRD.

7. A division of land into Lots, Tracts or Parcels that are less than three (3) acres is permitted, when the Lot(s) are or will be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities as they are defined in ICC 16.06.030.K. Divisions of lands fulfilling these requirements shall not be subject to the Subdivision and Short Subdivision provisions of Chapter 16.06 ICC and shall be recorded in accordance with chapter 58.09 RCW. Base density requirements shall continue to apply for purposes of residential development to any Lots, Tracts, or Parcels created pursuant to this provision.
17.03.100 Commercial Agriculture (CA) Zone

The primary purpose of the Commercial Agriculture (CA) zone is to protect and encourage the long term Commercially productive Use of Island County’s agricultural resource lands of long term Commercial significance that have been designated pursuant to RCW 36.70A.170. It is established to identify geographic areas where a combination of soil, and topography allow Commercial farming practices to be conducted in an efficient and effective manner; to help maximize the productivity of the lands so classified; to protect farming operations from Interference by non-farmers; and to maintain agricultural land areas for Agriculture Use free from conflicting non-farm uses. Otherwise, the purposes of the zoning classification are the same as the RA zone.

E. Lot/Density

1. Minimum Lot size shall be twenty (20) acres. Base Density shall be one (1) Dwelling Unit per twenty (20) acres of gross site area.

2. For a PRD twenty (20) acres or larger in size, the minimum Lot size may be modified to an average density of one (1) Dwelling Unit per twenty (20) gross acres of site area.

3. Earned Development Units may be used, Lot Size may be decreased and Density may be increased pursuant to an adopted Management Plan by boundary line adjustment, Short Subdivision, Subdivision or PRD.

4. For legally created Existing Lots, each Lot may be sold, leased or transferred. Provided that, if it still meets designation criteria set forth in ICC 17.03.100.D, said Lot shall continue to be used for CA Permitted or Conditional Uses.

5. The Lot size limitation set forth above shall not apply when:
   a) the new Lot is to be sold, exchanged or transferred through boundary line adjustment pursuant to Chapter 16.06 ICC to an adjacent RF, CA or RA property Owner who will continue to maintain Permitted or Conditional Uses; or
   b) an Existing Lot is proposed to be modified through a boundary line adjustment and will not subsequently be further modified in size or used in combination with unregulated subdivision such that new Lots are created that are less than the required minimum lot size.

6. For Lots created pursuant to this section, a notation advising of the Lot creation in compliance with Chapter 16.25 ICC will be recorded and placed on the face of the boundary line adjustment, short plat, plat, or PRD.

7. A division of land into Lots, Tracts or Parcels that are less than three (3) acres is permitted, when the Lot(s) are or will be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities as they are defined in ICC 16.06.030.K. Divisions of lands fulfilling these
requirements shall not be subject to the Subdivision and Short Subdivision provisions of Chapter 16.06 ICC and shall be recorded in accordance with chapter 58.09 RCW. Base density requirements shall continue to apply for purposes of residential development to any Lots, Tracts, or Parcels created pursuant to this provision.

17.03.110 Rural Forest (RF) Zone

The primary purpose of the Rural Forest (RF) zone is to protect and encourage the long term productive Use of Island County’s forest land resources of local Significance. It is established to identify geographical areas where Commercial Forest management practices can be conducted in an efficient manner; and to help maximize the productivity of the land so classified. Secondarily, lands classified RF provide recreation opportunities, scenic Open Space, wildlife habitat and watershed management to the extent such Use is consistent with the primary purposes of the Zone.

D. Lot/Density. Lot requirements shall be as follows:

1. Minimum Tract or Parcel size shall be ten (10) acres. Base Density shall be one (1) Dwelling Unit per ten (10) gross acres of site.

2. For Lots, Tracts or Parcels twenty (20) acres or larger in size the Base Density may be increased as specified in ICC 17.03.180.E through the approval of a PRD pursuant to Chapter 16.17 ICC with fractional units rounded upward to the next whole number.

3. For legally created Existing Lots, each Lot, may be sold or transferred. Provided that, if it still meets the designation criteria set forth in ICC 17.03.110.C, said Lot shall continue to be used for RF Permitted or Conditional Uses.

4. The Lot size limitation set forth above shall not apply when:
   a) the new Lot is to be sold, exchanged or transferred through boundary line adjustment pursuant to Chapter 16.06 ICC to an adjacent RF, CA or RA property Owner who will continue to maintain Permitted or Conditional Uses; or
   b) an Existing Lot is proposed to be modified through a boundary line adjustment and will not subsequently be further modified in size or used in combination with unregulated subdivision such that new Lots are created that are less than the required minimum lot size.

5. For Lots created pursuant to this section, a notation advising of the Lot creation in compliance with Chapter 16.25 ICC will be recorded and placed on the face of the boundary line adjustment, short plat, plat, or PRD.

6. A division of land into Lots, Tracts or Parcels that are less than three (3) acres is permitted, when the Lot(s) are or will be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities as they are defined in ICC 16.06.030.K. Divisions of lands fulfilling these
requirements shall not be subject to the Subdivision and Short Subdivision provisions of Chapter 16.06 ICC and shall be recorded in accordance with chapter 58.09 RCW. Base density requirements shall continue to apply for purposes of residential development to any Lots, Tracts, or Parcels created pursuant to this provision.
EXHIBIT B
Planning Commission Findings of Fact
Findings of Fact

RE: CPA 110/09 Utility Segregations

Summary:

CPA 110/09 Utility Segregations amendment proposes to exempt segregations of property used solely for siting electrical utility facilities from the subdivision review and required standards. The proposed amendment is consistent with the Washington State Subdivision Statute contained in RCW 58.17.040. This amendment will result in updates to the Island County Planning and Subdivision Chapter 16.06 ICC and the Zoning Code 17.03 ICC.

Findings:

1. In accordance with ICC 16.26.020, staff presented the Annual Review Docket, which includes CPA 110/09 Utility Segregations, at a joint meeting of the Board of Island County Commissioners and the Planning Commission in February 2009.

2. Pursuant to the State Environmental Policy Act (SEPA) Chapter 43.21C RCW, an environmental checklist was included with CPA 110/09. Staff reviewed the checklist and issued a mitigated threshold determination of non-significance (MDNS) on May 28th, 2009.

3. Pursuant to ICC 16.26.020 a Public Meeting and Hearing was held on May 12th 2009 in Coupeville and on May 26th, 2009 on Camano Island. During the meetings staff presented CPA 110/09 to the Planning Commission. The presentation included a summary of the staff report and proposed ordinance.

4. Public comment was received during the May 12th and 26th Public Hearings. Questions were raised by the Planning Commission and clarifications were made by staff. Concerns were raised as to how this provision will prevent the siting of residential uses on lots created through this provision which were later abandoned by electric utility providers. The following language was inserted to address this concern; “Base density requirements shall continue to apply for purposes of residential development to any lots, tracts, or parcels created pursuant to this provision.”

Island County Planning Commission
Findings and Recommendations
Utility Segregations
10/25/09
Page 1 of 2

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10/15/2009
5. Planning Commission deliberations were held on July 14th, 2009 in Coupeville.

6. A motion was made to approve the amendments to the 16.06 ICC and 17.03 ICC as proposed and passed.

Conclusions:
The Island County Planning Commission has reviewed CPA 110/09 and hereby recommends that the Board of Island County Commissioners adopt the proposed amendments and findings of fact.

Respectfully submitted through the Island County Planning Department to the Board of Island County Commissioners, pursuant to RCW 36.70A.040 and ICC 16.26, this 25th day of August 2009 by,

[Signature]
Ray Gableton
Island County Planning Commission, Chairperson
BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON

IN THE MATTER OF REVISIONS TO
CHAPTER 16.06 ICC, LAND DIVISIONS
AND DEDICATIONS, AND CHAPTER
17.03 ICC, ISLAND COUNTY ZONING
CODE, REGARDING DIVISION OF
LAND USED FOR SITING ELECTRIC
UTILITY FACILITIES

ORDINANCE NO. C-129-09
PLG-018-09

The Board of County Commissioners has reviewed the attached proposed Ordinance this
26th day of OCTOBER, 2009 and sets it for public hearing on the 16th
day of NOVEMBER, 2009 at 10:30 A.M.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

John Dean, Chairman
Helen Price Johnson, Member
Angie Homola, Member

ATTEST:

Elaine Marlow
Clerk of the Board
Findings of Fact

RE: CPA 110/09 Utility Segregations

Summary:

CPA 110/09 Utility Segregations amendment proposes to exempt segregations of property used solely for siting electrical utility facilities from the subdivision review and required standards. The proposed amendment is consistent with the Washington State Subdivision Statute contained in RCW 58.17.040. This amendment will result in updates to the Island County Planning and Subdivision Chapter 16.06 ICC and the Zoning Code 17.03 ICC.

Findings:

1. In accordance with ICC 16.26.020, staff presented the Annual Review Docket, which includes CPA 110/09 Utility Segregations, at a joint meeting of the Board of Island County Commissioners and the Planning Commission in February 2009.

2. Pursuant to the State Environmental Policy Act (SEPA) Chapter 43.21C RCW, an environmental checklist was included with CPA 110/09. Staff reviewed the checklist and issued a mitigated threshold determination of non-significance (MDNS) on May 28th, 2009.

3. Pursuant to ICC 16.26.020 a Public Meeting and Hearing was held on May 12th, 2009 in Coupeville and on May 26th, 2009 on Camano Island. During the meetings staff presented CPA 110/09 to the Planning Commission. The presentation included a summary of the staff report and proposed ordinance.

4. Public comment was received during the May 12th and 26th Public Hearings. Questions were raised by the Planning Commission and clarifications were made by staff. Concerns were raised as to how this provision will prevent the siting of residential uses on lots created through this provision which were later abandoned by electric utility providers. The following language was inserted to address this concern; “Base density requirements shall continue to apply for purposes of residential development to any lots, tracts, or parcels created pursuant to this provision.”
5. Planning Commission deliberations were held on July 14th, 2009 in Coupeville.

6. A motion was made to approve the amendments to the 16.06 ICC and 17.03 ICC as proposed and passed.

Conclusions:

The Island County Planning Commission has reviewed CPA 110/09 and hereby recommends that the Board of Island County Commissioners adopt the proposed amendments and findings of fact.

Respectfully submitted through the Island County Planning Department to the Board of Island County Commissioners, pursuant to RCW 36.70A.040 and ICC 16.26, this 25th day of August 2009 by,

Ray Gabelein
Island County Planning Commission, Chairperson