

**BEFORE THE HEARING EXAMINER
FOR ISLAND COUNTY**

In the Matter of the Application of)	No. PLP 450/21
)	
Titan Framing, LLC)	Ridge View Estates PLP and PRD
)	
)	
For Approval of a Preliminary Long Plat and)	FINDINGS, CONCLUSIONS,
<u>Planned Residential Development</u>)	AND DECISION

SUMMARY OF DECISION

The request for a preliminary long plat to create a seven-lot subdivision for single-family residential development, with associated improvements, using the planned residential development provisions of the Island County Code, on a 19.23-acre parcel off the west side of North Camano Ridge Road and south of West Cross Island Road, is **APPROVED**. Conditions are necessary to address specific impacts of the proposal.

SUMMARY OF RECORD

Hearing Date:

The Hearing Examiner held an open record hearing on the request on December 12, 2022, utilizing a hybrid approach allowing for participation in person or through remote access technology.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

- Cindy White, County Assistant Planner
- Jonathan Lange, County Assistant Director of Planning and Community Development
- Renee Zavas Silva, County Critical Areas Planner
- Mark Villwock, Project Civil Engineer
- Donah Dunn, County Development Coordinator for Public Works
- Marika Saarinen

Exhibits:

The following exhibits were admitted into the record:

- A. Staff Report, dated December 1, 2022
- B. Application Materials:
 - 1. Request for Comments, dated January 14, 2022
 - 2. Island County Parcel Report, dated January 7, 2022
 - 3. Vicinity Map, received November 24, 2021

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4. Routing Email to Reviewing Agencies and Departments, dated January 14, 2022
 5. Master Land Development Permit Application, received November 24, 2021, with Preliminary Application Long Plat
 6. Legal Description
 7. Quit-Claim Deed, dated July 17, 1967
 8. Proposed Unregulated Segregation Application, dated April 2, 2021
 9. Planned Residential Development Application, received November 24, 2021
 10. Lighting Plan Waiver Request
 11. Sign Plan Waiver Request
 12. Landscape Plan Waiver Request
 13. Legal Description
 14. Clear and Grading/Timber Harvest Application, received November 24, 2021
 15. Project Narrative, LDC, Inc., dated October 22, 2021
 16. Site Plans (2 Sheets), dated October 26, 2021
 17. Water Service Letter, Camano Hills Water Co., dated February 26, 2021
 18. Site Registration, dated April 22, 2021
 19. Email from Matt Covert, LDC, Inc., dated October 20, 2021
 20. Transportation Concurrency Application, dated October 20, 2021
 21. Application to Perform Work on County Road Right-of-Way, issued September 26, 2022
 22. Certificate of Transportation Concurrency, dated November 23, 2021
- C. Biological Site Assessment, Polymer Land Consultants, LLC, dated May 18, 2022, and Wetland Assessment, Polymer Land Consultants, LLC, undated
- D. Notice Materials:
1. Notice of Complete Application, dated January 10, 2022
 2. Affidavit of Posting (Notice of Application), dated January 19, 2022
 3. Notice of Application with SEPA
 4. Email from Washington State Department of Ecology, dated January 14, 2022
 5. Affidavit of Publication (Notice of Application), dated January 19, 2022, with Classified Proof
 6. Affidavit of Publication (Notice of Application), dated January 18, 2022
 7. Affidavit of Mailing (Notice of Application), dated January 14, 2022, with Mailing Address List
 8. Affidavit of Mailing (Notice of Public Hearing), dated November 23, 2022
 9. Email from Cindy White to Chelsea Greene, dated November 23, 2022
 10. Email from Cindy White to Peter Grant, dated November 23, 2022
 11. Notice of Public Hearing
 12. Affidavit of Mailing (Notice of Public Hearing), dated November 23, 2022, with Mailing Address List, dated November 2, 2021
 13. Request for Hearing Transmittal, dated December 1, 2022
- E. SEPA Environmental Checklist, dated November 2, 2021

- F. Site Plan, with Lighting Plan, and Visualization, Lighting and Signage Plan (4 Sheets), revised April 22, 2022
- G. Memorandum from County Public Health, dated March 31, 2022
- H. Critical Areas Memoranda from County Planning and Community Development, dated April 20, 2022, and July 8, 2022
- I. Memoranda from County Public Works Roads Division, dated March 30, 2022, July 20, 2022, and November 30, 2022
- J. Review Letters from County Planning and Community Development, dated March 28, 2022, July 21, 2022, August 11, 2022
- K. Applicant Responses to Review Letters, dated March 24, 2022, and May 24, 2022
- L. Public Comments:
 - 1. Comment from Peter Grant, dated January 29, 2022
 - 2. Comment from Randy Jansma, dated February 1, 2022
 - 3. Comment from Jerry Hill, dated February 2, 2022
Comment from Chelsea Greene, dated February 2, 2022
 - 4. Comment from Carol Burroughs-Gleim, dated February 1, 2022
- M. Correspondence between Cindy White, Mary Engle, Jeff Glaspy, and Mark Villwock, between January 19, 2022, and August 11, 2022
- N. Applicant Revisions to Proposed Conditions, dated December 12, 2022

The Hearing Examiner enters the following findings and conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

Application and Notice

1. Titan Framing, LLC (Applicant), requests approval of a preliminary long plat to create a seven-lot subdivision for single-family residential development, using the planned residential development (PRD) provisions of the Island County Code. As discussed in detail later in this decision, the Applicant proposes to utilize the PRD provisions of the municipal code, in part, to increase the allowed base density for the development project. The southeast portion of the 19.23-acre subject property would contain two lots, and the northeast portion of the property would contain five lots. Access to the lots would be provided by three shared driveways and one individual driveway that would connect to North Camano Ridge Road. Other improvements associated with the proposed development would include utilities, stormwater management features, and landscaping. The proposed development would also require approval of a clearing and grading permit to allow for minimal tree removal and for grading necessary to install roads and seven drain fields. Approximately 13 acres of the property would be preserved as open space. The property is located on approximately 20 acres off the west side of North Camano

Ridge Road and south of West Cross Island Road.¹ *Exhibit A, Staff Report, pages 1 through 3; Exhibit B; Exhibit F.*

2. Island County (County) determined that the application was complete on January 10, 2022. On January 14, 2022, the County mailed notice of the application to property owners within 300 feet of the subject property, with a comment deadline of February 2, 2022. On January 18, 2022, the County published notice of the application in the *Stanwood-Camano News*. The next day, the County posted notice of the application on-site and published notice of the application in the *Whidbey News Times*. On November 23, 2022, the County provided notice of the open record hearing associated with the application by mailing or emailing notice to property owners within 300 feet of the property. *Exhibit A, Staff Report, page 4; Exhibit D.*
3. The County received the following comments on the proposal from members of the public in response to its notice materials:
 - Peter Grant expressed concerns about the density of the proposed development; the compatibility of the proposed development with the rural character of the surrounding area; traffic impacts; impacts to wildlife, including Spotted Owls; wetland impacts; the lack of native vegetation; stormwater; water quality; and the appearance of the development from the road and surrounding properties.
 - Randy Jansma echoed concerns about the project’s wildlife impacts, the size of the property, and impacts to the wetland and protection of its associated buffer. He also expressed concerns about the property’s proximity to Carp Lake.
 - Jerry Hill expressed concerns that the private wells serving the proposed residences would impact water availability for other wells in the area.
 - Chelsea Greene echoed concerns about the density of the proposed development, traffic impacts, and impacts to wildlife and the environment. She suggested that the Applicant reduce the number of proposed residences from seven to two.
 - Carol Burroughs-Gleim echoed concerns about the density of the proposed development, the size of the subject property, the compatibility of the proposed development with the surrounding area, and the impact of additional private wells. She raised concerns that the number of septic systems and wells would not allow for 13 acres of open space on the property.

Exhibit L.

State Environmental Policy Act

4. The County acted as lead agency and analyzed 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 consolidated notice of the SEPA review and application comment periods under the optional process provided for by Washington

¹ The property is identified as tax parcel number R23235-194-4600. *Exhibit A, Staff Report, page 1.* A legal description of the property is included with the application materials. *Exhibit B.F.*

Administrative Code (WAC) 197-11-355, with a comment deadline of February 2, 2022. The notice materials stated that the County expected to issue a Determination of Nonsignificance (DNS) for the proposal. County Assistant Director of Planning and Community Development (and County Designated SEPA Official) Jonathan Lange testified at the hearing that the County would issue a DNS on the same day that this decision is issued in order to allow for concurrent appeal periods. *Exhibit A, Staff Report, pages 4 and 8; Exhibit D.2 through D.5; Exhibit E; Testimony of Mr. Lange.*

Comprehensive Plan and Zoning

5. The County Comprehensive Plan designates the property as “Rural Lands.” The purpose of the Rural Lands designation is “to permit land uses that are compatible with the rural character and to preserve open space, agricultural opportunities, recreational opportunities, and the protection of natural resources.” *Comprehensive Plan, page 33.* The County values its rural character and “seeks to foster land use patterns that support traditional rural lifestyles.” *Comprehensive Plan, page 33.* County staff identified the following Comprehensive Plan goal as relevant to the proposal, “Encourage clustered development where appropriate. All residential development should preserve the community feel of an area and further the protection of rural character in Island County.” *Comprehensive Plan, page 61 (Land Use Goal 7). Exhibit A, Staff Report, page 7.*
6. The property is zoned Rural (R). “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.” *Island County Code (ICC) 17.03.060.* Single-family dwelling units are permitted outright in the R zone. *ICC 17.03.035.B. Exhibit A, Staff Report, page 3.*
7. The minimum lot size in the R zoning district is five acres, with a base density of one dwelling unit per five gross acres. *ICC 17.03.060.B. ICC 17.03.180.E,* however, provides a density bonus system to provide incentives for cluster development in order to provide permanent preservation of open space, critical areas, wildlife habitat, and natural lands. For PRDs between 20 and 40 acres, a 100 percent maximum density is available with a 65 percent minimum open space ratio. Although the parcel is 19.23 acres, the lot size² of the property is approximately 20.11 acres when the right-of-way earlier conveyed to the County is included. The base density for an approximately 20.11-acre parcel is four residential units. The proposed development would include approximately 13 acres of open space, which meets the 65 percent minimum open space ratio required to apply the base density bonus for a 20.11-acre parcel. Accordingly, the allowed density bonus for the proposed development would be for an additional three units, for a total allowed density of seven residential units. As applicable to this proposal, dimensional standards

² *Lot area/lot size* means the total land area within the lot lines. Gross lot area shall include any land area required to be dedicated for public right-of-way or public open space, and/or donated for such purposes. *ICC 17.03.040.*

for the R zoning district require a 30-foot setback for arterial/collector roads and five-foot side yard setbacks. *ICC 17.03.180.S*. The building envelopes for all seven residences would be set back at least 100 feet from North Camano Ridge Road. The proposed development would have 15-foot side yard setbacks and 50-foot side property line setbacks. *Exhibit A, Staff Report, pages 3, 7, and 8; Exhibit B.7; Exhibit F*.

Existing Site and Critical Areas

8. The 19.23-acre property is located along the west side of North Camano Ridge Road and slopes gently to the west where it flattens out. The property was previously cleared under a forest practice permit and has since been replanted with some evergreen trees. Polymer Land Consultants, LLC, provided a wetland assessment on behalf of the Applicant. The assessment identified a Category D native plant wetland with a habitat score of 33 on the western portion of the subject property. High intensity uses near a Category D wetland without an outlet and with a habitat score of 33 require a standard 200-foot protective buffer under the County's critical areas ordinances. *ICC 17.02B.460*. Project Civil Engineer Mark Villwock testified at the hearing that all proposed development would be located outside of the 200-foot buffer and would not impact the wetland or its associated buffer. Polymer Land Consultants also provided a biological site assessment report on behalf of the Applicant, dated May 18, 2022. The report identified a Type-F fish-bearing stream 750 feet northwest of the subject property. The report determined that the stream is functionally isolated from the proposed development and that numerous developments, including active farmland, separate the stream from the subject property. The report also determined that the proposed development would not have any adverse effect on any listed species in the area. There are no other critical areas within the vicinity of the property.

The County's Critical Areas Planner reviewed the application materials and site plan and submitted a memorandum, dated July 8, 2022. The memorandum stated that the County Critical Areas Planner would not have any objections to the proposed development provided that the Applicant meets several conditions, which have been incorporated into County staff's recommended conditions of approval. *Exhibit A, Staff Report, pages 2, and 8 through 11; Exhibit C; Exhibit H; Testimony of Mr. Villwock*.

Access and Traffic

9. Vehicular access to the individual lots would be provided from three shared driveways and one individual driveway from North Camano Ridge Road. On November 23, 2021, County Public Works approved a Certificate of Transportation Concurrency for the proposed development. The certificate confirms that the level of service standard used in the Transportation Concurrency Management program has been satisfied and that sufficient road capacity for the specific number of development units would be reserved for the proposed development. County Public Works Road Division provided a memorandum on November 30, 2022, which recommended several conditions of

approval, including conditions requiring that roads and access be approved, constructed, and certified prior to final PRD approval; a right-of-way permit be obtained prior to any work in the right-of-way; access permits be approved to ensure consistency with access standards in Chapter 11.01 ICC; and access connections be constructed in compliance with the conditions of the right-of-way permit. The recommendations from the County Public Works memorandum have been incorporated into County staff's recommended conditions of approval. In addition, on or before September 19, 2022, the Applicant submitted a utility/access permit for the proposed development. *Exhibit A, Staff Report, pages 8 through 11; Exhibit B.20 through B.22; Exhibit I.*

Stormwater

10. Project Civil Engineer Mark Villwock testified at the open record hearing that stormwater would be routed through vegetative storm paths and dispersed throughout the site through a series of dispersion trenches outside of the wetland buffer. He stated that the routing and dispersal process would mimic current forested conditions, including natural hydration of the wetland. He also commented that neighboring properties would not be detrimentally impacted by the stormwater system. *Exhibit B.16; Testimony of Mr. Villwock.*

Parks, Open Space, and Landscaping

11. PRDs in the Rural zone require a 30 to 75 percent open space ratio. *ICC 17.03.180.S.* As noted above, the 20.11-acre property would have 13 acres of open space, a ratio of 65 percent. *ICC 16.17.070* requires that clusters in PRDs be separated from other clusters by at least 200 feet of open space. The Applicant requested a waiver from this requirement, stating that the proposed development does not have any common areas to be landscaped. County staff did not approve the waiver request. County Assistant Planner Cindy White testified at the hearing that, in order to preserve the rural character of the proposed development, the Applicant would be required to install a strip of native vegetation between Lots 2 and 3. Vegetation fronting North Camano Ridge Road would provide screening of the proposed development from the road. The landscaping plan indicates that the Applicant would plant vine maple, Sitka Spruce, Douglas fir, red flowering currant, and common white snowberry. The site plan indicates that each lot would have an open space easement of between 2,399 and 13,127 square feet. Portions of the wetland buffer that extend onto Lots 1, 2, and 4 would be permanently protected by the conservation easements. *Exhibit A, Staff Report, page 3; Exhibit B.12; Exhibit F; Exhibit M; Testimony of Ms. White.*

Utilities and Services

12. Each lot within the subdivision would be connected to the municipal public water system, which meets state water quality standards. Camano Hills Water Co., Inc., issued a letter on February 26, 2021, which states that water would be available to serve the proposed development. The letter also states that service lines and connections would be provided

by the landowner. Each lot would be served by an on-site septic system and drain field. County Public Health reviewed the proposal and determined that, with conditions, it would be consistent with water, sewage, and minimum land requirements pursuant to Chapter 8.07D ICC and Chapter 8.09 ICC. The proposed development would be served by the Stanwood School District, and emergency fire services would be provided by Camano Island Fire District 1. County staff reviewed the proposal and determined that, with conditions, it would comply with requirements for drainage, streets, transit, water supply, sanitary waste, and parks and recreation. *Exhibit A, Staff Report, pages 6, 7, and 9; Exhibit B.17; Exhibit G.*

Clearing and Grading

13. As noted above, the proposal would require approval of a clearing and grading permit to allow for grading in excess of two acres. The property was previously logged in September 2015 and is not heavily forested. The Applicant would harvest roughly 30 trees from 7.1 acres using conventional equipment, and the Applicant estimates that clearing activities would include 1,000 board feet of timber. Slash would be removed from the parcel through burning and chipping. Grading would include approximately 200 cubic yards of excavation and 200 cubic yards of fill. County staff has recommended as a condition of preliminary plat and PRD approval that no clearing or development occur within regulated critical areas or associated buffers without environmental planning review. *Exhibit A, Staff Report, pages 2 and 10; Exhibit B.14.*

Preliminary Plat

14. The preliminary plat must comply with state subdivision criteria, codified at Chapter 58.17 RCW. Specifically, RCW 58.17.110(2) provides:

A proposed subdivision and dedication shall not be approved unless the city, town, or county legislature body makes written findings that: (a) appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds 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 (b) the public use and interest will be served by the platting of such subdivision and dedication.

County staff reviewed the proposal for compliance with the state subdivision criteria and determined that, with conditions, the proposal would comply with the requirements of RCW 58.17.110. *Exhibit A, Staff Report, pages 6 and 7.*

Planned Residential Development

15. As discussed above, the Applicant proposes to develop the property using the PRD provisions of the municipal code. The PRD ordinance is designed for the following specific purposes:
- A. Produce a development which would be better than traditional lot-by-lot development, on either consolidated lots or unsubdivided property, through variety in design, placement of buildings, and use of open space, in order to capitalize on the special features of the individual site;
 - B. Permit flexibility that will encourage a more creative approach in the development of land and will result in a more efficient, aesthetic, and desirable use of open space;
 - C. Encourage the development of cluster housing, town houses, and other development concepts compatible with surrounding development and land uses;
 - D. Leave more undisturbed open space and natural vegetation so that more rainwater drains into the soil for groundwater recharge, and there is a reduction in pollution, flooding, erosion, and drainage problems; and
 - E. Protect rural character by:
 - 1. Containing or otherwise controlling rural development;
 - 2. Assuring visual compatibility with the surrounding rural area;
 - 3. Reducing the inappropriate conversion of rural zoned lands into large lots;
 - 4. Facilitating the protection of critical areas;
 - 5. Providing for wildlife and fish and wildlife habitat; and
 - 6. Reducing conflicts from residential uses with lands zoned rural agriculture, rural forest or commercial agriculture.

ICC 16.17.010.

16. The Applicant submitted a project narrative, which describes how the proposal would comply with specific criteria for approval of a PRD under ICC 16.17.070, noting:³
- The proposed clusters would be separated by over 160 feet. This would be reduced because of the natural features on-site. In light of the Category D wetland-associated 200-foot buffer, all of the lots must be clustered along North Camano Ridge Road. Due to the lot width, only 160 feet of separation is possible when factoring the lot sizes needed to accommodate a well and septic drain field.
 - The Applicant would meet the standard for locating the proposed developed so that it is screened from public roads and adjacent properties where natural vegetation exists.

³ The Applicant's project narrative was submitted on October 22, 2021, prior to the County's denial of the Applicant's landscaping waiver request and revision to the proposal to provide that the proposed residences would be served by the municipal water system instead of on-site private wells.

- The Applicant would place structures, uses, or roads on undisturbed, forested ridgelines to minimize tree and soil removal.
- Lighting fixtures would be shielded, hooded, and oriented towards the ground so that direct rays of light from the lighting sources would not be visible past the property boundaries.
- The proposed development has been designed to minimize interference with traffic flow on North Camano Ridge Road.
- Access points have been designed to not interfere with access to adjacent properties.
- The proposed development includes joint driveways and one single-access driveway. No conflicts with pedestrian and vehicular circulation would occur.
- The proposed development does not include any roads interior to the plat.

County staff reviewed the proposal and determined that, with conditions, it would meet the requirements for a PRD. *Exhibit A, Staff Report, pages 5 through 7, and 9 through 11; Exhibit B.15.*

Testimony

17. County Assistant Planner Cindy White testified generally about the proposal and how it would meet the criteria for a preliminary plat and PRD. She provided a description of the subject property and the proposed development, consistent with the findings above. Ms. White stated that the proposed development would be consistent with the Comprehensive Plan goal of encouraging clustered residential development to protect natural features. She explained that gross site area is used when calculating density and that the subject property had a gross site area of at least 20 acres. Ms. White noted that the proposed development would be located outside the buffers for the Type F fish-bearing stream. She explained that the County did not grant the Applicant any waivers from PRD requirements and that the Applicant would be required to plant native vegetation between Lots 2 and 3 to fit with the rural character of the surrounding area and, therefore, meet the requirements for a PRD. Ms. White noted that the proposal would include signage that would be placed in front of the development and would have covered lighting, consistent with County standards. She explained that the County has requested that the conservation easement be recorded separately because the Applicant does not always receive a copy of the final plat and because the County wants to ensure that anyone who may purchase the property would be aware of the conservation easements. *Testimony of Ms. White.*
18. County Assistant Director of Planning and Community Development and Designated SEPA Official Jonathan Lange testified that the County intends to issue a DNS for the proposal on the same day that the Hearing Examiner's decision is issued, so that the appeal periods would run concurrently. He stated that this is a typical process in the County. *Testimony of Mr. Lange.*

19. County Critical Areas Planner Renee Zavas Silva explained that the property contains the standard 200-foot buffer associated with a high intensity use for a Category D wetland with a habitat score of 33 and no outlet. She noted that the biological assessment provided by the Applicant demonstrated that the proposed development would have no permanent impacts to the wetland itself. Ms. Zavas Silva explained that lot segregation is not permitted where the resulting lots would not have adequate building sites and that the site plan showed that the lots would have adequate building sites to accommodate the homes, septic systems, and driveways outside of the critical area buffer. She stated that the Applicant would utilize buffer averaging and that the total amount of buffer would not decrease. Ms. Zavas Silva noted that the proposed development would not have any adverse effects on wetland functions. *Testimony of Ms. Zavas Silva.*

20. Project Civil Engineer Mark Villwock testified that the site plan indicates that the gross site area of the property, with the deeded right-of-way, is 20.11 acres. He explained that water service would be provided to the proposed residences by secure connections from Camano Hills Water Co. Mr. Villwock noted that six of the seven lots would have shared driveways and that one lot would have a single-access driveway, for a total of four connections with North Camano Ridge Road. He explained that all stormwater from new impervious surfaces would be routed through vegetative storm paths to a series of dispersion trenches, which are located on-site and outside of the wetland buffer. Mr. Villwock noted that the routing and dispersal process would mimic current forested conditions and that the wetland would be hydrated mimicking its current state. He stated that the stormwater system would not impact neighboring properties. Mr. Villwock explained that the proposal originally included buffer averaging, but that the proposed development had been redesigned to maintain the full 200-foot buffer associated with the Category D wetland. He noted that the site plan demonstrates that the buffer extending onto Lots 1, 2, and 4 would be protected in conservation easements. Mr. Villwock also noted that all lots would be more than one acre, so fire flow would not be required for the plat. He explained that the Applicant had issues with the language of certain conditions recommended by County staff and would work with County staff to submit revised conditions after the close of the hearing. The Applicant submitted proposed language changes to the recommended conditions, which were not opposed by County staff and which were admitted into the record as Exhibit N. *Testimony of Mr. Villwock; Exhibit N.*

21. County Development Coordinator for Public Works Donah Dunn testified that she may have missed that each lot would be over one acre when reviewing the proposal. She stated that she had recommended two hydrants based on the property being 900 feet from the corner, but that she would amend her recommendation if that was not correct. *Testimony of Ms. Dunn.*

22. Marika Saarinen testified that she and her husband Peter Grant live near the property and had moved to the area to have privacy and be close to wildlife. She thanked the County and the Applicant for addressing the concerns of neighboring property owners and designing the proposed development to incorporate privacy and respect wildlife. Specifically, she noted that the 100-foot setback for the proposed residences and hedges fronting the roads would provide screening from the road and adjacent properties.
Testimony of Ms. Saarinen.

Staff Recommendation

23. Ms. White testified that County staff recommends approval of the preliminary plat and PRD request, with conditions. Mr. Villwock testified that the Applicant understands and would comply with County staff's recommended conditions. *Testimony of Ms. White; Testimony of Mr. Villwock; Exhibit A, Staff Report, pages 8 through 11; Exhibit N.*

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 Type III preliminary subdivisions and planned residential developments proposing five or more dwelling units. *ICC 16.06.050.D; ICC 16.17.020.B; ICC 16.19.040, Table A and Table B; ICC 16.19.180.*

Criteria for Review

Preliminary Plat

ICC 16.06.110 requires that the division of land into five or more lots where any one of the resulting lots is less than ten acres be authorized through a "subdivision process."

No application for preliminary plat shall be approved unless it meets the requirements of Chapters 8, 11, 13, and 17 of the Island County Code pertaining to the development. *ICC 16.06.110.C.*

"The approving authority shall have the authority to place on any subdivision granted preliminary approval, appropriate conditions to ensure that the development is consistent with RCW 58.17.110, applicable ordinances of the county, and to carry out the recommendations of the reviewing departments as applicable." *ICC 16.06.110.E.*

The state subdivision criteria, codified at Chapter 58.17 RCW, must also be met by the application before a decision of approval can be made. Specifically, RCW 58.17.110(2) provides:

A proposed subdivision and dedication shall not be approved unless the city, town, or county legislature body makes written findings that: (a) appropriate

provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds 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 (b) the public use and interest will be served by the platting of such subdivision and dedication.

Planned Residential Developments

ICC 16.17.070.A provides the following PRD review criteria:

No application for PRD approval shall be approved unless it meets the requirements of this section. No development pursuant to an approved PRD shall be undertaken unless it meets the requirements of titles 8, 11, 13, 16 and 17.

1. Preservation of natural features.
 - a. Proposed structures, uses and roads shall be located to minimize disturbance to natural features by, for example, minimizing tree and soil removal.
 - b. Open space, in the amount required by chapter 17.03 or chapter 17.06, as applicable, shall be clearly defined and protect natural features in the following order of importance or priority:
 - (i) First, include critical areas designated and regulated by chapter 17.02B;
 - (ii) Second, for CA and RA zoned lands include areas of prime agricultural soils identified by NRCS;
 - (iii) Third, include areas useful for wildlife and fish and wildlife habitat; and
 - (iv) Fourth, include natural features, identified by the applicant, that are important to the overall design of the PRD.
 - c. When site conditions permit, open space aggregation is encouraged into one (1) contiguous area and shall not include private yards.
2. Relationship of proposed structures, uses and roads to site and surrounding area.
 - a. Dwelling units shall be grouped in clusters with each dwelling unit having visual and/or physical access to open space.
 - b. No more than six (6) dwelling units shall be included in a cluster.
 - c. A cluster shall be separated from other clusters by at least 200 feet of open space, except this requirement may be reduced if required to protect natural features or if the proposed separation provides a sight obscuring buffer.
 - d. When natural vegetation exists, structures, uses and roads shall be located so they are screened from public roads and adjacent properties.

- e. Placement of structures, uses or roads on undisturbed, forested ridgelines should be sited to minimize tree and soil removal.
 - f. Lighting fixtures shall be shielded, hooded and oriented towards the ground so that direct rays of light from the lighting sources are not visible past the property boundaries. The maximum number of lighting fixtures should be adequate to light the use for safety, security, operations and visibility, appropriate to the type of use.
 - g. For PRDs located adjacent to RA, RF, CA, AP lands or critical areas, the open space area shall be located between these lands or areas and proposed structures and uses.
3. Traffic and circulation.
 - a. Vehicular access shall be designed and located to minimize interference with traffic flow on adjacent roads.
 - b. Access points on the site shall not interfere with access to adjacent properties.
 - c. Interior roads shall be designed to minimize conflicts between pedestrian and vehicular circulation.
 - d. Interior roads and parking areas shall be designed so there are no conflicts between the maneuvering areas for the parking spaces and the major circulation through the sites.
 - e. Driveways, roads and parking areas shall be designed so exiting vehicles are not required to back out into a public or private road that is external to the PRD.
 4. Utility service. When feasible, electrical, telephone and cable utility lines shall be installed underground.
 5. Recreational facilities.
 - a. Clubhouses, beaches, swimming pools, exercise pathways, tennis courts and other special recreation features are encouraged.
 - b. When site conditions permit, recreational structures shall not be located adjacent to public or private roads that are external to the PRD.

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 development 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 proposal would satisfy the requirements of ICC 16.06.110 for a preliminary plat and meet the subdivision requirements of RCW 58.17.110.** The County provided reasonable notice and opportunity to comment on the proposal. The County received several comments on the proposal from members of the public in

response to its notice materials, which generally expressed concerns about the density of the proposed development, the compatibility of the proposed development with the rural character of the surrounding area, traffic impacts, impacts to wildlife, impacts to private wells in the area, and wetland impacts. These concerns have been addressed, as detailed throughout the above decision.

The subject parcel currently measures approximately 19.23 acres, but its gross site area measures approximately 20.11 acres when the right-of-way previously dedicated to the County is included. Seven residences would be permitted on the 20.11-acre property, with a density bonus, for which the proposed development qualifies by providing 13 acres of open space. The proposed development would be located entirely outside of the Category D wetland and its associated buffer and would not have any adverse impacts on critical areas. Stormwater would be routed through vegetative storm paths and dispersed through a series of dispersion trenches to mimic current natural conditions. The County did not grant any of the Applicant's landscape waiver requests and would require the Applicant to plant a strip of native vegetation between the clusters in order to maintain the rural character of the surrounding area. The proposed residences would also be set back 100 feet from North Camano Ridge Road and would be screened with native vegetation from the road and adjacent properties. A sign would be installed in front of the development, and covered lighting would be provided, in compliance with signage and lighting requirements. All seven lots would be served by Camano Hills Water Co., which provided a letter stating that municipal water services were available to serve the proposed development. The proposed lots would be served by three shared driveways and one single-access driveway connecting to North Camano Ridge Road. County Public Works approved a Certificate of Transportation Concurrency, which confirms that the level of service standard used in the Transportation Concurrency Management program has been satisfied and that sufficient road capacity for the specific number of development units is reserved for the proposed development.

County Designated SEPA Official Jonathan Lange testified at the open record hearing associated with the proposal that the project would not have a probable significant adverse impact on the environment and that the County intended to issue a determination of nonsignificance (DNS) for the proposal on the same day this decision is issued.

The proposed development would be consistent with the Comprehensive Plan goal of encouraging clustered development in a manner that would preserve the community feel of the area and that would further the protection of rural character of the county. The property is located in the Rural zone, in which single-family residential uses are permitted outright. The proposed residences would be served by individual septic systems and drain fields located near North Camano Ridge Road, away from the on-site Category D wetland buffer. The entirety of the proposed development would be built outside the wetland buffer, and the portion of the buffer that extends onto proposed Lots

1, 2, and 4, would be permanently protected in conservation easements. The proposed development would comply with applicable setback requirements and, as noted above, would exceed front setback requirements in order to provide additional screening of the proposed development from North Camano Ridge Road and adjacent properties. Students residing within the subdivision would be served by the Stanwood School District. Fire services would be provided by Camano Island Fire District 1. Neither the School District nor the Fire District provided any comments on the proposal. The Hearing Examiner determines that the proposed land division, as conditioned herein, would not adversely impact the public health, safety, or general welfare and that the public interest would be served by the platting of the subdivision. Conditions, as detailed below, are necessary to ensure that the proposal satisfies all local and state requirements for preliminary plat approval. *Findings 1 – 23.*

2. **With conditions, the proposal meets the requirements for a Planned Residential Development under ICC 16.17.070.A.** The County’s PRD provisions promote design flexibility and allow for variations from the standards typically required for subdivisions and the underlying zoning district in exchange for an enhanced site design resulting in a more efficient, aesthetic, and desirable use of open space and promoting the protection of the county’s rural character. As noted above, the proposed development would meet the requirements for a three-unit density bonus by providing 13 acres of open space on a 20.11-acre property, a ratio of 65 percent. This open space ratio also complies with the general requirement that PRDs in the Rural zone have an open space ratio between 30 and 75 percent. All seven lots would be more than one acre. As noted above, the Applicant would install covered lights to prevent glare from the proposed development on adjacent properties. The Applicant would also plant native vegetation, including a strip between Lots 2 and 3 and on the property’s frontage with North Camano Ridge Road, to screen the proposed development from the road and adjacent properties and to preserve the rural character of the area. Also as noted above, the proposed development would be built entirely outside of the on-site wetland buffer, and on-site buffer that extends onto proposed Lots 1, 2, and 4 would be permanently protected through open space and conservation easements. Conditions of approval require that covenants, approved by the County, restrict the open space to the uses specified in the application.

The proposed development includes two clusters of residences, each with fewer than six homes. The two clusters would be separated by at least 200 feet of open space between Lots 2 and 3 that would be planted with native vegetation. Access to the lots would be provided by three shared driveways and one single-access driveway. The proposed development does not include any roads internal to the plat. Conditions, as detailed below, are necessary to ensure that the proposal meets the requirements for PRD approval. *Findings 1, 4 – 23.*

DECISION

Based on the preceding findings and conclusions, the request for a preliminary long plat to create a seven-lot subdivision for single-family residential development, with associated improvements, using the planned residential development provisions of the Island County Code, on a 19.23-acre parcel off the west side of North Camano Ridge Road and south of West Cross Island Road, is **APPROVED**, subject to the following conditions:⁴

1. The final plat must be consistent with the requirements identified in ICC 16.06.120.
2. This recommendation is 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 recoded within five (5) years of the date of the preliminary approval. Provided that any judicial appeal filed and accepted review after preliminary approval shall automatically stay the time periods referenced above until a final decision on the appeal is rendered.
4. The Applicant must adhere to the conditions, recommendation, and requirements noted in the memorandum from Island County Public Health, dated June 30, 2022.
5. The Applicant must adhere to the conditions, recommendation, and requirements noted in the memorandum from Island County Critical Areas Planner, dated July 8, 2022.
6. The Applicant must adhere to the conditions, recommendation, and requirements noted in the memorandum from Island County Public Works, dated July 20, 2022, or as amended.
7. The final plat application shall include a summary on how the conditions are being met.
8. The final plat must conform to the approved preliminary plat, except as specifically authorized by this decision.
9. Prior to final plat approval, all site and off-site improvements required as a condition of preliminary approval shall be complete.
10. All utilities installed on-site shall be underground.

⁴ Conditions include both legal requirements applicable to all developments and requirements necessary to mitigate specific impacts of this development.

11. All proposed development shall comply with state noise ordinance, air pollution control regulations, water quality standards, and all other pertinent codes and ordinances.
12. 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 outlined above and set in ICC 17.03.180.S for new lots and will be reviewed with all future building permits.
13. 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.
14. Prior to starting any work or construction activities, the Applicant shall obtain all required building permits and approvals.
15. This project is required to comply with Washington State and Island County water quality standards, Washington State laws and regulations protecting archaeological sites and resources and all other pertinent State laws, rules, regulations, codes, and ordinances.
16. The recommendations for preliminary approval identified in this decision are subject to change if any information provided by the Applicant, or their authorized representative, is found to be inaccurate.
17. Prior to final plat, a proposed conveyance of open space by conservation easement, under one of the three options in ICC 16.17.110.A needs to be submitted for approval and recorded concurrently with the final plat.
18. Prior to final approval, covenants approved by the County, restricting the open space to the uses specified in the PRD application and which provide for the maintenance of the open space in a manner which assures its continuing use for the intended purpose shall be recorded with the final plat.

The following shall appear on the face of the final plat map:

- 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:

PRD-PLP 450/21 and Parcel #R23235-194-4600

- b. The name of the Planned Residential Development:
- c. Approved _____

- d. Title block on the lower right corner of the PRD map to include:
 - Name, address, and telephone number of the Applicant(s); and Date of drawing.*

- e. Legend that includes:
 - i. Site address if assigned and tax assessor parcel number of the property proposed for the PRD; and
 - ii. Total approximate area of the site and approximate area of each proposed and existing parcel or lot.
 - iii. North arrow; and
 - iv. Engineering scale and bar scale (not larger than 1 inch = 20 feet or smaller than 1 inch = 200 feet).

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 Ordinance C-32-96 and hereafter amended.
- b. All structures shall apply to setbacks and site coverage set in ICC 17.03.180.S and will be reviewed with all future building permits.
- c. This permit does not allow the conversion of buffer into residential lawn or landscaping.

The following shall appear under restrictions:

- a. Wetland and stream boundaries and assigned buffers are subject to change. Additional environmental review may be required by Island County for future development proposals, pursuant to ICC 17.02B and ICC 16.19.110.D.
- b. The Open Space is to be left in its undisturbed natural state, except for removal of dead and dying trees that are an immediate threat to fall on power lines, a building or other improvements, with the approval by Island County.
- c. No clearing or development within regulated critical areas or associated buffers is authorized without environmental planning review.
- d. The PRD herein shown shall be limited to the number of lots proposed; no further subdivision within the PRD shall be allowed.

- e. A proposed Conveyance of Open Space by conservation easement, recorded under AF# _____ to meet ICC 16.17.110.A.
- f. Covenants approved by the County, restricting the open space to the uses specified in the PRD.

DECIDED this 10th day of January 2023.



ANDREW M. REEVES
Hearing Examiner
Sound Law Center