WHIDBEY ISLAND
CAMANO ISLAND

ISLAND COUNTY HEARING EXAMINER

P.O. Box 5000
Coupeville, Washington
98239-5000

MICHAEL BOBBINK

PHONE: 360-679-7339
or 360-678-7802
FROM CAMANO 629-4522
FROM S. WHIDBEY 321-5111
FAX: 360-679-7306

September 18, 2015

Todd and Pam Brager
PO Box 72
Freeland, WA 98249

RE: Decision for SPR 159/15 Brager

Dear Mr. and Ms. Brager,

Enclosed please find a copy of the Findings of Fact, Conclusions of Law and Decision rendered in the above-referenced matter.

If you have any questions, please contact this office.

Sincerely,

Virginia Shaddy

Virginia Shaddy, Administrative Assistant
Island County Hearing Examiner

Enclosure

cc: Daniel Mitchell, Deputy Prosecuting Attorney
Board of Island County Commissioners – via email
Planning & Community Development
Island County Health Department
Island County Engineering Department – via email

I certify under penalty of perjury under the laws of the State of Washington, that on **September 18, 2015,** I mailed a copy of this document, postage prepaid to the parties listed.

V. Shaddy

ISLAND COUNTY HEARING EXAMINER

RE: SITE PLAN REVIEW	)	File No. SPR 159/15
	)	
Applicants: Todd and Pamela Brager	)	FINDINGS OF FACT
	)	CONCLUSIONS OF LAW
	)	AND DECISION

SUMMARY OF APPLICATION AND DECISION

APPLICATION: Todd and Pamela Brager seek Site Plan Review for a Type III Home Industry in order to construct a 1,920 square foot welding shop. The site is 5.5 acres in the Rural Zoning District.

DECISION: The Hearing Examiner for Island County grants approval of the requested SPR 159/15, subject to Conditions of Approval.

FINDINGS OF FACT

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted herein and evidence presented at the public hearing on September 3, 2015.

I.

PRELIMINARY INFORMATION

Applicants: Todd and Pamela Brager

Property Location: 5354 Mapleglen Road
Langley, WA 98249

Applicable Ordinances: Zoning Ordinance Chapter 17.03 ICC, Land Use Review Ordinance Chapter 16.19 ICC, Site Plan Review Ordinance Chapter 16.15 ICC.

Date Application Received: June 11, 2015

Date Application Determined to be Complete: June 22, 2015

Hearing Date: September 3, 2015

Exhibit Log

Tab 1

1. Staff Report

Tab 2 – Site Data

2. Request for Comment and Site data, dated 6/22/15
3. Island County Assessor Property Details, 4/9/15
4. Island County Assessor's Map, 2/18/15
5. ESRI GIS Maps, no date

Tab 3 - Application

6. Pre-application Conference Application, date received 6/10/15
7. Master Land Development Application includes Field Indicators Worksheet, date received 6/10/15
8. Application for Site Plan Review, date received 6/10/15
9. Transportation Concurrency Application, date received 6/10/15
10. Solid Waste Management Plan, date received 6/10/15
11. Assessor's Maps with mailing addresses for neighbor's within 300', date received 6/10/15
12. Island County Health Department Site Registration Sheet, dated 9/27/89, date received 6/10/15
13. Application for access to County Road Right of Way, dated 5/10/2000, date received 6/10/15
14. Site Plan, dated 6/6/15, date received 6/10/15

Tab 4 – Review Letters and Comments

15. Memorandum from Aneta Hupfauer, dated 4/28/15
16. Memorandum from Bill Poss, dated 6/29/15
17. Memorandum from Tamra Patterson, dated 6/30/15

Correspondence

18. E-mail from Pam Brager to Michelle Pezley, dated 8/18/15

Tab 5 – Notices

19. Routing Sheet, dated 6/22/15
20. Notice of Complete Application to applicant, dated 6/23/15
21. Notice of application to neighbors within 300' of property and Affidavit of mailing, dated 6/23/15
22. Legal Notice to Whidbey News Times, no date
23. Notice of Affidavit of posting, no date
24. Signed Affidavit of posting from applicant, dated 7/6/15
25. Affidavit of Publication from Whidbey News-Times for notice of application, date received 7/20/15

26. Legal Notice of Hearing Examiner Hearing scheduled to Whidbey News-Times, no date
27. Notice of Hearing to applicant and parties of record, 8/5/15.

Tab 6 – Public Comments

28. Letter from Judith Skenazy to Michelle Pezley, re: opposition to the building of an industrial shop on the property, date received 7/22/15
29. Letter from Todd Brager to Hearing Examiner in response to neighbor's letter, date received 8/3/15.

Tab 7 – Additional Information Received after Binder sent to Hearing Examiner

30. Letter to Todd and Pamela Brager with staff report, dated 8/21/15
31. Notice of staff report to parties of record, dated 8/21/15
32. Affidavit of Publication from Whidbey News-Times for public hearing, received 8/24/15
33. Response to staff report from Judith Skenazy, submitted 9/3/15

HEARING TESTIMONY

Michelle Pezley
Island County Planning & Community Development
PO Box 5000
Coupeville, WA 98239

Bill Poss
Island County Planning & Community Development
PO Box 5000
Coupeville, WA 98239

Pamela Brager
Box 72
Freeland, WA 98249

Judith Skenazy
5310 Maple Glen Road
Langley, WA 98260

Kevin Lundgren
4768 E. Harbor Road
Freeland, WA 98249

Jim Freeman
1885 Newman Road
Freeland, WA 98249

Robert Henderson
5368 Maple Glen Road
Langley, WA 98260

II.

The Island County Planning and Community Development Department has recommended approval of the requested Site Plan Review, SPR 159/15, subject to conditions. The Findings of Fact and Conclusions of Law of the Associate Planner are set forth in a Staff Report, Exhibit #1, dated August 21, 2015, a copy of which is attached hereto and incorporated herein by this reference.

The Applicant indicated there were no factual inaccuracies in the Staff Report. The Applicant indicated no objection to the Conditions of Approval requested by Staff.

Island County received one public comment during the public comment period from Ms. Skenazy. Ms. Skenazy commented on these concerns at the public hearing, expressing concern about the location of the new building's proximity to her house, as well as concerns with sound, fire hazards, increased traffic, lighting, steep slopes, and hours of operation. These concerns have all been addressed by Staff in the Staff Report and the recommended Conditions of Approval.

Condition of Approval No. 6 should be modified to clarify that all applicable Federal, State, and local regulations, beyond those incorporated into the Zoning Code, must be complied with. Ms. Skenazy's concerns about air-quality are subject to Federal regulation by the Northwest Clean Air Agency.

Concerns about fire will be addressed at the building permit stage. The Building Official will determine the occupancy type of the proposed building and use, and will apply the applicable Construction and Materials Standards required

by the International Building Code. Additionally, all buildings and uses are required to comply with the International Fire Code.

The Applicants are required to comply with the Noise Standards set forth in WAC 173.60.040. The Standard set a 55 dBA noise level at the boundary of any properties impacted by noise from this use.

Condition 6 should be modified to make explicit these requirements and that the Applicant must operate the proposed home industry in a manner which will comply with these requirements.

III.

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following:

CONCLUSIONS OF LAW

I.

The Application is a Type III Site Plan Review. Appropriate notices have been given and a public hearing has been held on the requested Site Plan Review for a Type III Home Industry and the construction of a new 1,920 square foot welding shop.

A home industry, such as the one proposed by these Applicants, is allowed in the Rural District if it meets the applicable requirements. The Rural District is not limited to quiet residential uses. Rather, it is a mixed-use district which includes a number of uses which have some adverse impacts on surrounding property owners. The purpose of the Zoning Ordinance is to determine the appropriate balance between conflicting land uses.

III.

Other County Agencies with jurisdiction evaluated the proposal and have indicated no objection to approval, subject to conditions. Condition number six

should be modified to clarify and identify other applicable regulations addressing potential impacts from the proposed home industry.

IV.

The proposal, as conditioned by Staff, is consistent with the Site Plan Review Criteria of ICC 16.15 and with the specific Development Standards for Home Industries in a Rural Zoning District set forth in ICC 17.03.180.J. Planning and Community Development Staff concluded that, subject to conditions, the application was consistent with these applicable criteria.

V.

The Island County Hearing Examiner should approve SPR 159/15 and grant Site Plan Approval for the Home Industry construction of a new 1,920 square foot welding shop.

VI.

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following:

DECISION

Site Plan Review Approval for a Type III Home Industry, SPR 159/15, is hereby granted to Todd and Pamela Brager, granting construction for a new 1,920 square foot welding shop, located at 5354 Mapleglen Road, Langley, Washington, subject to the following Conditions of Approval:

General Conditions

1. Site development activities approved by this decision shall be in substantial conformance to the site plan submitted on June 10, 2015 (See Staff Report, Attachment A).

2. Deviation from the approved plans must be reviewed and approved through a formal site plan amendment process. Further, if the use of the approved structure changes, site plan review and additional requirements may apply.

3. The Applicants must adhere to all conditions and requirements outlined in the attached memorandum from Island County Public Building Department (See Staff Report Attachment B).

4. The Applicants must adhere to all conditions and requirements outlined in the attached memorandum from Island County Health (See Staff Report Attachment C).

5. The Applicants must adhere to all conditions and requirements outlined in the attached memorandum from Island County Public Works (See Staff Report Attachment D).

6. All development activities on and the use of the subject parcel shall be in compliance with all applicable Federal, State, and Island County laws, codes, and regulations.

   More specifically, the Applicant shall comply with the noise standards of WAC 173.60.040, and shall contact the Northwest Clean Air Authority to inform them of the proposed business and to determine and comply with any applicable Clean Air Standards, including obtaining any permit required.

   Additionally, the Applicant shall, at a minimum, incorporate the noise mitigation proposal contained in Exhibit Number 29, a letter to the Hearing Examiner from the Applicant.

7. The Conditions of Approval identified herein are subject to change if any information provided by the Applicants or their authorized representative is found to be inaccurate.

8. All noise must cease from 10:00 p.m. until 7 a.m., as required by ICC 9.60.030.

9. Dead or dying vegetation must be replaced immediately, or if in winter, within the next planting season per ICC 17.03.180.P.3.b (vi).

10. In the event that any ground-disturbing activities, other project activities related to this development, or in any future development uncover protected cultural materials (e.g. bones, shell, stone tools, beads, ceramics, old bottles, hearths, etc.), the actions as listed in Staff Report Attachment E must be followed. 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 this requirement could constitute a Class C Felony.

Prior to Building Permit

11. Site Plan Approval does not guarantee the issuance of a building permit. The Applicants shall submit an application and applicable fees for building permits

under a separate application, required for any building or construction activity on the subject property.

12. Prior to constructing the entrance sign, the property owner shall obtain a sign permit, meeting the requirements outlined in ICC 17.03.180.R.

Prior to Occupancy

13. Prior to occupancy, the property owners shall sign and record an agreement that is in conformance to ICC 17.03.180.J.2.a.

14. Lighting fixtures must be a full cut-off design that is shielded, hooded, and oriented in such a way as to not be visible past the property boundaries.

15. Connections of storm drainage facilities must be inspected and approved by the governing agency. All site improvements, including: access, parking areas, and landscaping shall be installed and inspected by County Staff.

Expiration of Site Plan Approval

16. This Approval is valid for a period of five (5) years. The building permits for development of the site shall be obtained pursuant thereto being utilized within five years after the effective date of Site Plan Approval per ICC16.15.160.

Entered this 15th day of September 2015, pursuant to authority granted under the Laws of the State of Washington and Island County.

Michael Bobbink

MICHAEL BOBBINK
Island County Hearing Examiner

APPEAL PROCESS:

Decisions of the Examiner on Type III applications shall be final and conclusive unless within fourteen (14) days following mailing of such decision a written statement of appeal is filed with the board by the Applicants, a Department of the County, or Party of Record, who is also an Aggrieved Person. Said statement shall set forth any alleged errors and/or the basis for appeal and shall be accompanied by a fee pursuant to the fee schedule adopted by the Board; provided that such appeal fee shall not be charged to a Department of the County or to other than the first appellant. The appeal of a Type III decision shall be a Closed Record Appeal.

ISLAND COUNTY
PLANNING & COMMUNITY DEVELOPMENT

PHONE: (360) 679-7339 ■ from Camano (360) 629-4522, Ext. 7339 ■ from S. Whidbey (360) 321-5111, Ext. 7339 FAX: (360) 679-7306 ■ 1 NE 6th Street, P. O. Box 5000, Coupeville, WA 98239-5000
Internet Home Page: http://www.islandcounty.net/planning/

STAFF REPORT & RECOMMENDATION
TYPE III SITE PLAN REVIEW –
SPR 159/15
TODD AND PAMELA BRAGER –HOME INDUSTRY

I – PROJECT SUMMARY

Todd and Pamela Brager request a site plan review for a Type III Home Industry for a new 1,920 square foot welding shop. The property is located off of Mapleglen Road, north of SR 525, and west of Freeland.

The applicants state that the two owners of the business live on the property and they do not propose any employees. The applicants propose a building that is over the 800 square foot threshold, which changes the decision from an Administrative Decision to a Quasi-Judicial Review. The applicants attended a pre-application meeting with staff on April 30, 2015. Per Island County Code 16.19.050.B, Type III home industries are exempt from a community meeting. The proposal is also SEPA exempt per WAC 197-11-800(1)(b)(iv).

The site is 5.5 acres which exceeds the 2.5 acre minimum for a home industry. The applicants propose the new building to be at least 150 feet away from any property line. The applicants propose to keep and maintain the existing vegetation on the property which includes a 25 foot vegetated tree buffer along the north property, 100 foot vegetated tree buffer along the west property line, and a 100 foot tree buffer behind the proposed new building.

II – PERMIT DATA

Permit Type	Site Plan Review Type III
Permit Number	SPR 159/15
Date of Complete Application	6/22/15
Decision	Approved, with Conditions
Applicant/Owner	Todd and Pamela Brager
Agent	na

III – SITE DATA

Address	5354 Mapleglen Road, Langley, WA 98249
Parcel Number(s)	R22912-360-0400
Parcel Area(s)	5.5 acres
Zone Designation	Rural (R)
Allowable Density	1DU/ 5AC
Critical Areas/Overlays	Steep slopes

IV – STAFF CONTACTS

Department	Name	Phone	Email
Planning	Michelle Pezley	360-678-7817	m.pezley@co.island.wa.us
Public Health	Aneta Hupfauer	360-678-7995	AnetaH@co.island.wa.us
Public Works	Bill Poss	360-678-7813	billp@co.island.wa.us
Building	Tamra Patterson	360-678-7806	tamrap@co.island.wa.us

V – REGULATORY COMPLIANCE

Regulatory Requirement	Complies (Y/N)	Comments
A. Rural (R)- ICC 17.03.060	Yes	Meets all applicable criteria
B. Site Plan Approval – ICC 16.15	Yes	Complies with all regulations
C. Land Use Standards – ICC 17.03.180 P., Q., R., & S.	Yes	Project may comply, with conditions
D. Home Industry- ICC 17.03.180.J	Yes	Project may comply, with conditions
Building	Yes	Approved, with conditions (see Attachment B)
Public Health/Sanitation	Yes	Approved, with conditions (see Attachment C)
Public Works/Engineering	Yes	Approved, with conditions (see Attachment D)

VI – PUBLIC COMMENTS

Island County received one public comment during the public comment period of July 15, 2015 to July 29, 2015. The one public comment was in opposition to the proposal.

Ms. Skenazy is concerned with the close proximity of the new building to her house. She is also concerned with sound, fire hazards, increase traffic, lighting, steep slopes, and hours of operation. (See Hearing Examiner Exhibit 5)

Per ICC 9.60.030, noise must cease from 10 pm to 7 am (See Condition 8). Public Works and Building Departments reviewed the proposal for fire and life safety. During the review of the building

permit, the Building Department will review the building to make sure it meets the fire code. Public Works is not concerned with additional traffic that is generated. The Island County Traffic Engineer found that the proposed activity is exempted from the Traffic Concurrency requirement. Lighting is required to be directed down and not visible from other properties (Condition 14). The applicants propose the building outside the setback of a steep slope (See Hearing Examiner Exhibit 5). The County does not regulate Home Owner's Association CC&R's and any violation to the CC&R's is a civil suit between the association and property owner.

VII – FINDINGS

A. Rural (R) Zone (ICC 17.03.060)

1. The project site is zoned "Rural" (R)

2. Home industries are an allowed use or conditional use per ICC 17.03.180. Section 17.03.180.J states, "A Type II application shall be limited fifty (50) percent of the gross floor area of the dwelling unit but no greater than 800 square feet. A Type III application shall be required for activities greater than 800 square feet or fifty (50) percent of the gross floor area of the dwelling unit limit but less than a maximum 4,000 square feet gross floor area. Properties which are ten (10) acres or greater may exceed the 4,000 square foot maximum allowable area, provided that the use complies with all applicable county standards." Applicants propose a new 1,920 square foot building, which is a Type III Decision.

3. Minimum lot size within the Rural Zoning District is five acres. The lot is 5.5 acres.

4. Setbacks for the project are five feet minimum on the side and rear and twenty feet minimum in the front. (ICC 17.03.180.S). The proposal complies with the setback requirements. The closest building is one hundred feet from the front (west) property line and 150 feet from each side property line.

5. Maximum height is three stories not to exceed 35 feet (ICC 17.03.120.F). The applicants propose a one story building.

The project is subject to site plan review per ICC 17.03.060.B

B. Site Plan Approval – ICC 16.15

ICC 16.15.040 Application Requirements

Finding: The applicants submitted the application on June 11, 2015. Michelle Pezley, Associate Planner, deemed the application complete on June 22, 2015.

ICC 16.15.060 Conditions of Approval for NR Uses in the R, RR, RA, RF, and CA Zones

A. Environmental Impact:

Finding: The applicants are proposing a new building for the home industry. Public Works addressed drainage with their review (see Attachment D). The applicants propose the new building to be over 100 feet from any steep slope on the property, which meets the setback

from a steep slope. The use proposed by the applicants will not result in any significant environmental impacts that cannot be mitigated by reasonable mitigation measures.

B. Services and Utilities:

Finding: Island County finds that the proposal use as proposed and conditioned by applicable development standards may be adequately served by (and will not impose an undue burden on) any of the services, improvements, facilities, or utilities that serve the area surrounding the project site. The materials submitted with the application indicate that the project will not have connections to water or septic.

C. Permitted Uses:

Finding: As previously discussed, a Home Industry is a permitted and conditional use within the Rural Zoning District. The findings of fact and conditions of approval associated with this decision demonstrate and ensure compliance with all applicable development standards and design guidelines. The development standards of 17.03.180 identify conditions that must be met for this use in the Rural Zoning District.

D. Site Suitability:

Finding: The subject site is physically suitable for the type, density, and intensity of the use being proposed. The applicants propose a 1,920 square foot building. According to the ICC 17.03.180.J, the building could be as large as 4,000 square feet.

E. Public Interest and Welfare:

Finding: The project proposed by the applicants must be designed so as not to be detrimental to the public interest, health, safety, or welfare and not to have a significant detrimental impact on the surrounding neighborhood. During the pre-application process, Island County Public Health Department reviewed the proposal and determined that it complies with all applicable rules, laws, regulations, and policies pertaining to public health. The applicants are required to submit a Solid Waste Management Plan to the health department prior to final building occupancy (Condition 4). Island County Department of Public Works determined that the proposal will not result in traffic or safety impacts in the surrounding area, given compliance with development standards required by the code and those as conditioned in this land use recommendation.

The Land Use Standards in ICC 17.03.180 details development standards which must be met for Home Industries in a Rural Zoning District. This decision reviews the application as presented in light of those standards and cites them as conditions of approval.

The County concludes potential adverse impacts to the surrounding area can be mitigated from the proposed project.

F. Rural Character:

Finding: The proposal is generally consistent with Island County's adopted definition of "Rural Character," provided that the development standards identified in this report are implemented to mitigate any potential adverse impacts to the surrounding rural area and nearby properties. According to the letter from Mr. Brager, received by the County on August 3, the property owners have utilized their garage for a hobby shop and conducted similar work on site. Ms. Skenazy stated in her letter that the existing neighborhood is quite. Allowing the

Home Industry on the property will not substantially change the existing character of the neighborhood.

G. Rural Agriculture or Commercial Agricultural Zone:
Finding: A Home Industry allows the property owners to live and work in the rural area. The proposal is not within a Rural Agriculture or Commercial Agricultural Zone; therefore, this criterion does not apply.

16.15.070 Decision Making Authority

In approving an application for a Nonresidential conditional use in the R, RR, RA, RF, or CA Zones, including home industries, the decision-making authority may impose conditions to protect the rural character surrounding the proposed use and to preserve the purpose of the underlying zone. Any such conditions shall be supported by a written finding and have a direct nexus to and be limited to those specific actions necessary to protect the rural character for any specific project. These conditions may include, but are not limited to, the following:

D. Limiting the hours and days of operation.
Finding: Section 9.60.030 limits noise to end at 10:00 p.m. until 7 a.m. All noise must end no later than 10:00 p.m. to make sure that any noise will not be heard from the neighbors. (See Condition 8)

ICC 16.15.080 Criteria for Approval

An application for Site Plan Review shall not be approved unless it meets the requirements of this section. No development pursuant to an approved Site Plan shall be undertaken unless it meets the requirements of Titles 8, 11, 13 and 17 of ICC pertaining to such development.

Finding: Public Works provided review of Titles 11 and 13 and findings are found in Attachment D. Public Health reviewed the proposal and found that proposal meets Title 8 criteria with a condition found in Attachment C. The Findings of Fact for Title 17 are within this report.

1. **Open Space:**
Finding: Section 17.03.180.S requires 20 percent of the site to remain in open space. The site consists of 15,274 square feet of area for parking and circulation, and 7,477 square feet of building. The remaining 216,829 square feet (4.98 acres) will be left as landscaping. The applicants propose 90% of the site to remain as landscaping and/or open space.

2. **Site Lay-Out:**
Finding: The applicants propose to develop 5% of the property. The property is not classified as agricultural land. The applicants meet the site lay-out criteria.

3. **Lighting:**
Finding: The applicants did not submit a lighting plan. Lighting fixtures must be a full cut-off design that is shielded, hooded, and oriented in such a way as to not be visible past the property boundaries. (See Condition 14)

4. **Building Design:**
Finding: The building meets the design standards listed in ICC 17.03.180.P, which are discussed in further detail below in Section C of this report.

5. **Surface Water Drainage:**
   Finding: Bill Poss, Public Works Development Coordinator addressed stormwater draining and proposed a condition, "Stormwater runoff shall be managed to flow in non-erosive manner in the natural direction from the building and parking areas". (See Condition 5)

6. **Utility Services:**
   Finding: The applicant does not propose above ground utilities.

7. **Advertising Features:**
   Finding: The applicants do not propose a sign. Any other signs or outdoor advertising structures shall comply with the requirements of ICC 17.03. (See Condition 12)

8. **Traffic and Circulation:**
   Finding: Parking, traffic, and circulation will be reviewed in the next section below. (ICC 17.03.180.P)

ICC 16.15.160 Expiration of Site Plan Approval
Finding: The applicants do not propose the project to be phased; therefore, phasing is not approved for this project. The site plan review for development of the parcel to enhance the use andexpires five years after approval. (See Condition 16)

C. Land Use Standards – ICC 17.03.180 P., Q., R., & S.

1. ICC 17.03.180.P Non-Residential Design, Landscaping, and Screening Guidelines

ICC 17.03.180.P.1: Building Design in the R zone:
Finding: Each existing building on the site was designed for residential use. The applicants propose the new building to be a bat and board siding pole barn which is a standard design within the Rural District. The existing buildings are light colors or wooden siding, clustered together on the property. Each building is one story with the exception of the house which is two stories. The site is screened from the public right-of-way and the adjoining private right-of-ways. The buildings meet the building design criteria.

ICC 17.03.180.P.3: Landscaping and Screening in R zone:
Finding: The applicants propose to maintain the existing 100 foot landscaped buffer from the front, 25 foot landscaped buffer from the north, and a 100 foot buffer south of the proposed building. The landscaping meets the goals of screening and buffering. The applicants are not proposing security fencing. Landscaping Maintenance is required per ICC 17.03.180.P.3.b(vi). Dead or dying vegetation must be replaced immediately or if in winter, within the next planting season. (See Condition 9)

ICC 17.03.180.P.5: Screening:
Finding: The applicants propose to keep existing landscaping along the north, west, and south of the building for screening, and open space.

2. **ICC 17.03.180.Q Parking, Access and Circulation**

ICC 17.03.180.Q.2. Minimum Requirements
Finding: The welding shop will be staffed by the two of the owners who live on the premises. The applicants propose parking in front of the building which will be adequate space for five parking spaces. The applicants meet the parking requirements.

ICC 17.03.180.Q.7 Access and Circulation
Finding: Access and circulation was approved by Public Works. Public Works found that the access proposed will meet the county standards for the proposed traffic count of the development.

3. **ICC 17.03.180.R Signs and Outdoor Lighting**
Finding: The applicants are not proposing a sign for the business.

4. **ICC 17.03.180.S Site Coverage and Setbacks**
Finding: The proposed building and location of existing structures meet the setbacks of 20 feet from Mapleglen Road, and five feet from side and rear property lines. ICC 17.03.180.J requires 50 foot setbacks from all property lines. The applicants meet all setback requirements.

D. Home Industry - ICC 17.03.180.J

ICC 17.03.180.J.1: Uses
Finding: The list of uses in 17.03.180.J.1 is not intended to be an exhaustive list. The applicants propose a welding shop. The welding shop is a similar use to a blacksmithing shop and an auto repair shop.

ICC 17.03.180.J.2.a: Signed Agreement
Finding: Prior to occupancy, the property owners shall sign and record an agreement that is in conformance to ICC 17.03.180.J.2.a. (See Condition 13)

ICC 17.03.180.J.2.b: Minimum Size
Finding: The minimum size for a home industry is 2.5 acres. The property is 5.5 acres.

ICC 17.03.180.J.2.c: Site Plan
Finding: The applicants applied for a site plan review and findings are reviewed above.

ICC 17.02.180.J.2. d, e, and f: Number of Employees, Number of Home Industries, and Owners Living on Lot.
Finding: The applicants propose one home industry in a new building that will be used by two of the owners who live on-site. The proposed building is over 800 square feet which requires a Type III application.

ICC 17.02.180.J.2.g: Sales
Finding: The applicants do not propose retail sales. The applicants propose to gain customers by internet sales. (See Hearing Examiner Exhibit 29)

ICC 17.02.180.J.2.h: Storage
Finding: The applicants propose the entire business conducted within the proposed building. The applicants are not proposing outdoor storage.

ICC 17.02.180.J.2.i: Square Footage
Finding: The applicants propose a 1,920 square foot building which is under the 4,000 square foot maximum. The application is being reviewed as a Type III application.

ICC 17.02.180.J.2.j: Noise
Finding: The code allows for flexibility to establish more restrictive noise standards for non-residential uses within the rural district. The applicants have indicated that similar work has been done on the property within the existing garage. The Community Development and Planning Department has not received any noise complaints from the neighbors about this property. Staff does not recommend additional restriction for noise.

ICC 17.02.180.J.2.o: Compliance to NR criteria
Finding: The proposal is within compliance of the non-residential rural design, landscape, open space, screening, buffering, signage, parking, and lighting standards as indicated in the staff report above.

ICC 17.02.180.J.2.p. Conditions necessary to not disrupt adjacent uses
Finding: Staff does not recommend additional conditions needed. The proposed building will be over 200 feet from the nearest residence with a 25-foot landscaped buffer.

VII – RECOMMENDATION

Based upon the above review, Island County staff concludes the proposed SPR 159/15 is consistent with all applicable zoning, land use, and environmental regulations; and hereby, makes the recommendation to approve Site Plan Review application SPR 159/15 subject to the following conditions of approval:

VIII – CONDITIONS OF APPROVAL

General Conditions:

1. Site development activities approved by this decision shall be in substantial conformance to the site plan submitted on June 10, 2015 (Attachment A).

2. Deviation from the approved plans must be reviewed and approved through a formal site plan amendment process. Further, if the use of the approved structure changes, site plan review and additional requirements may apply.

3. The applicants must adhere to all conditions and requirements outlined in the attached memorandum from Island County Public Building Department (See Attachment B).

4. The applicants must adhere to all conditions and requirements outlined in the attached memorandum from Island County Health (See Attachment C).

5. The applicants must adhere to all conditions and requirements outlined in the attached memorandum from Island County Public Works (See Attachment D).

6. All development activities on and use of the subject parcel shall be in compliance with all applicable Washington State laws and Island County codes.

7. The conditions of approval identified in this report are subject to change if any information provided by the applicants or their authorized representative are found to be inaccurate.

8. All noise must cease from 10:00 p.m. until 7 a.m. as required by ICC 9.60.030.

9. Dead or dying vegetation must be replaced immediately, or if in winter, within the next planting season per ICC 17.03.180.P.3.b(vi).

10. In the event that any ground-disturbing activities, other project activities related to this development, or in any future development uncover protected cultural materials (e.g. bones, shell, stone tools, beads, ceramics, old bottles, hearths, etc.), the actions as listed in Attachment E must be followed. 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 this requirement could constitute a Class C Felony.

Prior to Building Permit:

11. Site plan approval does not guarantee the issuance of a building permit. The applicants shall submit an application and applicable fees for building permits under a separate application, required for any building or construction activity on the subject property.

12. Prior to building the entrance sign, the property owner shall obtain a sign permit meeting the requirements outlined in ICC 17.03.180.R.

Prior to Occupancy

13. Prior to occupancy, the property owners shall sign and record an agreement that is in conformance to ICC 17.03.180.J.2.a.

14. Lighting fixtures must be a full cut-off design that is shielded, hooded, and oriented in such a way as to not be visible past the property boundaries.

15. Connections of storm drainage facilities must be inspected and approved by the governing agency. All site improvements, including: access, parking areas, and landscaping shall be installed and inspected by County staff.

Expiration of Site Plan Approval

16. This approval is valid for a period of five (5) years. The building permits for development of the site shall be obtained pursuant thereto being utilized within five years after the effective date of site plan approval per ICC 16.15.160.

IX – APPEALS

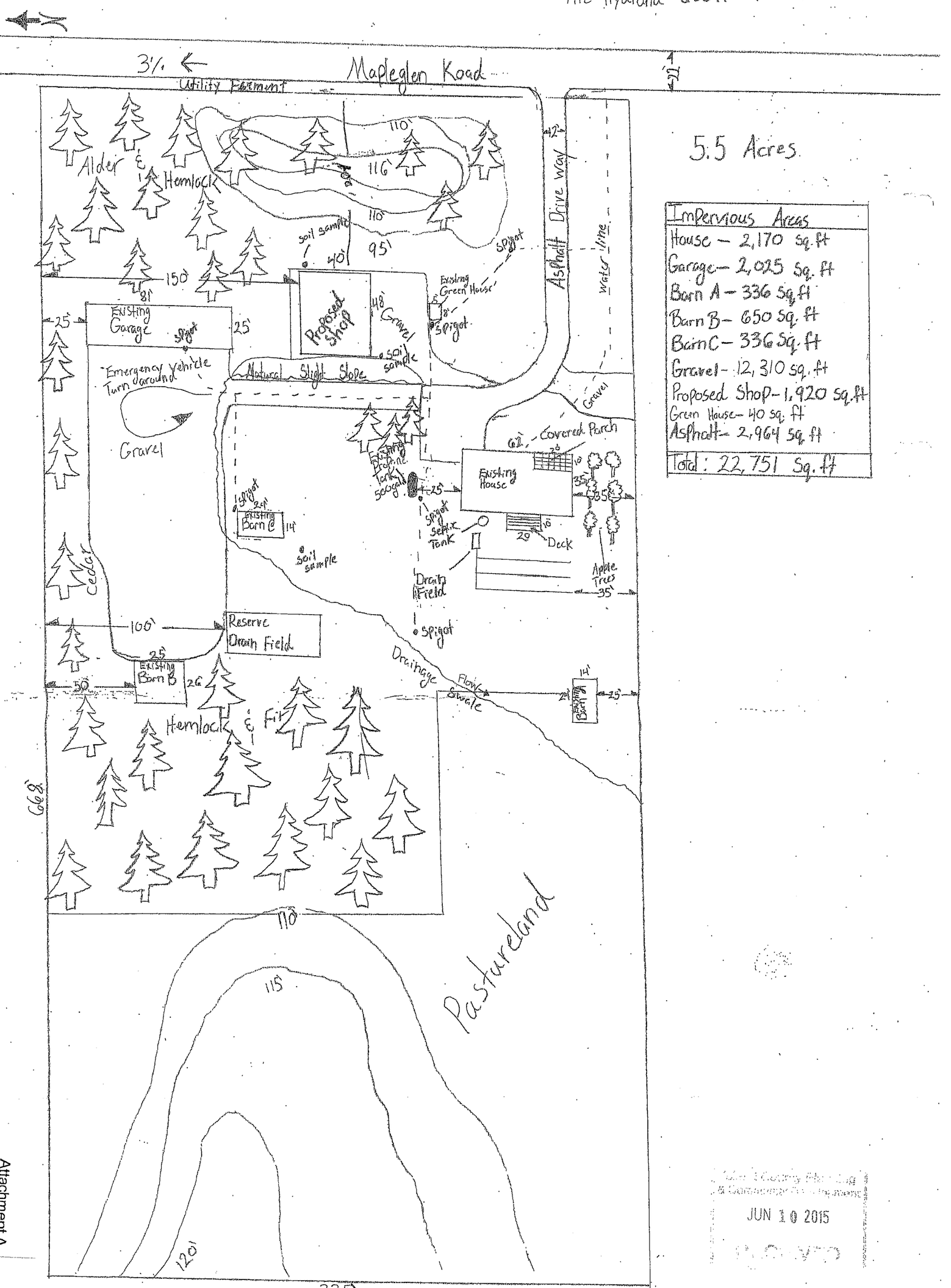
Decisions of the Examiner on Type III applications shall be final and conclusive unless within fourteen (14) days following mailing of such decision a written statement of appeal is filed with the board by the Applicants, a Department of the County, or Party of Record, who is also an Aggrieved Person. Said statement shall set forth any alleged errors and/or the basis for appeal and shall be accompanied by a fee pursuant to the fee schedule adopted by the Board; provided that such appeal fee shall not be charged to a Department of the County or to other than the first appellant. The appeal of a Type III decision shall be a Closed Record Appeal.

SIGNED THIS 21st DAY OF AUGUST, 2015

Michelle Pezley, Associate Planner

Attachments:

- A- Site Plan
- B- Memorandum from Tamra Patterson, dated June 30, 2015
- C- Memorandum from Aneta Hupfauer during pre-application, dated April 28, 2015
- D- Memorandum from Bill Poss dated June 29, 2015
- E- Inadvertent Archaeological and Historic Resources Discovery Plan for Island County



JUN 10 2015

Attachment A

Mailing Address Todd Brager P.O. Box 72 Freeland, Wa, 98249	Site Address Brager Residence Site Plan 5354 Maplegien Rd Langley, Wa	Scale 1" = 50'
	Property ID # 52098 Tax Parcel # R27917-360-04[illegible]	Date 6/06/2015

ISLAND COUNTY
PLANNING & COMMUNITY DEVELOPMENT

PHONE: (360) 679-7339 ■ from Camano (360) 629-4522, Ext. 7339 ■ from S. Whidbey (360) 321-5111, Ext. 7339 FAX: (360) 679-7306 ■ 1 NE 6th Street, P. O. Box 5000, Coupeville, WA 98239-5000
Internet Home Page: http://www.islandcounty.net/planning/

June 30, 2015

TO: Michelle Pezley

FROM: Tamra Patterson, Plans Examiner/Building Insp. TP

SUBJECT: 159/15 SPR
Welding shop home industry
Parcel #R22912-360-0400

The building department has reviewed the package information submitted and has no objections with the following comments:

1. A building permit will be required for the new structure. It will be required to meet the current International Building Code.

Please feel free to contact me at (360) 678-7806, or email tamrap@co.island.wa.us, if you have any questions regarding these comments.

Attachment B

ISLAND COUNTY PUBLIC HEALTH

P.O. Box 5000
Coupeville, WA 98239
www.islandcounty.net/health

TO: Michelle Pezley, Planning & Community Development

FROM: Aneta Hupfauer, Land Use Coordinator AH

DATE: April 28, 2015

RE: PRE 102/15 – Brager
Parcel No.: R22912-360-0400

Rec'd Island County
APR 30 2015
Community Development

After reviewing the referenced proposal, this office offers the following:

1. The applicant is proposing to build a shop to operate a family welding business.
2. There is an existing residence located on the referenced parcel. The residence is served by the Maple Glen Community Association water system and an on-site sewage disposal system (As-built #169-90).

This office has no objection to the approval of the referenced proposal.

Prior to final building occupancy and business operation Solid Waste Management Plan must be submitted to this office. Attached you will find forms and guidance. The SWMP is a "stand-alone" document and must contain, at a minimum, the following:

- Completed and signed SWMP form
- Site plan prepared in accordance with attached guidance
- Estimates of annual waste amounts and disposal plans on attached form
- Be sure to account for construction/demolition wastes as well as operational wastes

If, after reviewing the attached information and guidance, you have further need for assistance with preparing the SWMP, please contact Andrea Krohn, Solid Waste Program (360-679-7309 or A.Krohn@co.island.wa.us).

The above comments are preliminary and are subject to change as additional information is received about the proposal. If you have any questions regarding the above comments, please feel free to contact me at 360-678-7995 or AnetaH@co.island.wa.us.

/ah

Cc: file

ISLAND COUNTY PUBLIC WORKS
ROADS DIVISION
P.O. BOX 5000, COUPEVILLE, WA 98239
(360) 679-7331

William E. Oakes, P.E., Director/County Engineer
Connie W. Bowers, P.E., Asst. County Engineer

June 29, 2015

TO: Michelle Pezley, Planning and Community Development
FROM: Bill Poss, Public Works Development Coordinator

SUBJECT: SPR 159-15 Todd Brager
Proposed home industry welding shop
Parcel No. R22912-360-0400

Public Works has reviewed the submittal information and has the following comments:

A. TRANSPORTATION CONCURRENCY (ICC 11.04)

Island County Traffic Engineer Spencer Keane determined that a Certificate of Transportation Concurrency is not required Per ICC 11.04.050 Concurrency Exemptions subsection A.2.f. *Any other development that will have no transportation impact, and that will not change the traffic volumes and flow patterns in the afternoon peak travel period, as determined by the Director, such as Communication Towers.*

B. ACCESS AND INTERNAL CIRCUALTION (ICC 11.01)

Access to the subject site is from Maple Glen Road, a private road that gains access to the public road system at Newman Road. No new public or private road access is proposed. Maple Glen road is a paved private road that provides safe and convenient access to the site, suitable for the proposed use. The existing internal site access driveway is configured to provide safe and convenient ingress and egress with an emergency vehicle turnaround just past the building.

C. CLEARING AND GRADING REQUIREMENTS (ICC 11.02)

No clearing or grading for site improvements is proposed as the proposed building area is already a graded pad with gravel surfacing. Therefore a Clearing and Grading Permit with SEPA not required.

D. STORMWATER AND SURFACE WATER ORDINANCE (ICC 11.03)

Per 11.03.120 - *Exemptions for small residential development and other small development activities. Small residential development activities and other small development activities, including the regulated division of land, of lots 2.5 acres or larger in size shall be exempt from the stormwater quantity control, source control of pollution, and stormwater treatment BMPs of this chapter except in critical drainage areas and/or except development, as determined by the director, within or which is likely to impact a critical area.*

The subject 5 acre parcel is not within a Critical Drainage Area nor is the development likely to impact a critical area provided the stormwater runoff is allowed to flow in the natural drainage flow path and measures taken to avoid erosion and sediment transport from the site.

Attachment D

Application noted the roof runoff to be conveyed to existing drainage system. Given the limited amount of new impervious surfaces proposed and the large parcel size that is well vegetated the runoff is not likely to impact neighboring properties or critical areas provided runoff allowed to flow in a natural direction without sediment.

E. FIRE FLOW

Fire Flow requirements do not apply as the proposal is for a building that will be less than 4000 sf and over 50 feet from the existing residence. However, the Building Official may have fire suppression requirements based on occupancy/uses per the Building Code.

Given the above, Public Works has no objection to Site Plan approval provided the following condition is attached.

Stormwater runoff shall be managed to flow in non-erosive manner in the natural direction from the building and parking areas.

Please feel free to call me at 360 678-7813 or e-mail me at billp@co.island.wa.us if you have any questions regarding the above comments.

ISLAND COUNTY
PLANNING & COMMUNITY DEVELOPMENT
PHONE: (360) 679-7339 ■ from Camano (360) 629-4522, Ext. 7339 ■ from S. Whidbey (360) 321-5111, Ext. 7339 FAX: (360) 679-7306 ■ 1 NE 6th Street, P. O. Box 5000, Coupeville, WA 98239-5000

Internet Home Page: http://www.islandcounty.net/planning/

Inadvertent Archaeological and Historic Resources Discovery Plan for Island County

In the event that any ground-disturbing activities or other project activities related to this development or in any future development uncover protected cultural material (e.g., bones, shell, antler, horn or stone tools), the following actions will be taken:

1. When an unanticipated discovery of protected cultural material (see definitions below) occurs, the property owner or contractor will completely secure the location and contact:
    a. The property owner and project manager;
    b. A professional archaeologist;
    c. The Department of Archaeology and Historic Preservation (DAHP) (Gretchen Kaehler, 360-586-3088, 360-628-2755 cell);
    d. The Swinomish Indian Tribal Community (Larry Campbell, 360-840-4127);
    e. The Tulalip Tribes (Richard Young, 360-716-4635); Scott Schuyler, Upper Skagit Tribe (360-854-7090, cell 360 630 3680),
    f. Jackie Ferry, Samish Tribe (360-293-6404 x215), and Tara Duff, Stillaguamish Tribe (360-652-7362), Kerry Lyste, Stillaguamish Tribe (360-652-7362 ext. 226)
    g. Island County Community Development Department (360-679-7339).
2. If the discovery is human remains, the property owner or contractor will stop work in and adjacent to the discovery, completely secure the work area by moving the land-altering equipment to a reasonable distance, and will immediately contact:
    a. The property owner;
    b. The Island County Sheriff's Department (360-629-4523 x7310) and;
    c. The Island County Coroner, Robert Bishop (360679-7358) to determine if the remains are forensic in nature;
    d. If the remains are not forensic in nature the Department of Archaeology and Historic Preservation (DAHP) (Gretchen Kaehler 360-586-3088 and Guy Tasa 360-586-3534); will take the lead on determining the appropriate method of treatment for the remains and will consult with the affected tribes;
    e. A professional archaeologist; and
    f. Island County Planning and Community Development (360-679-7339).
3. Cultural material that may be protected by law could include but is not limited to:
    a. Buried layers of black soil with layers of shell, charcoal, and fish and mammal bones (Figure 1).
    b. Non-natural sediment or stone deposits that may be related to activity areas of people;

c. Stone, bone, shell, horn, or antler tools that may include projectile points (arrowheads),scrapers, cutting tools, wood working wedges or axes, and grinding stones (Figures 2 and 3);
d. Stone tools or stone flakes (Figures 2 and 3);
e. Buried cobbles that may indicate a hearth feature (Figure 4);
f. Old ceramic pieces, metal pieces, tools and bottles (Figures 5 and 6); and
g. Perennially damp areas may have preservation conditions that allow for remnants of wood and other plant fibers; in these locations there may be remains including:
    - Fragments of basketry, weaving, wood tools, or carved pieces; and
    - Human remains.

4. **COMPLIANCE WITH ALL APPLICABLE LAWS PERTAINING TO ARCHAEOLOGICAL RESOURCES (RCW 27.53, 27.44 and WAC 25-48) AND WITH HUMAN REMAINS (RCW 68.50) IS REQUIRED. FAILURE TO COMPLY WITH THESE REQUIREMENTS COULD RESULT IN A MISDEMEANOR AND POSSIBLE CIVIL PENALTIES AND/OR CONSTITUTE A CLASS C FELONY.**

Figure 1: Shell midden

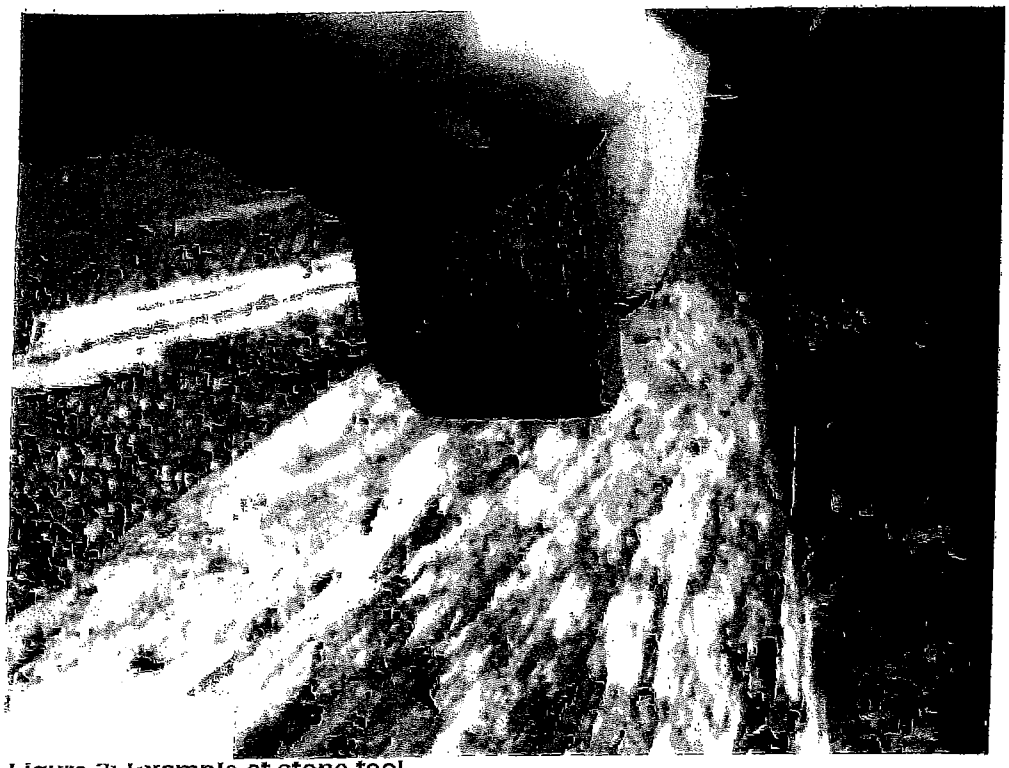


Figure 2: Example of stone tool

Figure 3: Example of stone flake.

Figure 4: Example of hearth (oven) feature.

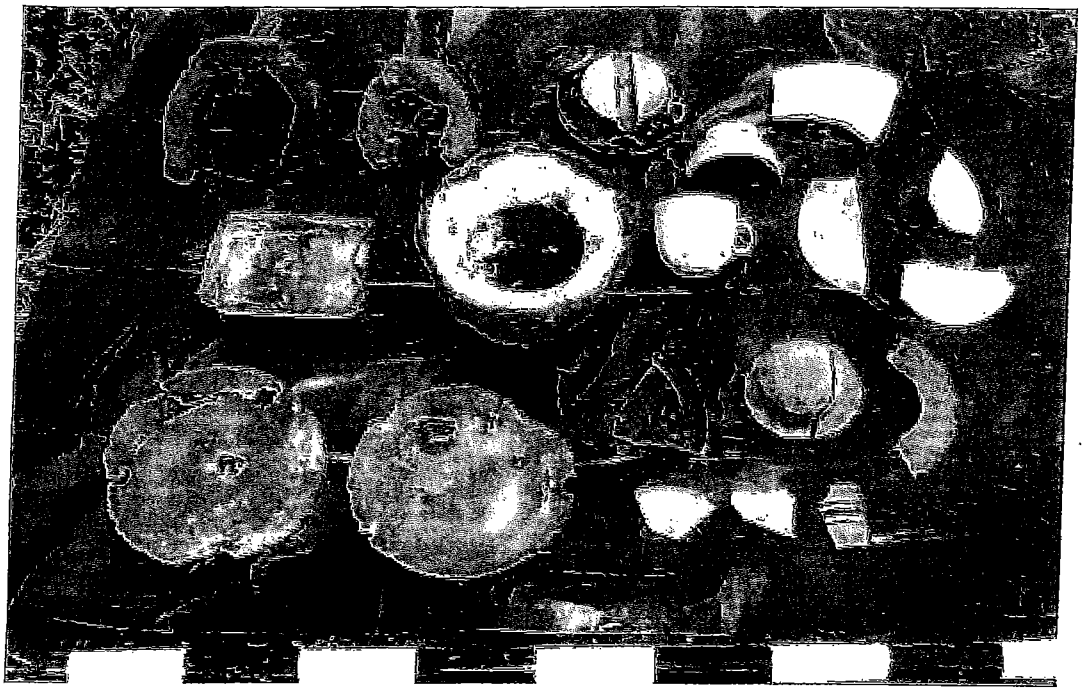


Figure 5: Example of historic artifacts from debris scatter.

Figure 6: Example of bottle from historic debris dump.