

**BEFORE THE HEARING EXAMINER  
FOR ISLAND COUNTY**

In the Matter of the Application of ) No. PLP 105/19  
 )  
Nikki Swenson, on behalf of ) Northwest Buildings  
NW Buildings, Inc. ) 12 Lot Subdivision  
 )  
 ) FINDINGS, CONCLUSIONS, AND  
For Approval of a Preliminary Plat ) DECISION

**SUMMARY OF DECISION**

The request for a preliminary plat to subdivide a 6.2-acre parcel into 12 lots, north of Field Road and east of S. West Camano Drive, is **APPROVED**. Conditions are necessary to ensure the proposed plat complies with the Island County code and to mitigate specific impacts of the proposal.

**SUMMARY OF RECORD**

Hearing:

The Hearing Examiner held an open record hearing on the request on February 26, 2020.

Testimony:

The following individuals testified under oath at the open record hearing:

Michelle Pezley, County Senior Planner  
Hiller West, County Development Service Manager  
Bill Poss, County Public Works Department Development Coordinator  
Lee Michaelis, Applicant Representative  
Don Jander  
Todd Brown

Exhibits:

1. Staff Report, dated February 13, 2020
2. Request for Comments, dated April 23, 2019
3. ICGeoMap, undated
4. Island County Assessor & Treasure, property details, as of March 21, 2019
5. Master Land Development Permit Application, received March 27, 2019
6. Application for Long Plat, received March 27, 2019
  - a. Application for Access to County Road Right of Way, issued October 27, 2016
  - b. Email from Wendell Johnson to Kimberly@cascadesurveying.com, dated July 15, 2019, with attachments
  - c. Traffic Impact Analysis, Gibson Traffic Consultants, Inc., dated February 2019
  - d. Certificate of Transportation Concurrency, dated March 26, 2019

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- e. Island County Health Department, Site Evaluation Application, received March 27, 2019.
- f. Island County Public Health Site Registration, received July 16, 2019
- g. Island County Public Health, Water Availability Verification Application, received March 27, 2019
- h. Letter from Chris Richards, Camano Cooperative Water & Power Company, dated June 25, 2019, with attachments
- i. Drainage Report, Cascade Surveying & Engineering, Inc., dated August 2019
- j. Preliminary plat drawings (8x11 and large scale)
  - i. Preliminary Plat Map (Sheet 1 of 1), revised July 2019
  - ii. Erosion & Sedimentation Control Site Plan (Sheet C1.0), revised July 2019
  - iii. Conceptual Access Easement Plan & Profile (Sheet C2.0), revised July 2019
  - iv. Access Treatment Details (Sheet C2.1), dated October 2019
  - v. Onsite Road Plan & Profile (Sheet C3.0), revised July 2019
  - vi. Drainage Plan (Sheet C4.0), revised July 2019
  - vii. Details 1 (Sheet C4.1), dated October 2019
  - viii. Detail 2 (Sheet C4.2), dated October 2019
- k. Title Insurance (No. 03-171304-O), dated March 5, 2019
- l. Letter from Jennifer Jelden to Island County Planning & Community Development, response to Island County 1<sup>st</sup> review comments, dated August 12, 2019
- m. Email from Jennifer Jelden to info@n-w-builders.com, dated August 12, 2019, with email string
- n. Email from info@n-w-builders.com to Jennifer Jelden, dated August 9, 2019
- o. Letter from Jennifer Jelden to Island County Planning & Community Development, response to Island County 2<sup>nd</sup> review comments, dated October 7, 2019
- p. Memorandum from Michelle Pezley to Bill Poss, dated November 15, 2019, with attachments
- q. Pre-Application Planning Department Summary, dated November 29, 2018

7. SEPA Environmental Checklist, dated March 5, 2019

8. Affidavit of Posting the Public Notice Sign, dated May 6, 2019

9. Affidavit of Mailing, dated April 29, 2019, with mailing labels and Worksheet for N.W. Builders (Sheet 1 of 2), dated January 2019

10. Affidavit of Publication, *Stanwood Camano News*, dated May 7, 2019

11. Memo from Stanwood/Camano School District #401, dated April 30, 2019

12. Memorandum from Cindy White to Janet Wright, dated May 2, 2019

13. Memo from Tamra Patterson to Janet Wright, dated May 15, 2019

14. Memo from Clea Barrenburg to Janet Wright, dated May 7, 2019

15. Letter from Janet Wright to Nikki Swenson, dated May 23, 2019

16. Memo from Janet Wright to Bill Poss, dated June 4, 2019

17. Letter from Janet Wright to Nikki Swenson, dated June 12, 2019

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18. Memo from Clea Barrenburg to Janet Wright, dated September 5, 2019
19. Memo from Bill Poss to Janet Wright, dated September 5, 2019
20. Letter from Janet Wright to Nikki Swenson, dated September 25, 2019
21. Email from info@n-w-builders.com to Jennifer Jelden, dated October 21, 2019, with email string
22. Memo from Bill Poss to Michelle Pezley, dated November 25, 2019
23. Letter from Todd Brown to Janet Wright, dated May 3, 2019
24. Notice of Application with SEPA, undated, with notes and Worksheet for N.W. Builders (Sheet 1 of 2), dated January 2019
25. Affidavit of Mailing, dated January 22, 2020, with Final SEPA Threshold Determination, dated January 22, 2020
26. Island County Inadvertent Discovery Plan
27. Exhibit from Todd Brown, with 12 attachments

Based upon the testimony and documents submitted at the open record hearing, the Hearing Examiner enters the following findings and conclusions:

## FINDINGS

### Application and Notice

1. Nikki Swenson, on behalf of NW Builders, Inc. (Applicant), filed an application for preliminary plat approval to subdivide a 6.2-acre parcel into 12 lots.<sup>1</sup> The property is located north of Field Road and east of S. West Camano Drive.<sup>2</sup> *Exhibit 1, Staff Report, page 1; Exhibit 5; Exhibit 6.*
2. Island County (County) and the Applicant held a pre-application conference on September 24, 2018. The County determined the application was complete on April 23, 2019. On April 29, 2019, the County mailed the Notice of Application to property owners within 300 feet of the subject property, with a comment deadline of May 21, 2019. On May 6, 2019, the Applicant posted the Notice of Application on the property. The next day, the County published notice in the *Stanwood Camano News*. The County published notice of the open record hearing associated with the application in the *Stanwood Camano News* on February 12, 2020. The County received two comments from the public. Todd Brown commented by letter, dated May 3, 2019, about a chain link fence along the south side of the development that he stated should be identified as an asphalt road. He also stated that there is a well head on the property and an active bald eagle nest west of S. West Camano drive that he thought should be considered during

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<sup>1</sup> The Applicant submitted a Master Land Development Permit Application for a six-acre parcel. *Exhibit 5.* The Island County Assessor & Treasurer report lists the property as 6.2 acres. *Exhibit 4.*

<sup>2</sup> The property is identified by Tax Assessor Parcel No S6230-00-00012-1. *Exhibit 1, Staff Report, page 1.* A legal description of the property is included on the Preliminary Plat Map, *Exhibit 6.j.i.* The Applicant's Preliminary Plat Map shows "S West Camano Road" (Exhibit 6.j.i), but the staff report (Exhibit 1, page 1) and the Notice of Application and SEPA refers to "S. West Camano Drive." *Exhibit 10.* This decision will refer to S. West Camano Drive.

review of the application. Jerry and Sherry Erickson submitted comments, dated May 20, 2019, about drainage issues, the width of the proposed road, and potential problems of dust and noise from construction.

In response to the written public comment about an eagle nest, an Applicant representative contacted US Fish and Wildlife Service (USFW) about the eagle's nest and whether an 'incidental take' permit would be needed. USFW Wildlife Biologist Kate Guerena Watts replied to this inquiry in an email, dated August 9, 2019. She stated that, based on the information provided, an eagle incidental take permit would not be required. In response to the written public comment about drainage and road width, the County Public Works Department determined that the proposed development would meet the County standards for road width and drainage. Additional public comments were submitted at the open record hearing, as detailed in the findings below. *Exhibit 1, Staff Report, pages 3 and 4; Exhibit 6.n.; Exhibit 6.q; Exhibit 8; Exhibit 9; Exhibit 10; Exhibit 22; Exhibit 23; Exhibit 24.*

#### State Environmental Policy Act

3. The County acted as lead agency to analyze the environmental impacts of the proposal, as required by the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). The County used the optional Determination of Nonsignificance (DNS) process under Washington Administrative Code (WAC) 197-11-355. The County provided notice of the SEPA comment period concurrently with the Notice of Application on May 7, 2019, with a comment deadline of May 21, 2019. The Applicant's Environmental Checklist listed song birds and invertebrates as having been observed or as known to be on or near the site. No threatened or endangered species are known to be on or near the site. The County's notice stated that it expected to issue a Determination of Nonsignificance. The County reviewed the Applicant's Environmental Checklist and other information on file and determined that the proposal would not have a probable significant adverse impact on the environment. County SEPA Responsible Official Hiller West issued a Determination of Nonsignificance (DNS) on January 22, 2020, with an appeal deadline within 14 days following mailing of the decision. On January 22, 2020, the County mailed the DNS to the Applicant, the Applicant's representative, and the Department of Ecology. There was no appeal of the DNS. *Exhibit 1, Staff Report, pages 1, 4, and 6; Exhibit 24; Exhibit 25.*
4. The site proposed for subdivision and development is located in a critical drainage area, as defined by Island County Code (ICC) 11.03.080. Therefore, the Applicant submitted a Drainage Report that identifies a proposed plan for managing runoff from the site should it be developed. The County Public Works Department determined that the proposed drainage plan in the report meets the County standards. *Exhibit 6.a; Exhibit 6.i; Exhibit 22.*

#### Comprehensive Plan and Zoning

5. County staff testified that the County Comprehensive Plan identifies the property as Residential within the Camano Rural Area of Intense Development (RAID). The RAID

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designation is for areas considered to be available for more intensive rural development pursuant to the guidelines established in RCW 36.70A.070. These areas provide logical outer boundaries for more intensive rural development and areas for infill development or for redevelopment of existing residential areas. *Comprehensive Plan, Table 1-7, Ch. 1, page 44.* County staff identified the following Comprehensive Plan goal as relevant to the proposal: “LU6.2 - Provide for the infill, development, or redevelopment of existing residential areas, pursuant to RCW 36.70A.070(5)(d).” Property to the north, south, and west is also designated Residential RAID. Property to the east is designated Rural Lands. *Comprehensive Plan, Ch. 1, page 60. Exhibit 1, Staff Report, pages 2 and 6.*

6. The property is zoned Rural Residential (RR) and Camano RAID. 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 Rural zone. *ICC 17.03.070.* Under the Camano RAID, the base density is 2 dwelling units/acre, with a minimum lot size of 0.5 acres. *ICC 17.03.075.* The Applicant proposes 12 lots between 21,804.2 and 21,808.7 square feet, which meets the density and lot size requirements. The Applicant’s proposal would comply with the RR zone 20-foot setback from the local road and the five-foot side and rear yard building setbacks. The proposed lot widths of 121 to 125 feet would comply with the 60-foot minimum lot width requirement. *ICC 17.03.070.* Property to the north, south, and west is also zone RR, and property to the east is zoned Rural Forest and Rural. *ICC 17.03.180.S.3. Exhibit 1, Staff Report, pages 1, 2, 5, and 6; Exhibit 6.q.*

#### Existing Site and Surrounding Development

7. The 6.2-acre undeveloped property is partly forested along with pasture and grass. The site has a general slope of 1 to 5 percent across the property, with the steepest slope around 7 to 8 percent. There are no wetlands on-site, although the site is located within a Critical Drainage Area. The County Public Works Department requires final drainage review prior to final plat approval. Surrounding property to the north is vacant, property to the west and south contains single-family residences, and property to the east contains vacant land and single-family residences. *Exhibit 1, Staff Report, pages 1 to 2, and 11; Exhibit 6.i; Exhibit 7; Exhibit 15; Exhibit 22.*

#### Access and Traffic Impacts

8. The site is accessed from an unnamed private access road, located in a 40-foot wide access and utility easement, extending east from S. West Camano Drive. This private road is located between two adjacent parcels and is part of the Cama Glen plat map, recorded in 1933. As proposed by the Applicant, the private road would continue east, providing access to lots on either side, terminating in a cul-de-sac serving Lots 6 and 7. Gibson Traffic Consultants, Inc., prepared a Traffic Impact Analysis (TIA) for the Applicant, dated February 2019. The TIA determined that the proposed residential development would result in 113.28 average daily trips and 12 new PM peak-hour trips (8 inbound/4 outbound). All surrounding intersections would continue to operate at

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level-of-service (LOS) A with minimal delay.<sup>3</sup> Sight distance and access spacing would meet Island County standards. Two off-street parking spaces would be provided for each dwelling unit. On March 26, 2019, the County's Public Works Department issued a Certificate of Transportation Concurrency stating that the proposed project meets the adopted level of service standard set forth in the Chapter 11.04 ICC. The Certificate expires on March 26, 2019. The Island County Public Works Department granted applications for "Access to County Road Right of Way" on August 29 and October 27, 2016. *ICC 17.03.180.Q. Exhibit 1, Staff Report, page 1; Exhibit 6.a; Exhibit 6.b; Exhibit 6.c; Exhibit 6.d; Exhibit 6.i; Exhibit 6.j.i; Exhibit 6.q.*

#### Stormwater

9. Cascade Surveying & Engineering, Inc., prepared a Drainage Report (DR) for the Applicant dated August 2019, as well as a stormwater site plan and a stormwater pollution prevention plan. Based on existing soil types, drainage and infiltration rates, the study concluded that the proposed development would maintain the existing drainage patterns and provide sufficient on-site infiltration.

The proposed development would comply with the Department of Ecology's current Stormwater Manual. The proposed development would implement low-impact best management practices (BMPs) for the proposed improvements and infiltrate all water to mitigate the surface water impacts of the proposed development. All lot driveways would be directed to a rain garden for treatment prior to infiltration via a trench system. The on-site road and cul-de-sac runoff would be directed to a filter strip for treatment and into the on-site infiltration trench. A portion of the new road leading up to the property would utilize storm filters and detention to match the pre-development rate of flow for stormwater. Any water that does not infiltrate would flow into the existing S. West Camano Drive ditch, which flows north through multiple culverts, then into a riverine that flows into a culvert under S. West Camano Drive to the west and eventually to Saratoga Passage in Puget Sound. *Exhibit 6.c; 6.i; Exhibits 6.j.ii, vi, vii, and viii.*

#### Utilities and Services

10. The Island County Fire District #1 and the Snohomish County Public Utility District #1 would serve the proposed development. On March 27, 2019, Island County Public Health received the Applicant's "Water Availability Verification Application." Water service would be provided by the Camano Cooperative Water & Power Company, which provided a confirmation on June 25, 2019, of water sufficient to serve the proposed development. Each lot would have a septic system with a three-bedroom capacity. Each drain field would be 1,645 square feet with one drain field and one reserve drain field per lot. *Exhibit 1, Staff Report, page 5; Exhibit 6.f; Exhibit 6.g; Exhibit 6.h; Exhibit 7; Exhibit 14; Exhibit 18.*

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<sup>3</sup> Traffic congestion is measured in terms of level-of-service with LOS A being free flow and LOS F being forced flow or over-capacity conditions (*Highway Capacity Manual 6<sup>th</sup> Edition*). *Exhibit 6.c.*

### Schools

11. The proposed development would be located in the Stanwood/Camano School District #401. The school district provided a comment memo dated April 30, 2019. The school district noted that the school service area includes Stanwood High School, Stanwood Middle School, and Elger Bay Elementary; that school boundaries may be changed in the future; that a path or sidewalk from each home to the bus pickup location is needed; and that a safe off-road waiting area should be provided for student loading near the development entrance. The County noted that the site is not within walking distance of any of the above schools. The Applicant has included a sidewalk/path from the west end of the development to S. West Camano Drive and a waiting area in front of the development entrance for school bus pickup. *Exhibit 1, Staff Report, page 5; Exhibit 6.j.i.; Exhibit 6.m; Exhibit 6.o; Exhibit 11.*

### Testimony at Hearing

12. Don Jander testified on behalf of himself and Jerry Erikson. Mr. Jander is concerned about access to the plat and whether it would go between his and Mr. Erikson's property and whether the road would be widened. He also expressed concerns about septic impacts and whether drain fields would be impacted during construction. Applicant Representative Lee Michaelis testified in response that the proposed access road would be within a 40-foot-wide access easement. Twenty-two feet would be paved, and a five-foot walkway would be constructed along the south side. Mr. Michaelis agreed to visit the site and meet with Mr. Jander to discuss any septic and drain-field issues, but he stated that he believes the road would not impact existing drain fields. County Public Works Department Development Coordinator Bill Poss also responded that the only change is from the easement width for what is a private road and that the proposed access road would be consistent with the County road standards. He testified that 40-foot rights-of-way are not uncommon. *Testimony of Mr. Jander, Mr. Michaelis, and Mr. Poss.*

13. Todd Brown testified that he lives along Field Road, a private road that borders the proposed development on the south. *Exhibit 6.j.* He asked whether the development proposal is for single-family residences or whether townhouses would be allowed. He also testified about the existence of an eagle nest, the same one he had provided written comment on in response to the notice materials. He provided an aerial map showing what he stated to be the location of two eagle nests. *Exhibit 27, Attachment 2.* He noted that one eagle nest is new this nesting year and is within 50 feet of the northwest corner of the proposed development. He suggested that a US Fish and Wildlife permit may be needed. Mr. Michaelis responded for the Applicant that all the lots would have a single-family residence and that the zoning requires a 0.5-acre minimum lot size. Field Road would not be used for access or any other purpose, including utilities. He referred to an email from US Fish and Wildlife Service Wildlife Biologist Kate Guerena Watts, dated August 9, 2019, that states an eagle incidental take permit is not required. *Exhibit 6.n.* He acknowledged, however, that this did not address the new nest. He agreed to visit the site with Mr. Brown, to verify the location, and to contact USFW about the new nest for information should the nest be verified. *Testimony of Mr. Brown and Mr. Michaelis.*

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#### Staff Testimony and Recommendation

14. County Senior Planner Michelle Pezley and County Development Service Manager Hiller West testified generally about the proposal and how it would meet the requirements for preliminary plat approval under the county code and RCW 58.17.110. Mr. Michaelis testified that he agrees with the proposed conditions. *Exhibit 1, Staff Report, pages 3 through 10; Testimony of Ms. Pezley and Mr. West. Testimony of Mr. Michaelis.*

### **CONCLUSIONS**

#### Jurisdiction

The Hearing Examiner is granted authority by the County Commissioners to receive and examine available information, conduct public hearings and prepare a record thereof, and enter decisions on applications for preliminary plat approval. *ICC 16.13.110.B.2; ICC 16.19.180.*

#### Criteria for Review

The county code provides that no application for preliminary plat approval shall be granted unless it meets the requirements of Chapter 16.06 ICC, and Titles 8, 11, 13, and 17 ICC pertaining to such development. *ICC 16.06.110.* In addition, the application must meet the criteria and standards in Chapter 58.17 of the Revised Code of Washington (RCW). RCW 58.17.110 requires that appropriate provisions must be made for the public health, safety, and general welfare; for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, including sidewalks and other planning features that ensure safe walking conditions for students who walk to and from school. The application must also demonstrate to the decision maker that the public interest will be served by the approval of the request for subdivision of land and any dedications associated with the subdivision.

The criteria for review adopted by the County Commissioners implements the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed developments to ensure consistency with County development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

#### Conclusions Based on Findings

1. **With conditions, the proposed development would be consistent with the Chapter 16.06 ICC, and Titles 8, 11, 13, and 17 ICC for the subdivision of land.** The County provided reasonable notice and opportunity to comment on the proposed subdivision. Two comments from the public were received prior to the hearing concerning the access road, drainage plans, impacts on eagles, and construction impacts. The County and the Applicant responded to these concerns. The Applicant agreed to meet with an adjacent landowner to resolve any septic or drain-field issues and to consult with U.S. Fish and Wildlife Service concerning an eagle nest near the property.

The Applicant presented evidence that the proposed development would be in the public interest because the development would provide single-family residences, compatible

with surrounding single-family residential development and consistent with the Comprehensive Plan designation for the property. Access to the lots would be from a private road extending east from S. West Camano Drive and ending in a cul-de-sac. The single-family residential development would conform to the minimum lot size, density, and setback required within the zone. Adequate water service could be provided to the proposed subdivision. On-site septic systems with drain fields and reserved drain fields would be provided for each lot. Stormwater would be infiltrated on-site using rain gardens and infiltration trenches. The Applicant provided a TIA showing 12 new PM peak-hour trips, but with no change in level of service at surrounding intersections. Students would have safe access to schools via a walking route to S. West Camano Drive for school bus pick-up. The County reviewed the environmental impacts of the proposed project and issued a Determination of Nonsignificance that was not appealed.

Conditions are necessary to ensure the Applicant complies with County code requirements, complies with the County Public Works and Public Health Department requirements and conditions, carries out erosion and sedimentation control, and complies with the County's Inadvertent Archaeological and Historic Resources Discovery Plan for Island County. *Findings 1 – 14.*

2. **With conditions, the proposal would satisfy the requirements of RCW 58.17.110 for approval of a subdivision.** The criteria and standards for preliminary plat approval in Island County are essentially identical to those in Chapter 58.17 of the Revised Code of Washington (RCW). Based upon the evidence provided at the hearing, it is determined that appropriate provisions would be made for the public health, safety, and general welfare; for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, including sidewalks and other planning features that ensure safe walking conditions for students who walk to and from school. Approval of this preliminary plat application to subdivide land for development of single family housing would be in the public interest. Conditions of approval are necessary to ensure compliance with the standards for preliminary plat approval. *Findings 1 – 14.*

## **DECISION**

Based on the preceding findings and conclusions, the request for a preliminary plat to subdivide a 6.2-acre parcel into a 12-lot subdivision, north of Field Road and east of S. West Camano Drive, is **APPROVED**, with the following conditions:<sup>4</sup>

1. The final plat must be consistent with the requirements identified in ICC 16.06.120.

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<sup>4</sup> Conditions are necessary to mitigate specific impacts of proposed development and comply with county code.

2. This decision is a preliminary approval only. A final plat application must be submitted to Island County for review and approval within five years of the approval date.
3. This Preliminary Subdivision approval shall expire if all requirements for final approval have not been fulfilled and the Subdivision recorded within five (5) years of the date of the preliminary approval. Provided that any judicial appeal filed and accepted for review after preliminary approval shall automatically stay the time periods referenced above until a final decision on the appeal is rendered.
4. The final plat application shall include a summary on how the conditions are being met.
5. The final plat must conform to the approved preliminary plat (Exhibit 6j) except as specifically authorized by this decision.
6. The requirements and conditions noted in the attached memo from Island County Public Works dated November 25, 2019 must be addressed (Exhibit 22).
7. The requirements and conditions noted in the attached memo from Island County Public Health dated September 5, 2019 must be addressed (see Exhibits 14 and 18).
8. Prior to final plat approval, all site and off-site improvements required as a condition of preliminary approval shall be complete.
9. All utilities installed on-site shall be underground.
10. All proposed development shall comply with the state noise ordinance, air pollution control regulations, water quality standards, and all other pertinent codes and ordinances.
11. Prior to final plat approval the Applicant shall note on the face of the plat that all structures shall apply to setbacks and site coverage set in ICC 17.03.180.S for new lots and will be reviewed with all future building permits.
12. This decision shall not be construed to authorize work, development, construction, or other site modifications in excess of the work, development, construction, and modifications specifically authorized by this decision.
13. The Applicant or property owner shall comply with Public Works requirements for a clearing and grading permit prior to any ground disturbance per requirements outlined in ICC 11.02 and DNR as outlined in the Memo from Bill Poss, dated February 2, 2016.
14. In accordance with Chapter 11.03 ICC, several erosion and sedimentation control (ESC) requirements shall apply to all development activities:

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- a. Erosion on-and off-site. During and after construction, all persons engaging in development activities shall minimize erosion and sedimentation on-site and shall protect properties and watercourses downstream from the site from erosion due to increases in the velocity and peak flow rate of stormwater runoff from the site.
- b. Transport of sediment. The Applicant shall minimize the transport of sediment onto paved surfaces, and if sediment is transported onto a paved surface, shall clean the paved surface at the end of each day in accordance with erosion and sedimentation control best management practices (BMPs).
- c. Stabilizing exposed soil. The Applicant shall stabilize denuded areas and soil stockpiles with temporary erosion and sedimentation control BMPs.
- d. Temporary erosion and sedimentation control measures shall be maintained until final site stabilization.
- e. Sediment retention. The Applicant shall route stormwater runoff from the site through sediment retention BMP.

15. The entirety of the Inadvertent Archaeological and Historic Resources Discovery Plan for Island County (Exhibit 26) is hereby adopted into this decision by reference. All terms of this adopted document constitute Conditions of Approval for this decision. Compliance with all applicable laws pertaining to archaeological resources (RCW 27.53, 27.44 and WAC 25-48) and human remains (RCW 68.50) is required. Failure to comply with the terms of this adopted attached document, Inadvertent Archaeological and Historic Resources Discovery Plan for Island County, could constitute a misdemeanor and possible civil penalties and/or constitute a Class C Felony.

16. The following shall also appear on the face of the final plat:

- a. The existing parcel number and final plat number must appear at the top right corner of each sheet. The final plat number will be assigned to the plat at the time of submittal. Please show the following on the top right corner of each sheet:  
*PLP \_\_\_\_\_ S6230-00-00012-1*

17. The name of the subdivision and new road shall be approved by Island County prior to submittal of the final plat.

18. The following shall appear under Notes on the final plat:

- a. *"Address will be assigned by Island County according to ICC 14.04A, established by Ord. C-32-96 and hereafter amended."*

19. The following shall appear under Restrictions on the final plat:

- a. *"Minimum building setbacks are pursuant to ICC 17.03.180.S Setbacks for the Rural Residential zone."*

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20. The proposed building envelopes, driveways, waterlines, and contours as shown on the preliminary plat map shall be removed from the final plat map.
21. The above requirements are subject to change if proposed lot sizes or any other information provided by the Applicant or their authorized representative proves inaccurate.
22. The Applicant or representative shall visit the site and meet with Don Jander to resolve any issues about potential negative impacts to septic systems or drain fields prior to construction.
22. Prior to on-site clearing or grading, the Applicant or representative shall visit the site with Mr. Brown to verify if the new nest identified by Mr. Brown exists at the location it is said to be. If the location is verified, the Applicant or representative shall inform the County of its existence, and shall contact U.S. Fish and Wildlife Service to determine if there are any requirements for protection of the bald eagle and nest. If there are, the Applicant/Developer shall adhere to those requirements.

**DECIDED** this 11<sup>th</sup> day of March 2020.



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THEODORE PAUL HUNTER  
Hearing Examiner  
Sound Law Center

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