ISLAND COUNTY HEARING EXAMINER

RE: Preliminary Long Plat Applicant: Hansell Mitzel, LLC	)))))	File No. PLP 135-13 FINDINGS OF FACT CONCLUSIONS OF LAW AND DECISION

SUMMARY OF APPLICATION AND DECISION

APPLICATION: The Applicant, Hansell Mitzel, LLC, is seeking preliminary approval of a subdivision of a 9.78-acre parcel, zoned Rural Village, into 19 single-family residential lots and two mixed-use lots. The property is located between East Camano Drive and Elger Bay Road, Camano Island, Washington.

DECISION: The Island County Hearing Examiner hereby grants Preliminary Long Subdivision Approval to the proposal by Hansell Mitzel, LLC, for a 21-lot subdivision of a 9.7-acre parcel, located between East Camano Drive and Elger Bay Road, Assessor's Parcel No. R33119-382-2030, subject to conditions.

FINDINGS OF FACT

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted herein and testimony presented at the public hearing on January 30, 2014.

I.

PRELIMINARY INFORMATION

Applicant: Hansell Mitzel, LLC

Property Location: Sec 19, TWP31N, Rng 3E, W.M.; northeasterly of Elger Bay Road and southwesterly of East Camano Drive, Camano Island, Washington

Applicable Ordinances, Statutes and Regulations:
Land Use Review Process, ICC 16.19
Land Divisions, ICC 16.06 and RCW 58.17
Rural Village [RV], ICC 17.03.130

Site Coverage and Setbacks, ICC 17.03.180.S

SEPA: SEPA Determination of Non-Significance, issued by Island County, December 30, 2013

Publication: June 10, 2013 and January 23, 2014

Mailing of Notice to Applicant: May 28, 2013

Sign Posted: June 3, 2013

Mailing of Staff Report: January 17, 2014

Date of Complete Application: May 24, 2013

Hearing Date: January 30, 2014

Exhibit Log:

Tab 1

1. Staff Report
2. Notice of SEPA Determination

Tab 2 – Community Meeting

3. Notice of Community Meeting for July 8, 2013, no date
4. Mailing list of parties of record, no date
5. Affidavit of mailing signed by Virginia Shaddy, dated 6/19/13
6. Affidavit of Posting the Community Meeting Sign, received 6/21/13
7. E-mail from Nick Whipple to Pam Leamer, dated 7/9/13
8. E-mail from Nick Whipple to Fatima Mulholland, Phil Cohen & John Bertrand, dated 7/10/13
9. E-mail from Pam Leamer with meeting minutes to Nick Whipple, dated 7/11/13

Tab 3 - Application

10. Land Development Permit Application, received 5/1/13
11. Applicant Authorization Form, received 5/1/13
12. Assessor's Map, received 5/1/13
13. Vicinity Map, received 5/1/13
14. Field Indicator Worksheet, received 5/1/13
15. Preliminary Application for Long Plat, received 5/1/13
16. Letter from Camano Water Association, received 5/1/13
17. Subdivision Guarantee, received 5/1/13
18. Map Quest, no date
19. Preliminary plat map, no date
20. Assessor map, no date
21. Vicinity map, no date
22. Limited Liability Company Agreement, received 5/1/13
23. Site Registration, received 5/1/13
24. Preliminary Drainage Report, received 5/1/13
25. SEPA Checklist, received 5/1/13
26. Large Maps, received 5/1/13

Submittal Received 5/10/13

27. Letter to Nick Whipple from Pam Leamer, received 5/10/13
    a. Large Maps, received 5/10/13

Submittal Received 9/23/13

28. Letter to Nick Whipple, received 9/23/13
29. Additional Typical Lot Site Plat Plan, 9/23/13
30. Letter to John Bertrand from Pam Leamer, received 9/23/13
31. Letter to John Bertrand from Pat Severin, received 9/23/13
32. E-mail from Pam Leamer to John Bertrand, received 9/23/13
33. Agreement document, received 9/23/13
34. E-mail to Pam Leamer from Nick Whipple, dated 8/2/13
35. Revised Preliminary Drainage Report, received 9/23/13
36. Large maps, received 9/23/13
37. Landscape Plans, received 9/23/13

Submittal Received 11/1/13

38. Letter from Devin Joslin to Pam Leamer, received 11/1/13

Submittal Received 11/21/13

39. Revised Preliminary Drainage Report, received 11/21/13
40. Large Plans, received 11/21/13

Submittal Received 11/27/13

41. Waterline Plan, received 11/27/13

Tab 4 – Site Data

42. Request for Comment and Site data, dated 5/1/13

Tab 5 – Review Letters

43. Review letter with attachments, dated 7/19/13

Tab 6 – Review Comments

44. Letter from Cindy White, dated 5/24/13
45. Letter from William Oakes, dated 7/15/13
46. Letter from John Bertrand, dated 7/26/13
47. Comment letter from Lee Heinrichs, received 8/1/13
48. Memorandum from Aneta Hupfauer, received 10/14/13
49. Letter from John Bertrand, dated 10/28/13
50. Letter from Devin Joslin, dated 10/31/13
51. Letter from John Bertrand, dated 12/5/13

Tab 7 – Notices

52. Routing Sheet dated 5/2/13
53. Notice of Complete Application, dated 5/24/13
54. Notice to Stanwood/Camano News, no date
55. Notice of application with SEPA sent to neighbors, no date
56. Affidavit of mailing, dated 5/28/13
57. Affidavit of posting, dated 6/3/13
58. Affidavit of publication from Stanwood/Camano News, received 6/10/13
59. Notice of Hearing schedule, dated 12/30/13

Tab 8 – Correspondence

60. E-mail from Doug Cox to Nick Whipple, dated 7/18/13

Tab 9 – Public Comments

61. Letter from Ronald Gilmour to Nick Whipple, received 6/7/13
62. Letter from Penney Peters to Nick Whipple, received 6/10/13
63. E-mail from Jean Milnor to Nick Whipple, received 6/10/13
64. E-mail from Chris Stapelfeldt to Nick Whipple, received 6/10/13
65. E-mail from Mary F. Hughes to Nick Whipple, received 6/10/13

66. Letter from Penney Peters to Nick Whipple, received 6/11/13
67. E-mail from Judy Chapman to Nick Whipple, received 6/11/13
68. E-mail from Paul Tibert to Nick Whipple, received 6/11/13
69. E-mail from Karl & Diane Ostrom to Nick Whipple, received 6/11/13
70. Letter from Richard & Fatima Young to Nick Whipple, received 6/11/13
71. E-mail from Frank & Ann Alishio to Nick Whipple, received 6/12/13
72. E-mail from Paul Friedrich to Nick Whipple, received 6/12/13
73. E-mail from Darrell & Millie Hull to Nick Whipple, received 6/12/13
74. Letter from Aaron & Anna Mitchell to Nick Whipple, received 6/13/13
75. Letter from Grant Gard to Nick Whipple, received 6/13/13
76. Letter from F. Simon to Nick Whipple, received 6/13/13
77. E-mail from Fatima Young to Nick Whipple, received 6/13/13
78. Letter from Lucille Ekrem to Nick Whipple, received 6/13/13
79. Letter from Barbara Gibbs to Nick Whipple, received 6/17/13
80. E-mail from Joe & Carol Thomas to Nick Whipple, received 6/17/13
81. E-mail from Jim Quait to Nick Whipple, received 6/17/13
82. E-mail from Dr. Ashraf Ali to Nick Whipple, received 6/17/13
83. E-mail from Joan Schrammeck to Nick Whipple, received 6/17/13
84. E-mail from Mary Hughes to Nick Whipple, received 6/18/13
85. Letter from Chris Stapelfeldt & Antonia Guerra to Nick Whipple, received 6/17/13
86. Letter from members of Neighboring Communities to Nick Whipple, received 6/18/13
87. Letter from members of Neighboring Communities to Nick Whipple, received 6/18/13
88. E-mail from Bob Storwick to Nick Whipple, received 6/18/13
89. E-mail from Karen Fineide to Nick Whipple, received 6/18/13
90. E-mail from Ken & Pam Neilson to Nick Whipple, received 6/18/13
91. Letter from Concerned Residents of Rainbow Lane, received 6/19/13
92. Letter from William B, Odannel to Nick Whipple, received 6/19/13
93. E-mail from Mr. & Mrs. McLaughlin to Nick Whipple, received 6/20/13
94. E-mail from Chris Stapelfeldt to Nick Whipple, received 7/8/13
95. E-mail from Phil Cohen to John Bertrand, received 7/9/13
96. Letter from Grant Gard to Nick Whipple, received 7/11/13

Tab 10 – Exhibits Added After H.E. Binder Mailed

97. Notice of staff report availability to parties of record, mailed 1/17/14
98. Letter to Pam Leamer with Staff Report and enclosures, dated 1/17/14
99. Courtesy notice to other parties, mailed 1/23/14
100. Affidavit of Publication from Stanwood/Camano News, received 1/23/14

Tab 11 – Exhibits submitted during the Hearing

101. Letter from C.A.R.E, received 1/30/14
    a. Color GIS Map
    b. Water Well Report
    c. Well B Report
    d. Site Map
    e. SEPA Rules Page 6
    f. SEPA Rules continuation
    g. WAC 197-11-800
    h. WAC 197-11-800, dated 1/29/14
    i. E-mail from Fatima Mulholland to Allison Warner, dated 1/29/14
    j. Overall Site Plan, dated 4/2013

102. Stormwater Report, received 1/30/2014
103. Traffic Concerns-Site Plan, received 1/30/14
104. First Picture of Run-off on Guerra property, received 1/30/14
105. Second Picture of Run-off on Guerra property, received 1/30/14

Additional Items After the Hearing

- E-mail from Dan Mitzel to Pam Leamer, Virginia Shaddy & Nick Whipple, dated 1/31/14
- Memorandum from Michael Bobbink to Nick Whipple, dated 1/31/14
- Memorandum with attachments from Nick Whipple to Michael Bobbink, dated 2/3/14

HEARING TESTIMONY

Nick Whipple
Island County Planning and Community Development
PO Box 5000
Coupeville, WA 98239

John Bertrand
Island County Public Works
PO Box 5000
Coupeville, WA 98239

Pat Severin
Sound Development Group
1111 Cleveland Ave, Ste 201
Mount Vernon, WA 98273

Pam Leamer
Hansell Mitzel Homes
PO Box 2523
Mount Vernon, WA 98273

Joan Schrammeck
1067 Scenic Ave
Camano Island, WA 98282

Allison Warner
316 Dove Drive
Camano Island, WA 98282

Mary F. Hughes
1341 Rainbow Lane
Camano Island, WA 98282

WP Pat Metz
1285 SE Camano Drive
Camano Island, WA 98282

Paula Meckna
1545 Watkins Drive
Camano Island, WA 98282

Linda Herrgesen
1225 View Street
Camano Island, WA 98282

Bill O'Donnel
1405 Rainbow Lane
Camano Island, WA 98282

Antonia Guerra
1264 View Street
Camano Island, WA 98282

Phyllis Gard
1355 Crestview
Camano Island, WA 98282

Don Sanford
1244 View Street
Camano Island, WA 98282

Grant Gard
1355 Crestview
Camano Island, WA 98282

Barbara J. Gibbs
1423 Rainbow Lane
Camano Island, WA 98282

Sam Ingraffia
1446 Crestview
Camano Island, WA 98282

Dennis Roberts
1502 Thompson Drive
Camano Island, WA 98282

Mark Bankson
1359 Crestview Drive
Camano Island, WA 98282

II.

Hansell Mitzel, LLC is seeking preliminary Plat Approval of a subdivision of a 9.78-acre parcel into 19 single-family residential lots and two non-residential/mixed-use lots, a private road, and a 0.88 acre community tract. The Application was deemed complete on May 2, 2013. A Notice of Application was published, mailed, and posted.

35 public comments were received during the initial comment period, which ran from June 4 to June 18, 2013. The public comments were uniformly negative and, on occasion, heated. Some who commented accused Island County Staff of being "in collusion" with the Applicant. These comments were made prior to any Staff review of the Application.

The public comments focused on the loss of an approximately 10-acre forested area; perceived adverse traffic impacts; and perceived serious drainage issues. Other issues were raised.

As a result of the strong feelings and concerns expressed by property owners in the vicinity, and by Camano Action for a Rural Environment [CARE], the Applicant voluntarily held a community meeting on July 18, 2013, to discuss the proposal with the community. As part of Island County departmental Staff review of the proposal, Staff reviewed the minutes and tape of public meeting.

Between June and mid-January, the proposal was reviewed by Island County Planning and Community Development, Island County Public Works, and the Island County Health Department. Comments were also received from the Snohomish P.U.D., and from the Stanwood School District.

Island County Planning and Community Development recommended Preliminary Approval, subject to Conditions in a Staff Report, dated January 17, 2014, Exhibit No. 1 in the Hearing Examiner file. Preliminary Approval was recommended,

subject to 19 Conditions of Approval, set forth on pages 6 thru 10 of the Staff Report.

III.

As set forth in the Staff Report, both Island County Public Works and Island County Public Health have found that, subject to conditions, the project is in compliance with regulations administered by them, and recommend Preliminary Approval.

A Determination of Environmental Non-significance [DNS] was issued for the project. The DNS was not appealed.

The site contains no critical areas.

The public hearing was held on January 30, 2014, on Camano Island. The public hearing was well attended. Twelve members of the public commented on the proposal. Joan Schrammeck and Allison Warner testified on behalf of CARE.

While there was not complete agreement among the public testimony, a majority continued to express concerns. The major concerns revolved around traffic impacts and drainage.

CARE also expressed concern about and opposition to the setting aside of Lots 20 and 21 for mixed-use and/or commercial development. One member of the public supported having commercial development to serve the surrounding residential areas and suggested that a restaurant in the area would be very desirable.

IV.

The approximately 10 acre parcel is zoned Rural Village [RV]. The much smaller parcel to the north, containing the Windermere Real Estate Offices and a couple

of commercial uses comprises the rest of the Rural Village zoning in this general area.

The subject parcel is forested and undeveloped at this time. It is located in an area containing extensive urban density, single-family residential uses.

The subject parcel, along with the Windermere parcel to the north, are located in a V-shaped area created by the intersection of Elger Bay Road and East Camano Drive. There are a small number of non-residential uses located across Elger Bay Road from the subject property.

V.

The original proposal was for 21-lots, limited to residential development. All of the lots are greater than 18,000-square feet, or approximately four-tenths of an acre. These lots are significantly larger than the older, single-family lots, located in the Camano Country Club Development.

VI.

At the request of Planning, the Applicant agreed to modify the proposal to make Lots 20 and 21, mixed-use or non-residential use lots. Planning concluded that setting aside at least a couple of the lots for other than single-family residential development was needed in order to make the proposed subdivision consistent with the Comprehensive Plan for Rural Village zoned property.

VII.

The access to the property would be off of Crest Place. A private road running down the middle of the parcel would create access for all but three lots. The three remaining lots, including the mixed-use or non-residential use lots, Lots 20 and 21, would access directly off of Crest Place. Crest Place is a wide and lightly used road, which connects to Elger Bay Road at the southwest corner of the parcel. Traffic studies were done both before and after the modification of the

proposal to include the two mixed-use/commercial lots. The traffic studies indicated, and Island County Public Works concurred, that the roads could easily handle the additional traffic created by the 21 lot subdivision.

In spite of the traffic studies, and the conclusions of Island County Public Works, there was still significant concern expressed at the public hearing regarding the adequacy of the roads to serve the proposed development.

Much of the concern about traffic came from residents on Rainbow Lane. Rainbow Lane lies to the south of the southeast corner of the subject parcel. Rainbow Lane is a narrow, almost single-lane road, which runs from Crest Place on one end to East Camano Drive at its other end. The lane serves high-density, single-family development. The record indicates that the road can be blocked by emergency vehicles. It serves only as an almost alley-like road, accessing single-family development on both sides. It is not an appropriate road for any significant additional traffic.

An aerial review of the area on Google Earth, and a site visit, make it clear that traffic accessing this development off of Crest Place is highly unlikely to use Rainbow Lane for any purpose. The access road to this development comes off of Crest Place before Rainbow Lane is reached. The access proposed for this development is very close to Elger Bay Road which quickly connects to East Camano Drive, accessing arterial roads, and would be by far the fastest and most convenient way for vehicles from this development to access all other areas of the island except for Rainbow Lane, itself. Still, it is appropriate to discourage additional traffic resulting from this development from using Rainbow Lane. In order to do so, all Parties at the public hearing agreed that it would be appropriate to place a right turn only sign for traffic exiting the development onto Crest Lane. This would funnel all traffic leaving the development down Crest Lane to Elger Bay Road and away from Rainbow Lane.

As indicated, traffic in this area has been the subject of traffic studies by qualified Traffic Engineers, and has been reviewed by the Engineering Department of Island County Public Works. While traffic concerns continued to be raised at the public hearing, no evidence was introduced into the record that would contradict the findings of the Traffic Engineers or Island County Public Works. There is clear, cogent, and convincing evidence that an appropriate access without significant traffic impacts has been proposed for the subdivision.

VIII.

The other major issue raised by members of the public, both during the initial comment period and at the public hearing, concerned drainage impacts from the proposed development.

A number of those concerned lived in the area of View Road, which is located across East Camano Drive from this parcel and from the Windermere site. There are obvious drainage problems in this area. Island County Public Works is aware of the problems. The drainage problems have been addressed by a Stormwater Report, addressing drainage improvements to the Elger Bay Road-East Camano Drive area. The Stormwater Report was prepared for Island County Public Works by David Evans and Associates in March 2010. A copy of this Stormwater Report was placed into the record by CARE and has been marked as Exhibit No. 102. The Hearing Examiner has reviewed this drainage report, as well as the Preliminary Drainage Report, submitted by the Applicant, and all of the memoranda of review of the submitted Preliminary Drainage Report prepared by Public Works while reviewing this proposed subdivision.

A Preliminary Drainage Report was submitted on June 1, 2013, as part of the original Application.

Stormwater concerns were addressed by John Bertrand, Development Coordinator for Island County Public Works. On July 26, 2013, Mr. Bertrand sent

comments to the Engineer for the Applicant, addressing the requirements of Public Works. Mr. Bertrand requested that the Engineer for the Applicant address numerous issues regarding storm water and surface water. These issues were addressed by the Applicant in a response memorandum to Mr. Bertrand dated September 11, 2013. The Applicant's Engineer then submitted a Revised Preliminary Drainage Report, dated September 23, 2013.

The Applicant's Revised Drainage Report was reviewed by Mr. Bertrand, who prepared a memorandum dated October 28, 2013, Exhibit No. 49 in the Hearing Examiner file, which again requested additional submittals and addressed additional requirements to be met prior to obtaining Public Works approval for the Preliminary Drainage Plan. Further revisions to the Drainage Plan were submitted by the Applicant in a Revised Plan, dated November 11, 2013. This was again reviewed by Mr. Bertrand, who informed Planning in a memorandum, dated December 5, 2013, that Public Works had no objection to approval of the preliminary long plat, but included a number of notes clarifying requirements regarding the handling of storm water and surface water.

The Hearing Examiner found nothing in the David Evans Stormwater Report, referred above, which would contradict any of the findings reached by Public Works in reference to handling storm water on this site.

Public Works has concluded that all storm water generated from this development can be successfully infiltrated on this site and will not leave the site or cause adverse impacts offsite. The soils onsite are very conducive to appropriate storm water infiltration and for onsite septic systems. While CARE has suggested that, based on a couple of well logs, there is at some depth a clay layer and stated that they are concerned water infiltrating onsite will reach this layer and flow downstream causing adverse impacts offsite. However they have provided no expert or professional evaluation or testimony which would support the stated concerns.

The record contains clear, cogent, and convincing evidence of a thorough review of storm water issues, adequate testing of the site, and contains professional conclusions of qualified Engineers that storm water can be successfully infiltrated onsite with no adverse offsite impacts.

IX.

The factual findings reached by Planning and Community Development Staff in the Staff Report are supported by the record as a whole and these findings are adopted as Findings of Fact herein, unless contradicted by specific factual findings entered by the Hearing Examiner herein.

X.

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.

Required Public Notices have been given.

II.

A SEPA Determination of Non-significance [DNS] was issued for the project. The SEPA Determination was not appealed. Issues raised at the public hearing regarding SEPA are not properly before the Hearing Examiner.

III.

The proposed subdivision was appropriately processed as a Type III, quasi-judicial decision made by the Hearing Examiner in accordance with the requirements of ICC 16.19.

IV.

Subject to the attached Conditions of Approval, the proposal is consistent with Subdivision Requirements of ICC Chapter 16.06 and the requirements of RCW 58.17.

V.

Subject to the Conditions of Approval, the proposed subdivision is consistent with Island County Code Titles 8 [Health, Welfare, and Sanitation], 11 [Land Development Standards], 13 [Public Works], and 17 [Zoning].

VI.

Some members of the public, including CARE, requested that Lots 20 and 21 not be set aside for uses other than single-family residential. The Applicant originally proposed only single-family residential uses for the subdivision. The Applicant acquiesced in setting aside Lots 20 and 21 for either non-residential or mixed-use at the request of the Planning Department. Planning concluded that setting aside the entire 10-acre Rural zoned parcel for a single-family residential subdivision would be inconsistent with the Comprehensive Plan Goals and Policies for the Rural Village zone. It does appear that the Applicant would like the flexibility to use all of the lots for single-family residential purposes only.

Rural Village Lands [RV] is described and defined in the Comprehensive Plan as follows:

> **Definition:**
> Rural Village lands are smaller existing non-residential and mixed-use areas located within mixed-use areas of more intensive rural development and are primarily intended for the retail sale of convenience goods as well as personal and business services needed to support the localized geographic area.
>
> **Designation Criteria:**
> A. The designation shall primarily be located on the periphery of residential neighborhoods.
>
> B. Area must be served by an approved public or private water system.

C. In combination with other portions of an area of more intensive rural development, is larger than 5 acres in size.

D. These areas are generally located along highways, major arterials and collector roads.

E. Characterized by existing development that is predominantly non-residential and mixed-use.

F. Located within a mixed-use area of more intensive rural development as established by forming a logical outer boundary.

The approximately 12 acres at the intersection of Elger Bay Road and East Camano Drive, zoned Rural Village, contains existing non-residential development, as described in the Findings and includes the subject, approximately 10-acre undeveloped and wooded parcel. It is bordered by two major arterials and located on the periphery of a very large area of urban density residential development.

While single-family residential uses are permitted in this zone, the above definition makes it clear that the primary purpose of the zone is to provide retail, personal, and business services to support the intensive residential development in the area.

There are no other Rural Village areas located in the immediate vicinity of the subject property which could serve this localized, geographic area. Turning the entire undeveloped portion of this small Rural Village parcel into a large lot, single-family residential subdivision is clearly inconsistent with purpose of the Rural Village zone, and would therefore be inconsistent with the Comprehensive Plan.

The real question is not if the Planning Department erred in requiring at least some of the property to be set aside for other than single-family residential uses by requiring at least some mixed or non-residential use. The real question is

whether just setting aside less than ten percent [10%] of this approximately 10 acre undeveloped Rural Village property for uses other than single-family residential is adequate.

The Goals and Policies for the Rural Village Zoning Designation are set forth in the Comprehensive Plan on pages 1-124 and 1-125. These Goals and Policies are incorporated herein through this reference. The stated Goals and Policies envision a mixed-use area with its own character, and community amenities designed to serve the surrounding community.

As pointed out by Staff in a post-hearing submission requested by the Hearing Examiner, many of the uses allowed in the Rural Village area are also allowed in other Rural Designations, either as permitted or conditional uses. Uses that can be provided by the Rural Village to the surrounding community are not limited only to areas zoned Rural Village.

A similar Rural Village zoned site to the south was developed in a manner similar to this proposal with most lots created set aside for single-family residential uses, but with a sizable parcel set aside for mixed or non-residential uses.

Some members of the community have suggested that commercial uses in these outlying areas often fail and that there may be limited demand for the use of the parcels created by this subdivision other than for single-family residential purposes. That may be true. It is an expressed concern of the Applicant that parcels designated for use, other than single-family residential, may not be in demand.

Balancing all of these factors, the Hearing Examiner concludes that the proposal submitted, which allows residential uses on 19 of the 21 lots, but limits Lots 20 and 21 to mixed use or non-residential uses is acceptable.

V.

CARE raises concerns and suggests there are issues resulting from the designation of two parcels as mixed-use or non-residential parcels. CARE suggests that the review done of the subdivision has not, and cannot, at this point, take into account impacts from uses on these two parcels. While that is true, what CARE fails to recognize is that, ICC 17.03.130B requires any use that exceeds 4,000 square feet of gross floor area to be approved, when proposed, by Site Plan Approval, as a Type II Decision. Any proposal exceeding 4,000 square feet would be required to show that, as proposed, it meets all of the applicable standards, including those covering drainage and onsite septic systems. Other issues, including parking, appropriate access, and compliance with the land use standards, including non-residential design, landscape and screening guidelines, as set forth in ICC 17.03.180 will be addressed during Site Plan Review. The impacts of development of lots 20 and 21 will be assessed and conditioned at the time the development is proposed.

VI.

There was a citizen request that all activities associated with development onsite be accessed from Elger Bay Road onto Crest Lane and that no development activities involve the use of Rainbow Lane. The Applicant and County agree that this is an appropriate condition. The Hearing Examiner should include it as a Condition of Approval.

VII.

There was more than one request that access be required to be taken off Elger Bay Road. This would result in a second access off Elger Bay Road, just north of Crest Place. This would clearly unnecessarily complicate traffic issues and create possibly significant safety concerns by adding an unnecessary additional local access onto Elger Bay Road, a major arterial. Crest Place provides an already existing and more than adequate access from the subject parcel onto Elger Bay Road.

VIII.

Subject to Conditions of Approval, the proposal will be consistent with all of the requirements for a Preliminary Long Subdivision Approval, including the finding that the subdivision as proposed is in the public interest, as required by RCW 58.17, and will be consistent with all applicable Island County Ordinances. The Hearing Examiner should grant approval to the proposed subdivision, subject to Conditions of Approval.

IX.

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

DECISION

The Island County Hearing Examiner hereby grants Preliminary Long Subdivision Approval to the proposal by Hansell Mitzel, LLC, for a 21-lot subdivision of a 9.7-acre parcel, located between East Camano Drive and Elger Bay Road, Assessor's Parcel No. R33119-382-2030, subject to the following conditions:

1. The Final Plat shall be consistent with the requirements identified in ICC 16.06.120.

2. This Decision is a Preliminary Approval only. A Final Plat Application shall be submitted to Island County for review and approval.

3. The Final Plat must conform to the Approved Preliminary Plat except as specifically authorized by this Decision.

4. The Applicant shall comply with the requirements and conditions noted in the memo from Island County Public Works dated December 5, 2013, unless modified by the Public Works Administrator.

   A right turn only sign shall be placed on the interior roadway where it approaches the stop sign exiting the site onto Crest Place.

   All traffic associated with development on the site, shall access the site off of Elger Bay Road onto Crest Place. No traffic involved in development or construction activities on the site shall use Rainbow Lane.

5. The Applicant shall comply with the requirements and conditions noted in the memo from Island County Public Health dated May 29, 2013, unless modified by the Public Health Administrator.

6. Prior to Final Plat Approval, the Applicant shall complete all site and off-site improvements required as a condition of preliminary approval, unless modified by the County Administrator.

7. All utilities installed on-site shall be underground.

8. All proposed development shall comply with the State Noise Ordinance, air pollution control regulations, water quality standards, and all other pertinent Codes and Ordinances.

9. The Applicant shall assign ownership and responsibility for maintenance and operation of the storm water pond and rain garden through an Operations and Maintenance Covenant; this covenant shall be recorded with the Island County Auditor's Office prior to Final Plat Approval.

10. Prior to Final Plat Approval and unless modified by the County Administrator, the Applicant shall provide maximum impervious surface limits and maximum building coverage allowed for individual lots. The maximum impervious surface allowed for the total subdivision is seventy (70) percent of the site, or 298,351 square feet; the maximum building coverage allowed for the total subdivision is fifty (50) percent, or 213,108 square feet. Once verified by Staff as compliant with ICC 17.03.180.S, these limits shall be noted on the face of the plat and reviewed with all future building permits. The maximum impervious surface allowed for Lots 20 and 21 shall be seventy (70%) percent of each lots area.

11. This Preliminary Subdivision Approval shall expire if all requirements for Final Approval have not been fulfilled and the Subdivision recorded within seven (7) years of the date of the Preliminary Approval. Provided that any judicial appeal filed and accepted for review after Preliminary Approval shall automatically stay the time periods referenced above until a Final Decision on the appeal is rendered.

12. This Decision shall not be construed to authorize work, development, construction, or other site modifications in excess of the work, development, construction, and modifications specifically authorized by this Decision.

13. In accordance with ICC Chapter 11.03, the Applicant shall apply several Erosion and Sedimentation Control (ESC) Requirements to all development activities:

a. Erosion on-and off-site. During and after construction, all persons engaging in development activities shall minimize erosion and sedimentation on-site and shall protect properties and watercourses downstream from the site from erosion due to increases in the velocity and peak flow rate of stormwater runoff from the site.

b. Transport of sediment. The Applicant shall minimize the transport of sediment onto paved surfaces, and if sediment is transported onto a paved surface, shall clean the paved surface at the end of each day in accordance with erosion and sedimentation control best management practices (BMPs).

c. Stabilizing exposed soil. The Applicant shall stabilize denuded areas and soil stockpiles with temporary erosion and sedimentation control BMPs.

d. Temporary erosion and sedimentation control measures shall be maintained until final site stabilization.

e. Sediment retention. The Applicant shall route stormwater runoff from the site through a sediment retention BMP.

14. Should archaeological materials (e.g. bones, shell, stone tools, beads, ceramics, old bottles, hearths, etc.) be observed during project activities, all work in the immediate vicinity must stop and the State Department of Archaeology and Historic Preservation (360-586-3065), the County Planning Department (360-679-7339), and the affected Tribe(s) shall be contacted immediately. If any human remains are observed, all work shall cease and the immediate area secured. Local law enforcement, the county medical examiner (360-679-7358), State Physical Anthropologist, Department of Archaeology and Historic Preservation (360-586-3534), the County Planning Department (360-679-7339), and the affected Tribe(s) must be contacted immediately. 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.

15. The following shall also appear on the face of the Final Plat:

a. The existing parcel number and final plat number must appear at the top right corner of each sheet. The Final Plat number will be assigned to the plat at the time of submittal. Please show the following on the top right corner of each sheet:
PLP_____ R33119-382-2030

b. The name of the subdivision:

Camano Sunrise View Estates Div. 2

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

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

    b. "*Island County accepts no responsibility for the maintenance and operation of the drainage facilities on-site. Further, Island County assumes no liability for the safety and performance of said drainage facilities."*

17. The following shall appear under Restrictions on the Final Plat:

    a. "*Minimum building setbacks shall be as follows: Lots 1 through 9 shall have a minimum building setback of twenty (20) feet from the local access road southwest that serves these lots and a minimum building setback of thirty (30) feet from East Camano Drive to the northeast. Lots 10 through 21 shall be setback thirty (30) feet from Elger Bay Rd and twenty (20) feet from the local access road northwest and from Crest Pl. to the south. Building setbacks for the side yard may be reduced to zero on one side pursuant to ICC 17.03.180.S Setbacks for the Rural Village zone."*

    b. *"Tract A shall be restricted to recreation use and a community drainage facility only. No other development shall be permitted within said tract."*

    c. *"Future development of lots twenty (20) and twenty-one (21) shall have mixed use or non-residential development only and will be subject to the requirements of ICC 17.03 Island County Zoning Code, and Island County design guidelines."*

    d. *"The open space is to be left in its undisturbed natural state, except for those portions needed for storm water facilities designated in Tract A and the removal of dead or dying trees that are an immediate threat to utility lines, a building, or other improvements. <u>The clearing on site</u> shall consist of the minimum clearing necessary for development a building site."*

e. *"During all installation, maintenance, or repair of drainfields and drainage facilities in the Open Space, the only clearing, cutting, or removal of vegetation shall be within an area which is the minimum needed to meet Island County Health Department requirements. All other vegetation must remain and meet the Open Space restrictions as noted herein. No clearing, cutting, or removal of vegetation in the open space areas, outside the drainfield areas, shall be allowed unless reviewed and approved by Island County. Minor tree thinning shall be reviewed and considered by Island County for purposes of light and view enhancement."*

f. *"Lots one (1) through nineteen (19) shall be limited to single-family residential use. Prior to issuance of building permits for Lots one (1) through nineteen (19), a landscape plan in substantial conformance with the sheets dated September 19, 2013, Job No. 1327, L-1 (Planting Plan) and L-2 (Typical Lot Plan, Note and Details) must be submitted to Island County Planning and Community Development and shall be fully implemented on each lot prior to final occupancy of that home. Said landscape plan shall show the location of any proposed drywells and shall include the amount of impervious surface proposed."*

18. The proposed building envelopes, driveways, waterlines, drywells, storm drains, and landscaping as shown on the preliminary plat map shall be removed from the final plat map.

19. The above requirements are subject to change if proposed lot sizes or any other information provided by the applicant or their authorized representative proves inaccurate.

Entered this 14th day of February, 2014, 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:

This decision of the Hearing Examiner shall be a final and conclusive decision unless within fourteen (14) days following the mailing of such decision a written statement of appeal is filed with the Island County Board of Commissioners by the applicant, a Department of the County, or Party of Record, who is also an Aggrieved Person. Said statement shall set forth any alleged errors and/or the basis for appeal and shall be accompanied by a fee pursuant to the fee schedule adopted by the Board; provided that

such appeal fee shall not be charged to a department of the County or to other than the first appellant ICC 16.13.100.b; ICC 16.19.190.