



REQUEST FOR CITY COUNCIL ACTION Staff Report

MEETING DATE: June 12, 2006 @ 7:00 p.m.

SUBJECT: **Seagrass Cottages II.** The Applicant is seeking approval and necessary permits for a preliminary plat, planned unit development and shoreline substantial development permit that would allow development of a 68-unit multifamily residential subdivision on an approximately 20-acre site in the Marine Planned Recreation zone on Semiahmoo Spit in Blaine.

PROPONENT: Gepetto Properties LLC, P.O. Box 4094, Tumwater Washington, 98501

PROPONENT'S AGENT: Trillium Corporation, 4350 Cordata Parkway, Bellingham, Washington, 98226
(The Applicant)

SUBMITTING DEPARTMENT: Community Development

PREPARED BY: Terry Galvin, Community Development Director
Rollin Harper, Planning Commission Contract Staff

AGENDA LOCATION:

<input type="checkbox"/> Comments/Communications	<input type="checkbox"/> Consent	<input type="checkbox"/> Committee Reports
<input type="checkbox"/> Unfinished Business	<input checked="" type="checkbox"/> New Business	<input type="checkbox"/> Public Hearing
<input type="checkbox"/> Standing Committee(s)		

ATTACHMENTS

- A. Planning Commission Recommendation to City Council Regarding Seagrass Cottages II
- B. Seagrass Cottages II Concept Plan
- C. Seagrass Cottages II Preliminary Plat Exhibit
- D. Mitigated Determination of Nonsignificance (MDNS)
- E. Seagrass Cottages II Alternative Decision: Findings of Fact, Conclusions of Law, and Conditions of Approval
- F. Seagrass Cottages II Alternative Concept Plan
- G. Seagrass Cottages II Public Comment Summary

STAFF REPORT OUTLINE

- I. Summary of Project Proposal
- II. Summary of Planning Commission Recommendation
- III. Procedural Information
- IV. Planning Commission Recommendation and Rationale
- V. Staff Comments

I. SUMMARY OF PROJECT PROPOSAL

Seagrass Cottages II is a long subdivision/preliminary plat and planned unit development proposed by Gepetto Properties LLC, P.O. Box 4094, Tumwater, Washington 98501 at a 20-acre site in the Marine Planned Recreation zone on Semiahmoo Spit in Blaine.

On December 21, 2005 the Department of Community Development at the City of Blaine received an application from Gepetto Properties LLC for a proposed Preliminary Plat (Permit # LOP-4-05) identified as the Preliminary Plat of Seagrass Cottages II. Included in the application submission was an application for Shorelines Substantial Development Permit (Permit # SMP-4-05), Planned Unit Development (Permit # PUD-3-05) and SEPA Review (SEP-19-05). A Determination of Complete Application was issued on December 23, 2005.

The permit and approvals are requested for a 68-unit multifamily residential subdivision on an approximately 20-acre parcel on Semiahmoo Spit. The proposed development includes thirteen fourplex residential structures (52 residential units) situated on five residential tracts, plus an additional eight duplex residential structures (16 units), each situated on a separate residential lot for a total of 68 residential units on thirteen residential lots or tracts. The fourplex units will be developed under condominium ownership. Members of the condominium association and the owners of the duplex lots will all be members of the Semiahmoo Resort Association. Development of single-family residences has not been proposed and will not be permitted. All of the lots and tracts will be created in one phase but the development of the residential units by individual lot owners may occur over a period of years.

In addition to the 13 residential lots and tracts (Lots 1-8 and Tracts A-E), the proposed subdivision will create 6 non-residential tracts. These additional tracts include 2 private roadway tracts (Tracts F and G), a stormwater management area (Tract H), a park area (Tract I), a public viewpoint (Tract J), and a future development area (Tract K). Refer to the Seagrass Cottages II Concept Plan (**Attachment "B"**) and the Preliminary Plat Exhibit (**Attachment "C"**) for a visual representation of the proposed Seagrass II development.

The project also includes construction of new private roads, public access trails, landscaping and utilities to serve the proposed development.

II. SUMMARY OF PLANNING COMMISSION RECOMMENDATION

The Planning Commission has recommended that the City Council deny the consolidated application for preliminary plat approval of Seagrass Cottages II, including denial of the request for approval of a planned unit development and denial of the request for approval of a shoreline substantial development permit. This recommendation is based on the finding that the proposal is inconsistent with specific provisions set forth in the Resort Semiahmoo Master Development Plan and other provisions of the Blaine Municipal Code. The Planning Commission recommendation is discussed in more detail later in this staff report and is provided in full in the document entitled "**Planning Commission Recommendation to City Council Regarding Seagrass Cottages II,**" which is attached to this staff report as **Attachment "A"**.

III. PROCEDURAL INFORMATION

The consolidated application for a proposed Preliminary Plat (Permit # LOP-4-05) identified as the Preliminary Plat of Seagrass Cottages II, Shorelines Substantial Development Permit (Permit # SMP-4-05), Planned Unit Development (Permit # PUD-3-05) and SEPA Review (SEP-19-05) were received by the Department of Community Development at the City of Blaine on December 21, 2005 from Gepetto Properties LLC. A Determination of Complete Application was issued on December 23, 2005.

Public notice regarding the proposed Seagrass Cottages II development was provided on December 27, 2005. Public comments were accepted from that date through the public hearing and until the closing of the public record.

The Department of Community Development, City of Blaine, acting as lead agency under Chapter 43.21C, RCW, issued a **Mitigated Determination of Nonsignificance (MDNS)** on February 3, 2006. A 14-day public comment period began and closed on February 17, 2006. See **Attachment "D"** to this staff report.

The Planning Commission, in its deliberation of the Seagrass Cottages II development, held a public hearing on February 23, 2006. After providing full opportunity for public testimony to be provided by any person wishing to provide such testimony, whether in support or in opposition to the subject proposal, the verbal portion of the public hearing was closed and the written portion of the public hearing was held open until March 1, 2006, at which time the public record was closed.

The Planning Commission evaluated the following documents submitted by the Applicant as part of the project application:

- Application cover letter from Trillium Corporation dated December 20, 2005 and stamped as received by the City of Blaine on December 21, 2005

- City of Blaine Master Land Use Permit Application Form
- Applicant's Project Description dated December 20, 2005
- Applicant's Illustrative Site Plans (6 illustrations dated December 19, 2005)
- City of Blaine Shoreline Substantial Development Permit Application
- PUD Supplemental Application Information
- Preliminary Plat Supplemental Application Information
- Completed SEPA Checklist dated 12/20/05
- Applicant's Exhibit #1 – Set of six drawings for the Preliminary Plat of Seagrass Cottages II (dated 12/15/05) prepared by David Evans and Associates, Inc. including:
 - ◆ Preliminary Plat of Seagrass Cottages II (Sheets 1, 2 and 3 of 6)
 - ◆ Utilities Map (Sheet 4 of 6)
 - ◆ Existing Conditions Map (Sheet 5 of 6)
 - ◆ Site Plan Map (Sheet 6 of 6)
- Applicant's Exhibit #2 – Seagrass Cottages II Preliminary Stormwater Design Report (December, 2005) prepared by David Evans and Associates, Inc.
- Applicant's Exhibit #3 – Applicant's Statement of Relationship to City's Comprehensive Plan and Resort Semiahmoo Master Plan
- Applicant's Exhibit #4 – Letter and Updated Report from the Lummi Cultural Resources Department (stamped as received by Trillium Corporation on August 7, 2003) regarding Archaeological Subsurface Investigation
- Applicant's Exhibit #5 – Letter from Merit Engineering dated July 29, 2003 regarding Geotechnical Engineering Investigation
- Applicant's Exhibit #6 – Report on Coastal Processes prepared by Westmar Consultants Inc. dated December 13, 2004
- Applicant's Exhibit #7 – Bird Survey and Impact Assessment Summary Report (December, 2005) prepared by Adolphson Associates, Inc.
- Applicant's Exhibit #8 – Memorandum dated May 24, 2004 and Technical Memorandum dated May 14, 2004 to Donovan Kehrer and Associates from The Transpo Group
- Applicant's Exhibit #9 – Applicant's Landscape Concept Plan dated December 20, 2005 and attached Appendix A to Seagrass Cottages II Design Guidelines (December, 2005)
- Semiahmoo Resort Site Plan (Development Plan for MPR Zone) submitted February 14, 2006.
- Semiahmoo Resort Parking Plan for MPR Zone) submitted February 14, 2006.

The Planning Commission reviewed the following information and documents included in the record prior to the public hearing by City staff:

- Staff Report including Project Description, Analysis, Findings and Recommended Conditions of Approval.
- Notice of Application published on December 27, 2005
- Notice of Revised Public Hearing Date published January 27, 2006
- City letter to Trillium Corporation dated August 19, 2003.
- SEPA Mitigated Determination of Nonsignificance issued February 3, 2006 by the City of Blaine

The Planning Commission evaluated numerous comment letters submitted into the public record by the community in response to the proposed Seagrass Cottage II development.

In order for the Blaine Planning Commission to make recommendation for project approval or denial to the Blaine City Council, the proposal must satisfy and demonstrate compliance, conformity and consistency with the requirements of various sections of the Resort Semiahmoo Master Development Plan, the Blaine Municipal Code and other state regulations. The Planning Commission revisited and reviewed the Blaine codes which include the following:

- City of Blaine Municipal Code Title 17, Division 1 – Administration Project Review and Approval Procedures, Chapter 17.06
- City of Blaine Municipal Code Title 17, Division 5 – State Environmental Policy Act, Chapter 17.80
- State Environmental Policy Act (SEPA), Washington Administrative Code, Chapter 197-11
- City of Blaine Municipal Code Title 17, Division 3 – Marine Planned Recreation Zone, Chapter 17.20
- City of Blaine Municipal Code Title 17, Division 3 – Planned Unit Development District, Chapter 17.48
- City of Blaine Municipal Code Title 17, Division 4 – Preliminary Plat, Chapter 17.56
- Revised Code of Washington Chapter 58.17
- City of Blaine Municipal Code Title 17, Division 5 – Shoreline Management Master Program, Chapter 17.81
- The Resort Semiahmoo Master Development Plan, 1985

The Planning Commission, in its deliberation of the documents, testimony and other information included in the public record concerning Seagrass Cottages II, and in conjunction with its review of applicable regulatory requirements, held public meetings which included a combined effort of the Land Use Committee and the Shorelines Committee which constituted a Planning Commission of the Whole on the following dates

- March 1, 2006;
- March 29, 2006;
- April 5, 2006;
- April 19, 2006;
- May 3, 2006;
- May 10, 2006;
- May 17, 2006; and
- May 24, 2006.

On May 25, 2006 the Planning Commission met as a whole during a regularly scheduled meeting of the Blaine Planning Commission for its final deliberations regarding the Seagrass Cottages II proposal. All seven members of the Planning Commission were present and participated in voting on the Planning Commission's recommendation to the City Council. During this meeting, the Planning Commission considered two motions.

Motion #1: Recommend approval of the proposal as presented in **Attachment F, Seagrass Cottages II, Alternative Concept Plan**, with the conditions included in **Attachment E, Seagrass Cottages II Alternative Decision: Findings of Fact, Conclusions of Law, and Conditions of Approval**

The first motion was to recommend that the City Council approve the consolidated application subject to the conditions of approval presented by staff as modified by the Planning Commission, plus supplemental conditions of approval prepared by staff in response to concerns raised by Planning Commission members. The supplemental conditions of approval were intended to be consistent with a modified site plan referred to as Alternative Concept Plan No. 1. This plan decreased the overall building footprint of the development, increased clustering, shifted density away from the park, and consolidated open space.

Alternative Concept Plan No. 1 was developed by the staff working closely with the Applicant, who agreed to and supported the supplemental conditions and modified site plan. Both the original conditions of approval prepared for the Planning Commission in the original staff report to the Planning Commission, and additional conditions of approval prepared by staff during the PC work sessions, are included in **Attachment "E" Seagrass II Alternative Decision: Findings of Fact, Conclusions of Law, and Conditions of Approval**. The modified site plan (Alternative Concept Plan No. 1) was developed to be consistent with the supplemental conditions of approval and is included as **Attachment "F"**. **The first motion failed on a vote of three to four (For: Arntzen, Baily, Oplinger - Against: Sturgill, Noso, Robinson, Greenough).**

Motion #2: Recommend denial of the proposal.

The second motion was to recommend that the City Council deny the consolidated application based on its inconsistency with the Resort Semiahmoo Master Development Plan. The second motion passed by a vote of four to three (*For: Sturgill Noso, Robinson, Greenough - Against: Arntzen, Baily, Oplinger,*).

All of the above-identified exhibits, comment letters and other items entered into the Public Record, as well as the staff report presented to the Planning Commission, are available in the City Clerks Office for review by the City Council.

IV. PLANNING COMMISSION RECOMMENDATION AND RATIONALE

The Planning Commission has recommended that the City Council deny the consolidated application for preliminary plat approval of Seagrass Cottages II, including denial of the

request for approval of a planned unit development and denial of the request for approval of a shoreline substantial development permit. This recommendation is based on the finding that the proposal is inconsistent with the overall intent expressed through specific provisions set forth in the Resort Semiahmoo Master Development Plan and other provisions of the Blaine Municipal Code. The recommendation is further based on the conclusion that the proposal does not meet the criteria for approval and, therefore, should be denied.

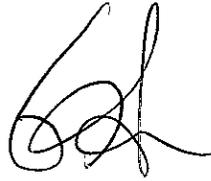
Through the course of its deliberations regarding the proposed Seagrass Cottages II development, the Planning Commission addressed a number of major issues, primarily related to determining consistency with the Resort Semiahmoo Master Development Plan. These issues included: 1) Whether the proposed duplex residential units met the definition of multifamily development; 2) Clustering requirements; 3) Standards for distribution of impervious surfaces on the Spit; 4) The allocation of impervious surfaces to various types of development (i.e. residential versus parking); 5) Density requirements; 6) Height requirements; 7) Parking requirements; 8) Limitations on building footprint, height and scale of development; 9) View corridor requirements; and 10) Required progression of development intensity from the tip to the neck of the Spit. In its final analysis, the Planning Commission found that the proposed Seagrass Cottages II development was not consistent with the intent expressed in various sections of the Land Use chapter of the Master Plan when considered as a whole. The position of the majority of the Planning Commission was that the proposed development did not include the type of clustering and scale of development intended for the Beach Clusters area of the Spit. The majority also found that the development included too large of an overall residential building footprint that was inconsistent with the intent of the Master Plan for Sub Area B of the Spit.

The Planning Commission spent significant time deliberating issues related to the long-term impacts to migratory birds that utilize the waters in the vicinity of the proposed development. There was substantial concern that there could be long-term adverse impacts to such bird populations. Other issues deliberated included: Off-site traffic impacts; the vulnerability of the neck of the Spit to major storm events, the availability of sewer treatment plant capacity, and the potential effects of the development on water quality and the associated impacts to local shellfish beds.

At the Planning Commission meeting held on May 25, 2006 the Planning Commission adopted the Findings of Fact and Recommendation provided in the document entitled **“Planning Commission Recommendation to City Council Regarding Seagrass Cottages II,”** subject to final review and signature by the Chair of the Planning Commission. The approved document includes detailed Findings of Fact and Conclusions of Law and is attached to this staff report as **Attachment “A”**.

The Planning Commission also spent a fair amount of time discussing the need to update the Resort Semiahmoo Master Development Plan (after 20 years). Such an update might include re-visiting the analysis of any potential adverse environmental impacts that might result from the updated plan and the need for appropriate mitigation.

V. STAFF COMMENT



The Seagrass residential development proposal before you is the second request for approval of development on this 7 acre site on Semiahmoo Spit. The City Council turned down the first proposal in 2005. This second development proposal is one that staff has concluded is more consistent with the vision and direction contained in the Resort Semiahmoo Master Development Plan. Yet it remains a controversial development proposal with vocal community actively voicing their opposition in a consistent and articulate manner. A summary of public comments has been attached to this staff report as **Attachment G**. It should give City Council members some insight into their comments.

The simple fact is that the Planning Commission has rarely been this divided in their final decision, on any issue. This rare voting split (4 to 3) is a testament to both the scrutiny and polarization that the Seagrass project proposal has generated. In their dissenting vote the three Planning Commissioners that supported the project were convinced that the project proposal, in it's revised and reworked state, substantially met the criteria contained in the Master Plan and related regulations. A reading of **Attachments E and F** should provide members of the City Council with a more detailed understanding of this minority opinion.

It must also be noted that, in their original compliance review submitted in a report to the Planning Commission, staff concluded that the project, as proposed, "marginally" met the criteria for approval. Since that time, the applicant has agreed to a number of changes to the project, including reductions in building area and height, additional open space, and increased view corridors.

It is difficult to argue that these changes have resulted in a project that is less compliant than the original plan submitted under the Seagrass II proposal. This, however, is not the argument that the majority in the Planning Commission are making. Their position is that none of the plan alternatives submitted under this project proposal meet the criteria for approval and are, therefore, inconsistent with the overall intent of the Resort Semiahmoo Master Development Plan.

CITY COUNCIL ACTION:

Approved

Denied

Tabled/Deferred

Assigned to: _____

Other: _____



CITY OF BLAINE

PLANNING COMMISSION

344 H STREET • BLAINE, WA • 98230

PHONE: (360) 332-8311 • FAX: (360) 332-8330 • WEBSITE: www.ci.blaine.wa.us

Attachment A

PLANNING COMMISSION

RECOMMENDATION TO CITY COUNCIL

REGARDING SEAGRASS COTTAGES II

- I. INTRODUCTION
 - A. SUMMARY OF PROJECT PROPOSAL
 - B. SUMMARY OF RECOMMENDATION TO CITY COUNCIL
 - C. PROCEDURAL INFORMATION
 - D. ANALYSIS
- II. FINDING OF FACT
- III. CONCLUSIONS OF LAW
- IV. RECOMMENDATION

I. INTRODUCTION

A. SUMMARY OF PROJECT PROPOSAL

Seagrass Cottages II is a long subdivision/preliminary plat and planned unit development proposed by Gepetto Properties LLC, P.O. Box 4094, Tumwater, Washington 98501 at a 20-acre site in the Marine Planned Recreation zone on Semiahmoo Spit in Blaine.

On December 21, 2005 the Department of Community Development at the City of Blaine received an application from Gepetto Properties LLC for a proposed Preliminary Plat (Permit # LOP-4-05) identified as the Preliminary Plat of Seagrass Cottages II. Included in the application submission was an application for Shorelines Substantial Development Permit (Permit # SMP-4-05), Planned Unit Development (Permit # PUD-3-05) and SEPA Review (SEP-19-05). A Determination of Complete Application was issued on December 23, 2005.

The permit and approvals are requested for a 68-unit multifamily residential subdivision on an approximately 20-acre parcel on Semiahmoo Spit. The proposed development includes thirteen fourplex residential structures (52 residential units) situated on five residential tracts, plus an additional eight duplex residential structures (16 units), each situated on a separate residential lot for a total of 68 residential units on thirteen residential lots or tracts. The fourplex units will be developed under condominium ownership. Members of the condominium association and the owners of the duplex lots

will all be members of the Semiahmoo Resort Association. Development of single-family residences has not been proposed and will not be permitted. All of the lots and tracts will be created in one phase but the development of the residential units by individual lot owners may occur over a period of years.

In addition to the 13 residential lots and tracts (Lots 1-8 and Tracts A-E), the proposed subdivision will create 6 non-residential tracts. These additional tracts include 2 private roadway tracts (Tracts F and G), a stormwater management area (Tract H), a park area (Tract I), a public viewpoint (Tract J), and a future development area (Tract K).

The project also includes construction of new private roads, public access trails, landscaping and utilities to serve the proposed development.

B. SUMMARY OF PLANNING COMMISSION RECOMMENDATION

The Planning Commission recommends that the City Council deny the consolidated application for preliminary plat approval of Seagrass Cottages II, including denial of the request for approval of a planned unit development and denial of the request for approval of a shoreline substantial development permit.

C. PROCEDURAL INFORMATION

Public notice regarding the proposed Seagrass Cottages II development was provided on December 27, 2005. Public comments were accepted from that date through the public hearing and until the closing of the public record.

The Planning Commission, in its deliberation of the Seagrass Cottages II development, held a public hearing on February 23, 2006. After providing full opportunity for public testimony to be provided by any person wishing to provide such testimony, whether in support or in opposition to the subject proposal, the verbal portion of the public hearing was closed and the written portion of the public hearing was held open until March 1, 2006, at which time the public record was closed.

The Planning Commission evaluated the following documents submitted by the Applicant as part of the project application:

- Application cover letter from Trillium Corporation dated December 20, 2005 and stamped as received by the City of Blaine on December 21, 2005
- City of Blaine Master Land Use Permit Application Form
- Applicant's Project Description dated December 20, 2005
- Applicant's Illustrative Site Plans (6 illustrations dated December 19, 2005)
- City of Blaine Shoreline Substantial Development Permit Application
- PUD Supplemental Application Information
- Preliminary Plat Supplemental Application Information
- Completed SEPA Checklist dated 12/20/05
- Applicant's Exhibit #1 – Set of six drawings for the Preliminary Plat of Seagrass Cottages II (dated 12/15/05) prepared by David Evans and Associates, Inc. including:
 - ◆ Preliminary Plat of Seagrass Cottages II (Sheets 1, 2 and 3 of 6)

- ◆ Utilities Map (Sheet 4 of 6)
- ◆ Existing Conditions Map (Sheet 5 of 6)
- ◆ Site Plan Map (Sheet 6 of 6)
- Applicant's Exhibit #2 – Seagrass Cottages II Preliminary Stormwater Design Report (December, 2005) prepared by David Evans and Associates, Inc.
- Applicant's Exhibit #3 – Applicant's Statement of Relationship to City's Comprehensive Plan and Resort Semiahmoo Master Plan
- Applicant's Exhibit #4 – Letter and Updated Report from the Lummi Cultural Resources Department (stamped as received by Trillium Corporation on August 7, 2003) regarding Archaeological Subsurface Investigation
- Applicant's Exhibit #5 – Letter from Merit Engineering dated July 29, 2003 regarding Geotechnical Engineering Investigation
- Applicant's Exhibit #6 – Report on Coastal Processes prepared by Westmar Consultants Inc. dated December 13, 2004
- Applicant's Exhibit #7 – Bird Survey and Impact Assessment Summary Report (December, 2005) prepared by Adolfson Associates, Inc.
- Applicant's Exhibit #8 – Memorandum dated May 24, 2004 and Technical Memorandum dated May 14, 2004 to Donovan Kehrer and Associates from The Transpo Group
- Applicant's Exhibit #9 – Applicant's Landscape Concept Plan dated December 20, 2005 and attached Appendix A to Seagrass Cottages II Design Guidelines (December, 2005)
- Semiahmoo Resort Site Plan (Development Plan for MPR Zone) submitted February 14, 2006.
- Semiahmoo Resort Parking Plan for MPR Zone) submitted February 14, 2006.

The Planning Commission reviewed the following information and documents included in the record prior to the public hearing by City staff:

- Staff Report including Project Description, Analysis, Findings and Recommended Conditions of Approval.
- Notice of Application published on December 27, 2005.
- Notice of Revised Public Hearing Date published January 27, 2006.
- City letter to Trillium Corporation dated August 19, 2003.
- SEPA Mitigated Determination of Nonsignificance issued February 3, 2006 by the City of Blaine.

The Planning Commission evaluated numerous comment letters submitted into the public record by the community in response to the proposed Seagrass Cottage II development.

In order for the Blaine Planning Commission to make recommendation for project approval to the Blaine City Council, the proposal must satisfy and demonstrate compliance, conformity and consistency with the requirements of various sections of the Resort Semiahmoo Master Development Plan, the Blaine Municipal Code and other state regulations. In completing its review of the proposed development, the Planning Commission reviewed and evaluated the subject proposal for compliance and consistency with the following plans and regulations:

- City of Blaine Municipal Code Title 17, Division 1 – Administration Project Review & Approval Procedures, Chapter 17.06
- City of Blaine Municipal Code Title 17, Division 5 – State Environmental Policy Act, Chapter 17.80
- State Environmental Policy Act (SEPA), Washington Administrative Code, Chapter 197-11
- City of Blaine Municipal Code Title 17, Division 3 – Marine Planned Recreation Zone, Chapter 17.20
- City of Blaine Municipal Code Title 17, Division 3 – Planned Unit Development District, Chapter 17.48
- City of Blaine Municipal Code Title 17, Division 4 – Preliminary Plat, Chapter 17.56
- Revised Code of Washington Chapter 58.17
- City of Blaine Municipal Code Title 17, Division 5 – Shoreline Management Master Program, Chapter 17.81
- The Resort Semiahmoo Master Development Plan, 1985

The Planning Commission, in its deliberation of the documents, testimony and other information included in the public record concerning Seagrass Cottages II, and in conjunction with its review of applicable regulatory requirements, held public meetings which included a combined effort of the Land Use Committee and the Shorelines Committee which constituted a Planning Commission of the Whole on the following dates

- March 1, 2006;
- March 29, 2006;
- April 5, 2006;
- April 19, 2006;
- May 3, 2006;
- May 10, 2006;
- May 17, 2006; and
- May 24, 2006.

On May 25, 2006 the Planning Commission met as a whole during a regularly scheduled meeting of the Blaine Planning Commission for its final deliberations regarding the Seagrass Cottages II proposal. All seven members of the Planning Commission were present.

At the May 25th meeting, the Planning Commission considered two motions. The first motion was to recommend that the City Council approve the consolidated application subject to the conditions of approval presented by staff (as modified by the Planning Commission), plus supplemental conditions of approval prepared by staff in response to concerns raised by Planning Commission members. The first motion failed on a roll call vote of three to four. (For: Arntzen, Baily, Oplinger, Against: Sturgill, Noso, Robinson, Greenough).

The second motion was to recommend that the City Council deny the consolidated application based on its inconsistency with the Resort Semiahmoo Master Development Plan. The second motion passed by a roll call vote of four to three (For: Sturgill, Noso, Robinson, Greenough, Against: Arntzen, Baily, Oplinger).

D. ANALYSIS

The Planning Commission, after deliberating all of the afore-noted documents, and considering the testimony (both written and oral) received during the public comment period and through the public hearing process, and after 7 work sessions consisting of over twenty hours deliberating the proposed Seagrass Cottages II development, makes the following findings of fact and conclusions of law in support of its recommendation to the City Council to deny the subject applications.

II. FINDINGS OF FACT

- 1) On December 21, 2005 the Department of Community Development at the City of Blaine received an application from Gepetto Properties LLC for a proposed Preliminary Plat (Permit # LOP-4-05), referred to as Seagrass Cottages II. Included in the application submission were an application for a Shoreline Substantial Development Permit (Permit # SMP-4-05), an application for a Planned Unit Development (Permit # PUD-3-05) and SEPA Review (SEP-19-05). A Determination of Complete Application was issued on December 23, 2005.
- 2) The permit and approvals requested in conjunction with the Seagrass Cottages II development are for a 68-unit multifamily residential subdivision on an approximately 20-acre parcel on Semiahmoo Spit. The proposed development includes thirteen fourplex residential structures (52 residential units) situated on five residential tracts, plus an additional eight duplex residential structures (16 units), each situated on a separate residential lot for a total of 68 residential units on thirteen residential lots or tracts. The fourplex units will be developed under condominium ownership. Members of the condominium association and the owners of the duplex lots will all be members of the Semiahmoo Community Association. Development of single-family residences has not been proposed and will not be permitted. All of the lots and tracts will be created in one phase but the development of the residential units by individual lot owners may occur over a period of years.
- 3) In addition to the 13 residential lots and tracts (Lots 1-8 and Tracts A-E), the proposed subdivision will create 6 non-residential tracts. These additional tracts include 2 private roadway tracts (Tracts F and G), a stormwater management area (Tract H), a park area (Tract I) a public viewpoint (Tract J), and a future development area (Tract K).
- 4) The project also includes construction of new private roads, public access trails, landscaping and utilities to serve the proposed development.
- 5) In order to develop the Seagrass Cottages II residential development project as proposed, the Applicant must garner City approval of the proposed Preliminary Plat, the proposed Planned Unit Development and a Shoreline Substantial Development Permit. In order to achieve project approval, the proposal must satisfy and demonstrate compliance and consistency with and conformity to the requirements of various sections of the Resort Semiahmoo Master Development Plan, the Blaine Municipal Code and other state regulations. These include the following:
 - a. City of Blaine Municipal Code Title 17, Division 1 – Administration Project Review & Approval Procedures, Chapter 17.06
 - b. City of Blaine Municipal Code Title 17, Division 5 – State Environmental Policy Act, Chapter 17.80
 - c. State Environmental Policy Act (SEPA), Washington Administrative Code, Chapter 197-11
 - d. City of Blaine Municipal Code Title 17, Division 3 – Marine Planned Recreation Zone, Chapter 17.20

- e. City of Blaine Municipal Code Title 17, Division 3 – Planned Unit Development District, Chapter 17.48
 - f. City of Blaine Municipal Code Title 17, Division 4 – Preliminary Plat, Chapter 17.56
 - g. Revised Code of Washington Chapter 58.17
 - h. City of Blaine Municipal Code Title 17, Division 5 – Shoreline Management Master Program, Chapter 17.81
 - i. The Resort Semiahmoo Master Development Plan, 1985
- 6) Pursuant to Section 17.06.070, BMC the Department of Community Development, City of Blaine, issued a Determination of Complete Application on December 23, 2005. Based on the request of the Applicant, the Director determined that the request was appropriate in this circumstance and pursuant to Section 17.06.150, BMC the project and permit review of requirements of approval for the proposed development shall be done in a consolidated manner.
 - 7) Pursuant to Section 17.06.100, BMC a Notice of Application (NOA), requesting comments from any person on the proposed development was posted as required at both the site and at City Hall. The same notification was published in a Council-designated newspaper, the Bellingham Herald, on December 27, 2005. The NOA identified a 30-day comment period from December 27, 2005 to January 25, 2006.
 - 8) A notice of public hearing was also published in the Bellingham Herald newspaper on December 27, 2005. Finally, the NOA was mailed, by certified mail, to all property owners of record as shown in the records of the Whatcom County Assessor's office in the area within 300 feet of the external boundaries of the site and to those persons who had requested a mailed NOA. Pursuant to Section 17.06.100.G.5, BMC the Applicant provided proof of certified mailing to the Director.
 - 9) The NOA included notification that a public hearing regarding the proposal would be held on February 9, 2006. On January 27, 2006, an additional notice regarding a change in the public hearing date was provided according to law informing the public and neighboring property owners that the public hearing had been re-scheduled for February 23, 2006.
 - 10) The Planning Commission, in its deliberation of the Seagrass Cottages II development, held a public hearing on February 23, 2006. After providing full opportunity for public testimony to be provided by any person wishing to provide such testimony, whether in support or in opposition to the subject proposal, the verbal portion of the public hearing was closed and the written portion of the public hearing was held open until March 1, 2006, at which time the public record was closed.
 - 11) Given that the proposed development includes a request for approval of a Planned Unit Development and given that the scale of the proposed project exceeds the Major Development Review threshold, as defined in Section 17.64.020, BMC subsequently requiring final decision authority to rest with City Council, the Planning Commission is responsible for formulating a recommendation for Council's consideration.
 - 12) Pursuant to Chapter 16.08, BMC and Chapter 197-11 WAC the proposed project was required to undergo review pursuant to the State Environmental Policy Act (SEPA). A completed SEPA Environmental Checklist was determined to be complete along with the other application submissions on December 23, 2005. The Department of Community Development, City of Blaine, acting as lead agency under Chapter 43.21C, RCW, issued a Mitigated Determination of Nonsignificance (MDNS) on February 3, 2006. A 14-day public comment period began and closed on February 17, 2006. Pursuant to Section 17.80.080.E, BMC, the *mitigation measures*

incorporated in the MDNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit.

13) Review of the proposed Seagrass Cottages II development included review of the following documents and information submitted by the Applicant:

- Application cover letter from Trillium Corporation dated December 20, 2005 and stamped as received by the City of Blaine on December 21, 2005
- City of Blaine Master Land Use Permit Application Form
- Applicant's Project Description dated December 20, 2005
- Applicant's Illustrative Site Plans (6 illustrations dated December 19, 2005)
- City of Blaine Shoreline Substantial Development Permit Application
- PUD Supplemental Application Information
- Preliminary Plat Supplemental Application Information
- Completed SEPA Checklist dated 12/20/05
- Applicant's Exhibit #1 – Set of six drawings for the Preliminary Plat of Seagrass Cottages II (dated 12/15/05) prepared by David Evans and Associates, Inc. including:
 - ◆ Preliminary Plat of Seagrass Cottages II (Sheets 1, 2 and 3 of 6)
 - ◆ Utilities Map (Sheet 4 of 6)
 - ◆ Existing Conditions Map (Sheet 5 of 6)
 - ◆ Site Plan Map (Sheet 6 of 6)
- Applicant's Exhibit #2 – Seagrass Cottages II Preliminary Stormwater Design Report (December, 2005) prepared by David Evans and Associates, Inc.
- Applicant's Exhibit #3 – Applicant's Statement of Relationship to City's Comprehensive Plan and Resort Semiahmoo Master Plan
- Applicant's Exhibit #4 – Letter and Updated Report from the Lummi Cultural Resources Department (stamped as received by Trillium Corporation on August 7, 2003) regarding Archaeological Subsurface Investigation
- Applicant's Exhibit #5 – Letter from Merit Engineering dated July 29, 2003 regarding Geotechnical Engineering Investigation
- Applicant's Exhibit #6 – Report on Coastal Processes prepared by Westmar Consultants Inc. dated December 13, 2004
- Applicant's Exhibit #7 – Bird Survey and Impact Assessment Summary Report (December, 2005) prepared by Adolfson Associates, Inc.
- Applicant's Exhibit #8 – Memorandum dated May 24, 2004 and Technical Memorandum dated May 14, 2004 to Donovan Kehrner and Associates from The Transpo Group
- Applicant's Exhibit #9 – Applicant's Landscape Concept Plan dated December 20, 2005 and attached Appendix A to Seagrass Cottages II Design Guidelines (December, 2005)
- Semiahmoo Resort Site Plan (Development Plan for MPR Zone) submitted February 14, 2006.
- Semiahmoo Resort Parking Plan for MPR Zone) submitted February 14, 2006.

14) Additional information included in the public record by City staff prior to the public hearing included the following documents:

- Staff Report including Project Description, Analysis, Findings and Recommended Conditions of Approval.
- Notice of Application published on December 27, 2005
- Notice of Revised Public Hearing Date published January 27, 2006
- City letter to Trillium Corporation dated August 19, 2003.
- SEPA Mitigated Determination of Nonsignificance issued February 3, 2006 by the City of Blaine

- 15) As part of the review, the Planning Commission also reviewed and considered a significant number of comments received from the public and State agencies during the public comment period, as well as all testimony provided at the public hearing.
- 16) The proposed Seagrass Cottages II development was reviewed for consistency and compliance with the City's zoning for the subject property. The majority of the details of the City's zoning, in these particular circumstances, are found in the City adopted Resort Semiahmoo Master Development Plan and not in the zoning text directly. Pursuant to Section 17.20.050.A, BMC, projects proposed within this zone must be consistent and compliant with the overall Master Plan for the zone – the Resort Semiahmoo Master Development Plan.
- 17) The proposed Seagrass Cottages development was reviewed for consistency and compliance with the Permitted Uses of the subject zoning, Marine Planned Recreation (MPR). Based on a review of the Site Plan provided by the Applicant, it has been found that the proposed development is consistent with the permitted use, "attached residential units", given the proposed configurations of the residential structures and lot configuration.
- 18) The proposed Seagrass Cottages II development was reviewed for consistency and compliance with the regulations found in Chapter 17.48, BMC – Planned Unit Development (PUD). The proposed development was found to be consistent and compliant with the relevant regulations found in this chapter of the BMC with the exception of confirmation from the City's Public Works Department that the City can and will provide water and sanitary sewer service.
- 19) The proposed Preliminary Plat of Seagrass Cottages II was reviewed for consistency and compliance with the regulations found in Chapter 17.56, BMC – Preliminary Plat – and in Chapter 58.17, Revised Code of Washington (RCW). Pursuant to the standards of review found in the BMC and the RCW, the proposed development was found to be consistent with these standards of review subject to conditions. [*Outstanding information from both the City (water and sewer will serve letters) and from the Applicant (off-site transportation improvements) may result in a change to this consistency determination and/or additional conditions.*]
- 20) The proposed Seagrass Cottages II development was reviewed for consistency with the Resort Semiahmoo Master Development Plan. The proposed development was found to be consistent with the Resort Semiahmoo Master Development Plan to a large degree; however, in a few key respects the proposal was found to be inconsistent with the Resort Semiahmoo Master Development Plan. In these cases it was found that consistency with the Resort Semiahmoo Master Development Plan required modifications to the proposed plat.
- 21) The subject proposal is consistent with the Land Coverage standard for Sub Area B of the Spit established in the Resort Semiahmoo Master Development Plan in that the proposed development includes less than 40% land coverage. Based on an analysis of the proposed development, within the context of the pattern of development existing or planned for Sub Area B, the subject proposal will not result in nor contribute to the overall development on the Spit exceeding the 40% standard established for Sub Area B; therefore, the proposal is consistent with the land coverage/impervious surface requirement for the Sub Area as a whole.
- 22) The proposal is consistent with the height requirements set forth in Section V(C)(2) of the Resort Semiahmoo Master Development Plan limiting building heights to forty-five (45) feet except within 200 feet of the County park where building heights shall be limited to twenty-five (25) feet.
- 23) The subject development was reviewed for consistency with the pattern of development described on page 5.33 of the Resort Semiahmoo Master Plan, with the illustration of anticipated public access and views to the water's edge also presented on page 5.33, with the

table of impervious/pervious surface distribution presented on page 5.29, with the illustration of impervious surface distribution presented on page 5.31, and with the various descriptions of the Beach Clusters portion of the Spit presented on pages 5.33, 5.36 and 5.50. It was found that the proposed development was not consistent with the intent expressed in these and other portions of the Resort Semiahmoo Master Development Plan, especially with respect to the portion of the development area identified as the Beach Clusters area in the Master Plan. It was further found that modifications to the proposed development were necessary to ensure consistency with the intent established in the Master Plan related to clustering of development, impervious surface distribution, provision of open space, provision of view corridors, limitations on building mass, density and scale of development, and the intended progression of development intensity from the tip to the neck of the Spit.

- 24) The proposed development is within the range of dwelling units planned for the Beach Clusters portion of the Spit. The proposal does not include the higher density planned for the Bay Condominiums and Harbor Condominiums portions of the Spit. The overall number of units proposed is slightly below the number of units planned for the overall development area in the Resort Semiahmoo Master Development Plan. However, given that the total number of units proposed does not exceed the maximum number allowed, the proposal is found to be consistent with the densities allowed in the Resort Semiahmoo Master Development Plan.
- 25) The proposed development incorporates development of the Upper Beach Trail adjacent to the shoreline throughout the subject property consistent with the Resort Semiahmoo Master Development Plan. The proposal also includes development of two cross-spit trails consistent with the standards set forth in the Resort Semiahmoo Master Development Plan.
- 26) The Applicant has proposed to develop a Viewpoint within Tract J. Provision of such a Viewpoint is consistent with the Resort Semiahmoo Master Development Plan and the Shoreline Master Program.
- 27) As shown on page 5.43 of the Resort Semiahmoo Master Development Plan, the proposed development area includes the area identified as Parking Area 4. The proposed development has not included development of this parking facility, but has proposed to develop the Viewpoint within Tract J that would provide at least the 10 public access parking spaces planned for Parking Area 4. However, the proposed development does not provide an alternate location within the development that would accommodate the additional 208 parking spaces planned for Parking Area 4. Additional commitment from the Applicant would need to be provided to ensure that overall parking needs for the Spit will be accommodated at a location away from the shoreline, either within the proposed future development site (Tract K) or at other acceptable locations outside the development area.
- 28) The proposal does not specifically call for the improvements identified in the Resort Semiahmoo Master Development Plan for the Transition zone and the Arrival Point zone; although, the Illustrative Plan provided by the Applicant does show site improvements in the vicinity of the Arrival Point zone that appear to be consistent with the Resort Semiahmoo Master Development Plan. Compliance and consistency with the Master Plan requires that these improvements be incorporated into the development.
- 29) The proposal includes the improvements associated with the Park zone that identify development of a major, central open space that would, in part, link the beach to the north with the Marina to the south.
- 30) To be consistent with the Resort Semiahmoo Master Development Plan, all Primary paths must be eight to ten feet wide and paved with asphaltic concrete. To be consistent with the Resort Semiahmoo Master Development Plan, all Secondary Paths must be four to six feet

wide and paved with either concrete, asphaltic concrete or crushed rock. Six feet of width is preferred.

- 31) The proposed Seagrass Cottages II development was reviewed for consistency with the City of Blaine Shoreline Management Master Program. The proposed development was found to be consistent with the Shoreline Master Program to a large degree; however, in a few respects the proposal was found to be inconsistent with the Master Program. In these cases it was found that consistency with the Master Program could be achieved with additional conditions and/or modifications to the proposed development.
- 32) The proposed development is located within 200 feet of the ordinary high water mark and, therefore, is within the jurisdiction of the City of Blaine Shoreline Management Master Program.
- 33) The proposed subdivision includes substantial development within the Rural/Urban Shoreline Environment; therefore, a Shoreline Substantial Development Permit is required.
- 34) The subject proposal is consistent with the Use Regulations pertaining to the Rural and the Urban Environment designations.
- 35) The proposed development includes landscaping and a landscape concept plan that are generally consistent with the General Landscaping Regulations from the City Shoreline Master Program.
- 36) The subject proposal, as conditioned by the recommendations contained in the Archaeological Survey of the site prepared by the Lummi Indian Nation and Mitigating Condition No. 2 from the Mitigated Determination of Nonsignificance (MDNS) is consistent with the Archaeological policies and use regulations set forth in the Shoreline Master Program.
- 37) The proposed development, as conditioned by Mitigating Conditions Nos. 3-8 from the MDNS, is consistent with the Landscape Modification policies and use regulations set forth in the Shoreline Master Program.
- 38) The proposed development, including the proposed viewpoint, is consistent with the Recreation policies and use regulations set forth in the Shoreline Master Program.
- 39) The proposed residential subdivision, as conditioned by the Mitigating Conditions from the MDNS, is consistent with the Residential policies and use regulations set forth in the Shoreline Master Program.
- 40) It has been found that the proposal includes development of the Upper Beach Trail and two cross-spit trails, which will increase use of the shoreline and provide public access points within and through the development. The development is consistent with the Residential policies and use regulations from the Shoreline Master Program.
- 41) The proposed development, as conditioned by the Mitigating Conditions from the MDNS, is consistent with the Road policies and use regulations set forth in the Shoreline Master Program.
- 42) Section 6.2 from the Natural Systems portion of the Shoreline Master Program sets forth use regulations that pertain to Bars and Spits. The subject proposal is located on a spit; therefore, the use regulations apply. The proposed development has been found to be consistent with the applicable use regulations.
- 43) As stated in a previous finding, the proposed development does provide public access to the shoreline within and through the development. The proposed development configuration will tend to limit impacts to the vegetation within the shoreline setback and will be consistent with the applicable use regulation.

- 44) To be consistent with use regulation 6 (for Bars and Spits), any proposed or replacement parking areas must be located on uplands away from the shoreline.
- 45) The proposed development does not block or interfere with public use or enjoyment of publicly owned shorelines.
- 46) The preliminary plat includes the location of public access easements and conservation easements on its face. All such easements and any additional public access easements required by the City shall run with the land in perpetuity as set forth in use regulation 9(d).
- 47) As required by use regulation 9(f), all public access improvements must be constructed prior to final plat approval.
- 48) The proposed development is consistent with the policies set forth in the Shoreline Management Act, RCW 90.58.
- 49) The burden of proving that the proposed development is consistent with the City of Blaine Shoreline Management Master Program rests with the Applicant.
- 50) As required in the City of Blaine Shoreline Management Master Program, construction or substantial progress toward construction of the proposed project must be undertaken within two (2) years of the approval of a Shoreline Substantial Development Permit, and all construction completed within five (5) years, unless an extension of one year is requested and granted. Furthermore, land disturbance and plat construction must wait 21 days following the date of receipt of the City's Notice of Decision by the Department of Ecology.
- 51) Any Conclusion of Law that is also a Finding of Fact is hereby adopted as such.

III. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, now entered are the following Conclusions of Law:

- 1) A properly completed application packet for the Seagrass Cottages II development was received by the City of Blaine on December 21, 2005. The application packet included applications for preliminary plat approval, planned unit development approval and shoreline substantial development permit approval, SEPA Environmental Checklist and other supporting documentation.
- 2) All public notice requirements regarding the filing of the application, the public comment period and the holding of the public hearing related to the application were provided in conformance with the applicable laws.
- 3) Pursuant to Chapter 17.56 BMC, subdivision of property into five or more lots requires approval of a preliminary plat. The proposed Seagrass Cottages II development includes subdivision of land into five or more lots; therefore, approval of a preliminary plat is required.
- 4) Pursuant to Chapter 17.56 BMC, a request for preliminary plat approval requires review by the Planning Commission and, in this case, the forwarding of a recommendation for action by the City Council.
- 5) Pursuant to Section 17.48.340 BMC, development within the Marine Planned Recreation (MPR) zoning district shall be reviewed using the planned unit development procedures. The proposed development is located within the Marine Planned Recreation zoning district; therefore, review of the proposal requires use of the planned unit development procedures.
- 6) Section 17.64.020 BMC establishes the threshold for Major Development Review. The proposed development exceeds the Major Development Review threshold, thus requiring City Council review and approval.

- 7) Pursuant to BMC 17.48 and 17.64, the City Council has the authority to make final decisions regarding applications for planned unit developments and major development proposals based upon a recommendation from the Planning Commission, and the Planning Commission has the authority to make such a recommendation to the City Council.
- 8) Pursuant to Section 1.5 of the Blaine Shoreline Management Master Program, no substantial development within the shoreline jurisdictional area is allowed without approval of a shoreline substantial development permit based on consistency with the Shoreline Management Act (RCW 90.58) and the shoreline goals, policies and regulations of the City of Blaine. The proposed development includes substantial development within the jurisdiction of the City of Blaine Shoreline Management Master Program; therefore, approval of a shoreline substantial development permit is required.
- 9) Section 17.06.150 BMC establishes a process for consolidated review of permit applications pertaining to the same development proposal. The Applicant has provided a written request for use of the consolidated permit application review process, and said process has been utilized in conjunction with review of the Seagrass Cottages II development proposal.
- 10) The consolidated application for approval of a preliminary plat, planned unit development and shoreline substantial development permit has been reviewed for compliance and consistency with all applicable plans, policies and regulations of the City of Blaine including the Resort Semiahmoo Master Development Plan, the Blaine Comprehensive Plan, the Blaine Municipal Code and the Blaine Shoreline Management Master Program, as well as applicable state law.
- 11) It is concluded, based upon the findings set forth above, that the consolidated application does not meet the criteria for preliminary plat approval, major development approval, planned unit development approval, or approval of a shoreline substantial development permit according to the provisions of City of Blaine Municipal Code Title 17, Division 3 – Marine Planned Recreation Zone, Chapter 17.20, City of Blaine Municipal Code Title 17, Division 3 – Planned Unit Development District, Chapter 17.48, City of Blaine Municipal Code Title 17, Division 4 – Preliminary Plat, Chapter 17.56, Revised Code of Washington Chapter 58.17, City of Blaine Municipal Code Title 17, Division 5 – Shoreline Management Master Program, Chapter 17.81.
- 12) Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

IV. RECOMMENDATION

For the reasons set forth in the above Findings of Fact and Conclusions of Law, the Planning Commission recommends that the City Council adopt the above Findings of Fact and Conclusions of Law and:

- 1) Deny the application for preliminary plat approval of Seagrass Cottages II;
- 2) Deny the consolidated application for approval of a planned unit development; and
- 3) Deny the consolidated application for approval of a shoreline substantial development permit.

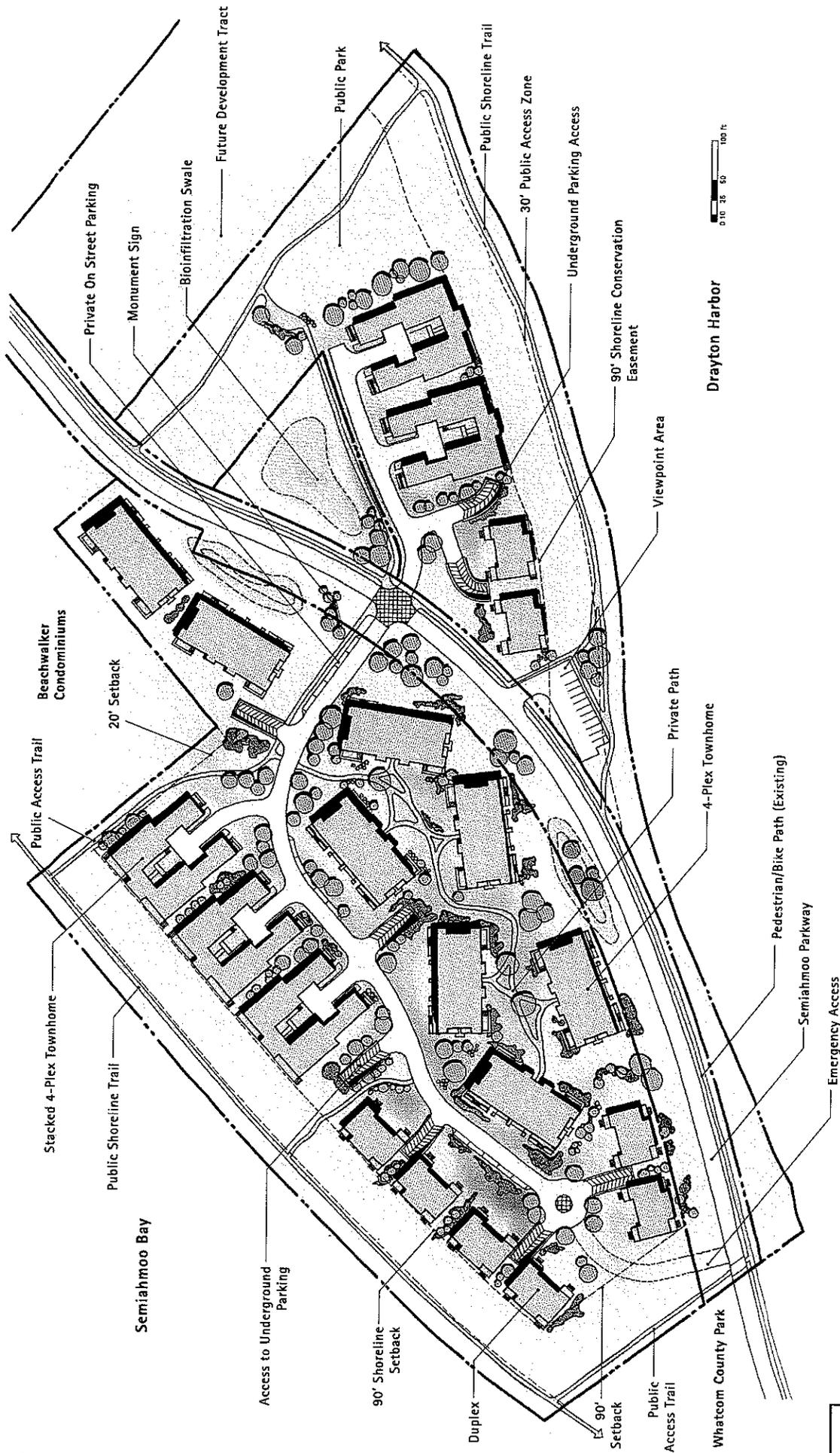
DATED this 7 day of JUNE, 2006.



Jeff Arntzen
CHAIR, BLAINE PLANNING COMMISSION

Attachment B
Seagrass Cottages II Concept Plan

Semiahmoo Resort



Seagrass Cottages II – Illustrative Plan
 December 19, 2015



APPD.
NO. REVISIONS:



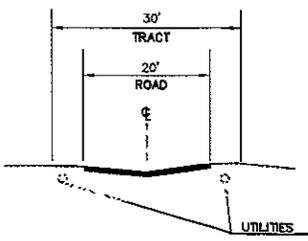
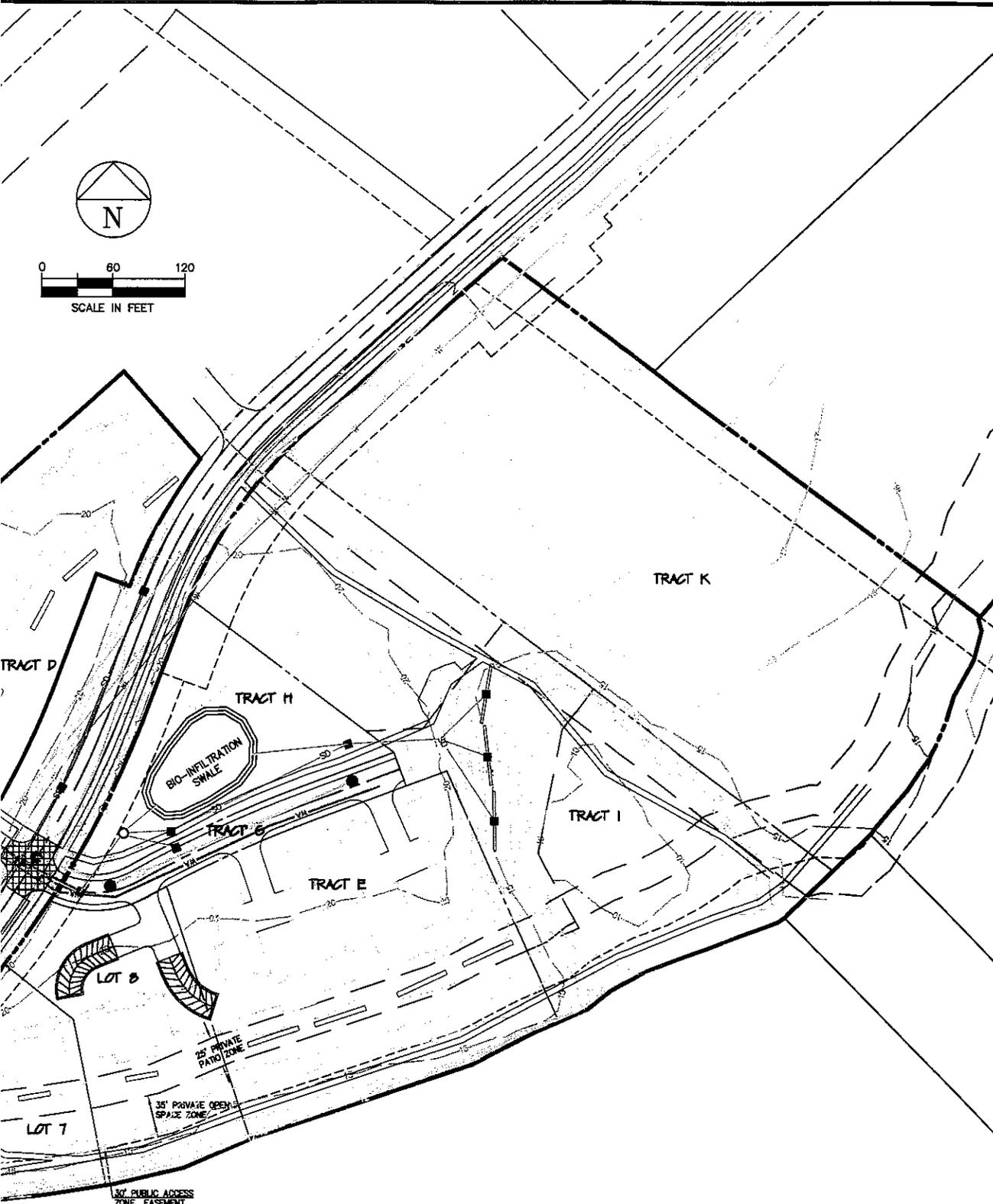
DAVID EVANS AND ASSOCIATES INC.
119 Grand Avenue, Suite D
Bellingham Washington 98225
Phone: 360.647.7151
Fax: 360.647.7160



**PRELIMINARY PLAT
OF SEAGRASS COTTAGES II
UTILITY MAP**

PROJECT NUMBER:
TRLX0080
DATE: 12/15/05
DESIGN:
DRAWN: SLG
CHECKED:
SCALE: 1"=60'

SHEET NO.
3
OF 3



TYPICAL SECTION - PROPOSED PRIVATE DRIVE
NOT TO SCALE



CITY OF BLAINE

COMMUNITY DEVELOPMENT DEPARTMENT

344 H STREET • BLAINE, WA • 98230

PHONE: (360) 332-8311 • FAX: (360) 332-8330

www.cityofblaine.com

Attachment D

SEPA MITIGATED DETERMINATION OF NON-SIGNIFICANCE (MDNS)

Notice is hereby given that on February 3, 2006, the City of Blaine, acting as SEPA lead agency under RCW 43.21C, issued a Mitigated Determination of Nonsignificance for the following combined proposal: Seagrass Cottages II Planned Unit Development (PUD) and Preliminary Plat Subdivision.

This SEPA threshold determination may be appealed. Appeals must be made in writing and received by 5:00 p.m. on February 17, 2006 at Blaine City Hall. (This seems to conflict with the date on Page 3, mid page. It seems that they need to be consistent and the appeal needs to be 14 days after publication.) You should be prepared to make specific factual objections. Please contact the Community Development Department at Blaine City Hall to read or to ask about the procedures for SEPA appeals. Questions regarding appeals should be directed to the responsible official identified below.

Application: Preliminary Plat, Planned Unit Development and Shoreline Substantial Development Permit for the Seagrass Cottages II

Applicant: Gepetto Properties, LLC
P.O. Box 4094
Tumwater, WA 98501

Agent: Trillium Corporation
4350 Cordata Parkway
Bellingham, WA 98226

Date of Issuance: February 3, 2006

Project Location: The site is located on Semiahmoo Spit immediately SW of the Beachwalker Condominiums and NE of Semiahmoo Park within the SW ¼ section of the NW ¼ section, Section 2, Township 40 North, Range 1 West of W.M. within the City of Blaine, Washington.

Project The proposal is for a 68-unit multifamily residential development

Description: consisting of eight duplex residential structures and thirteen fourplex residential structures with underground parking located beneath the structures. The proposal includes the construction of private roadways, stormwater management facilities, a public viewpoint, landscaping and pedestrian trails.

According to the Resort Semiahmoo Master Development Plan the project site is included as the Beach Clusters (Zone A) and a portion of the Harbor Condominiums (Zone C), within Subarea B on Semiahmoo Spit, which is approved for multi-family development.

Lead Agency City of Blaine

Responsible Official: Terry Galvin, SEPA Administrator
344 H Street
Blaine, WA 98230
Phone: (360) 332-8311

City of Blaine Permits: Shoreline Substantial Development , Planned Unit Development, Preliminary Plat, and Building Permits

Zoning: Marine Planned Recreation (MPR)

Comprehensive Plan Designation: Marine Planned Recreation (MPR)

Notes:

A. This finding is based on Review of the following documents, which are incorporated by reference:

- o Seagrass Cottages II Applications and Project Description
- o Letter from Merit Engineering dated July 29, 2003 regarding Geotechnical Engineering Investigation
- o Letter and Updated Report from the Lummi Cultural Resources Department (stamped as received by Trillium Corporation on August 7, 2003) regarding Archaeological Subsurface Investigation.
- o Seagrass Cottages II, SEPA Checklist, December 20, 2005
- o Semiahmoo Spit and Uplands Master Plan, Final Environmental Impact Statement, March 13, 1985
- o Semiahmoo Spit and Uplands Master Plan, Draft Environmental Impact Statement, December 4, 1984
- o The Resort Semiahmoo Master Development Plan, 10 Year Milestone Report: 1984 – 1994, November 1995
- o City of Blaine Comprehensive Plan, Amended 1999
- o The Resort at Semiahmoo, Master Development Plan, March 1, 1985

- Stormwater Management Manual for Western Washington, 2005
- Memorandum dated May 24, 2004 and Technical Memorandum dated May 14, 2004 to Donovan Kehrer and Associates from The Transpo Group.
- Seagrass Cottages II Preliminary Stormwater Design Report (December, 2005) prepared by David Evans and Associates, Inc.
- Report on Coastal Processes prepared by Westmar Consultants Inc. dated December 13, 2004
- Habitat and Bird Survey and Impact Assessment for Meritage Lot 3 Development at Semiahmoo Spit, Blaine, Washington
- Bird Survey and Impact Assessment Summary Report (December, 2005) prepared by Adolfsen Associates, Inc.
- Applicant's Landscape Concept Plan dated December 20, 2005 and attached Appendix A to Seagrass Cottages II Design Guidelines (December, 2005)
- Public Comments received by the City addressing the project proposal

B. Issuance of this threshold determination does not constitute approval of any permits. This proposal will be reviewed for compliance with all applicable City codes, which regulate development activities, including, but not limited to, the International Building and Fire Codes, Development Standards, Shoreline Master Program, and the Blaine Municipal Code (BMC).

Mitigated Determination of Non-Significance:

Having considered the potential severity of any potential environmental impact resulting from the proposal as well as its likelihood of occurring, and potential mitigation measures proposed by the Applicant, the responsible official of the lead agency finds, based on the information submitted and other resource documents that the above-described proposal will not have a probable significant adverse impact on the environment; provided the applicant complies with the attached conditions and mitigation. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c).

The lead agency will not act on the proposal for at least fourteen days from the date of issuance identified above. Comments must be received by 5:00 p.m. on February 16, 2006.

Mitigating Conditions

1. Water and Sewer Service Availability Letters. As a prerequisite to the City's approval of the Preliminary Plat, the Applicant must acknowledge receipt of separate water and sewer service availability letters for the proposed 68 multifamily residential units from the Public Works Department.
2. Archaeological Monitoring of Land Disturbing Activities. The Applicant shall ensure that all land disturbing activities (e.g., clearing, filling, grading, excavating, trenching) within the project area are monitored by a professional archaeologist, and that the archaeologist is present on-site at all times to monitor all such activities when undertaken within the 90-foot shoreline setback or where such activities include excavations at a depth greater than four feet below the existing ground surface elevation. If the archaeologist observes any pre-contact, historic period archaeological deposits and/or

human remains in any part of the project area, the Applicant shall immediately halt ground disturbing activities in an area large enough to maintain integrity of the deposits and/or remains, and shall immediately notify the Lummi Nation and other tribal interests, the Washington State Department of Archaeology and Historic Preservation, and the City of Blaine to consult on the proper means to proceed. The archaeologist shall prepare and submit to the same parties an Archaeological Monitoring Report prior to City approval of the Final Plat. This Report shall include prescribed measures to ensure the integrity of the deposits and/or remains.

3. Updated Preliminary Stormwater Design Report. The Applicant shall submit an Updated Preliminary Stormwater Design Report (UPSDR) to the Public Works Department for review and subsequent revisions/comments or approval. The Public Works Department must approve the UPSDR before the Applicant may perform land disturbance activity on the project site. The UPSDR shall demonstrate how stormwater will be managed on the site after the completion of construction. The UPSDR shall address all changes in the proposed preliminary plat design. In addition, the UPSDR shall provide a conceptual outline of the Construction Stormwater Pollution Prevention Plan (CSWPPP), together with a description of the types of construction stormwater pollution prevention measures that the Applicant proposes for the CSWPPP (see MDNS Condition #4).

The UPSDR shall also include a description of the dust suppression measures that would be employed if the City eventually determines that the Applicant must provide dust control measures during construction. The Applicant shall submit a final Dust Suppression Plan as required by MDNS Condition #5.

A civil engineer licensed to practice in the State of Washington shall prepare the UPSDR under the requirements of the latest edition of the Washington State Department of Ecology Stormwater Management Manual for Western Washington, particularly Chapter 3, and shall respond to any relevant conditions of preliminary plat approval. As a minimum, the UPSDR shall include a Permanent Stormwater Control Plan, the Construction Stormwater Pollution Prevention Plan (see MDNS Condition #4), an Operation, Maintenance, and Repair Manual, a detailed Stormwater Quality Monitoring Plan (see MDNS Condition #6), and a Dust Suppression Plan (see MDNS Condition #5). If a conflict exists between a standard in the latest edition of the Stormwater Management Manual for Western Washington and a City stormwater regulation, the higher/more stringent standard, as determined by the Public Works Department Director, shall prevail.

The UPSDR shall also address stormwater source control and stormwater treatment if the Washington State Department of Ecology Stormwater Management Manual for Western Washington threshold evaluation process dictates these actions. If qualifying as noted, the Applicant shall:

- Clearly identify the stormwater source control methodologies and stormwater treatment best management practices (BMPs) that the Applicant will use on this development, and

- Select BMPs to assure that stormwater runoff generated from roads, driveways and parking areas receives effective treatment prior to introduction to groundwater, and
 - Given the proposed project's proximity to Drayton Harbor and to Semiahmoo Bay, make provisions to remove fecal contamination to a level that does not degrade water quality or contribute to current fecal coliform loading levels. The UPSDR shall include the opinions of experts consulted, including the State's Puget Sound Action Team, in the selection of these particular methods and BMPs. Detailed treatment specifications shall be submitted as part of the Final Stormwater Design Report (see MDNS condition #7).
4. Construction Stormwater Pollution Prevention Plan. The Applicant shall submit a draft Construction Stormwater Pollution Prevention Plan (CSWPPP) to the Public Works Department for review and subsequent revisions/comments or approval. The Public Works Department must approve the CSWPPP before the Applicant may perform land disturbance activity on the project site. The CSWPPP shall generally describe how the Applicant will manage stormwater on the site during the time periods that land disturbing activity is taking place, including: measures to protect disturbed areas, control and direct stormwater runoff through construction areas, and provide water quality treatment for runoff from the site. Measures may include, but are not limited to: filter fencing, straw bale barriers, brush barriers, gravel filter berms, sediment traps, stabilized construction entrances, rock check dams, interceptor ditches, and mulching and matting of exposed soil. Best Management Practices (BMPs) associated with the CSWPPP shall comply with the latest edition of the Washington State Department of Ecology Stormwater Management Manual for Western Washington.
 5. Dust Suppression Plan. The Applicant shall submit a draft Dust Suppression Plan (DSP) to the Public Works Department for review and subsequent revisions/comments or approval. The Public Works Department must approve the DSP before the Applicant may perform land disturbance activity on the project site. The DSP shall address methods to control dust generated on and off the site during construction.
 6. Stormwater Quality Monitoring Plan. The Applicant shall submit a draft Stormwater Quality Monitoring Plan (SWQMP), together with the UPSDR (see MDNS Condition #3), to the Public Works Department for review and subsequent revisions/comments or approval. (I believe this was submitted with the application.) The Public Works Department must approve the SWQMP before the Applicant may perform land disturbance activity on the project site. The SWQMP shall address monitoring methodology and frequency to monitor ground water and surface water quality degradation that results from fecal coliform contaminated stormwater. As recommended by the State of Washington Department of Ecology, the Applicant shall place a series of permanent 4" diameter monitoring wells along the waterward perimeter of the development. The Applicant shall establish baseline/background fecal coliform concentrations prior to any land disturbance. Once land disturbing activities begin, the Applicant shall arrange to sample for, and measure, fecal coliform concentrations during

severe storm events for 1 year after the Applicant completes construction of all residential structures.

7. Final Stormwater Design Report. After the Applicant completes the construction/installation of all permanent stormwater facilities, the Applicant shall submit a draft Final Stormwater Design Report (FSDR) to the Public Works Department for review and subsequent revisions/comments or approval. The Public Works Department must approve the FSDR before the City will approve the Final Plat.
8. Dry Weather Construction. The Draft and Final EIS for the Resort Semiahmoo Master Development Plan recommend that earthwork activities be conducted only during dry (summer) weather periods. Further analysis supports this precaution. Consequently, as water quality mitigation, the Applicant shall not clear, grade, or excavate between October 30th and March 1st, unless persistent dry weather conditions exist as approved by the City Public Works Department Director (note: see condition #17 for development constraints relating to migratory bird disturbance). These earthwork activities must also cease during extreme wet weather conditions (i.e., ¼ inch or more per hour rainfall) to reduce erosion potential. The Applicant shall establish a manual rain gauge station on the subject property in advance of land disturbance activities, which shall remain in place until plat construction activities are complete.
9. Stormwater System Operation, Maintenance and Repair The Seagrass Cottages Homeowners Association shall own, operate, maintain, and repair the permanent stormwater system at its cost. The CC&Rs shall authorize:
 - Anytime access by City staff to inspect and assess stormwater system condition and performance, and
 - City staff to enforce stormwater system operation, maintenance, and repair requirements as outlined in the City approved Stormwater System Operation, Maintenance, and Repair Manual, and
 - The City to assume stormwater system operation, maintenance, and repair duties at the sole cost of the Homeowners Association if the City determines, in its exclusive discretion, that the Homeowners Association is not satisfactorily operating, maintaining, or repairing the stormwater system, and the Homeowners Association to pay all costs to the City for such operation, maintenance and repair.
10. Traffic Impacts. A traffic study addressing transportation impacts for Seagrass Cottages I was submitted. The Transpo Group created the report in 2004 addressing trip generation, trip distribution, right turn guidelines, levels of service and queuing for the Drayton Harbor Road/Blaine Road intersection. The Study found that a right turn lane “is currently warranted and would continue to be in the future with the proposed project.” The study concludes that no mitigation is recommended because “no significant transportation impacts would be created by the proposed project at this intersection.” While traffic generated from the Seagrass Cottages II development contributes only a small part of the increased traffic volume to this intersection, the cumulative impact of

additional residential development will require a turn lane in the near future. The report does not address other road or transportation improvements (e.g. internal transit shuttle & ferry service) identified in The Resort Semiahmoo Master Development Plan and Environmental Impact Statement including improvements to the intersections of Bell Road and Peace Portal Way, the intersections of Drayton Harbor Road and Harbor View Road, and Harbor View Road and Lincoln Road.

Transportation impact fees paid to the City will provide funding for off-site improvements to roads within the City limits. However, many of these improvements are on roads located in the County. In addition to the payment of traffic impact fees, the developer shall demonstrate, prior to preliminary plat approval, how this project will contribute its pro rata share of funds for road and other transportation improvements initially required for the Semiahmoo Development when it was approved in 1986.

11. Building Setbacks and Development Limitations. The proposed Preliminary Plat for Seagrass Cottages II identifies building setback lines from the ordinary high water mark (OHWM) for the proposed residential structures. The Ordinary High Water Mark is currently being designated by the Department of Ecology. All structures will be set back a minimum of 90 feet from the established Ordinary High Water Mark. In order to preserve and enhance open space along the shoreline and to help protect the marine environment the area between the OHWM and the building setback line shall be identified on the final plat as a conservation easement area, running in perpetuity with the land. Pursuant to the City's Shoreline Management Program and the Resort Semiahmoo Master Development Plan, the conservation easement shall be divided into three zones: Public Access zone (minimum 30 feet landward from the OHWM, provided that this may be expanded landward as necessary, encroaching into the Private Open Space zone, if the available uplands do not allow sufficient construction space for the trail); Private Patio zone (maximum 25 feet waterward from the building setback line); Private Open Space zone (minimum 35 feet, area between landward edge of the Public Access zone and waterward edge of the Private Patio zone). The applicant shall adhere to the specific use and development guidelines within each of these zones, which are defined by the City's Shoreline Management Program and the Semiahmoo Master Plan, and with the following inclusion: (a) in the Private Patio zone, the impervious surface shall not exceed 25 percent of the area of the zone on a particular lot and provided further that the amount of impervious surface (as defined in Chapter 17.142 of the Blaine Land Use and Development Code) allowed on the entire lot is not exceeded. (b) in the Private Patio zone, native vegetation shall be used and lawns shall be prohibited.
12. Public Access Improvements. Required public access sites, including public access parking at the proposed viewpoint, and related accessory uses and improvements shall be fully developed and available for public use prior to final plat approval or as required through permit approval with adequate surety to assure timely construction in a form approved by the City.
13. Public Access Easement. The Resort Semiahmoo Master plan for the spit shows a 30-foot wide public access easement landward of the ordinary high water mark along the shoreline perimeter of the spit. This public access easement shall be shown on the final

plat of Seagrass Cottages II and the public's right of access along this easement shall be acknowledged on the face of the plat.

14. Geotechnical and Tsunami Hazard Requirements. The applicant provided a Geotechnical Engineering Report, prepared by Merit Engineering, Inc. In addition to compliance with the IBC and other relevant building regulations, construction shall comply with the recommendations contained in this report. The CC&R's shall also contain language that informs the property owner of the potential tsunami hazard and to be aware of tsunami evacuation plans for the Spit.
15. Landscape Plan. A landscape plan was submitted with the proposal. In addition to the landscape plan, a maintenance plan must be created, that shall be an obligation of the homeowner's association and enforceable by the City through the development's Covenants, Conditions, and Restrictions (CC&Rs). The applicant shall include a section in the CC&R's of the Seagrass Cottages II that specifically addresses the maintenance requirements of this Landscape Plan. The CC&R's shall be reviewed and approved by the Department of Community Development prior to final plat approval.
16. Final Landscape and Maintenance Plan. Implementation of the maintenance plan shall preclude the use of fertilizers, herbicides and pesticides. If corrections or amendments are identified during preliminary plat review, a final submission of both the landscape plan and maintenance plan shall be required prior to commencing land disturbing activities.
17. Bird Impacts. The property proposed to be developed is located adjacent to both Semiahmoo Bay and Drayton Harbor between undeveloped Semiahmoo Park to the southwest, and the Beachwalker Condominiums, the Resort at Semiahmoo and the Blaine Marina to the northeast. There are currently ongoing urban levels of activity in this area along the shoreline and in the upland area. Additionally, commercial and recreational boat traffic routinely travel back and forth immediately off the point of the Spit.

In light of these factors, it is reasonable to assume that birds feeding, or resting in this urban area do so despite the human activity that exists on a daily basis. This condition is quite apparent on the mudflats to the north of Marine drive and the marine commercial district where thousands of migratory birds rest and feed during the fall, winter and spring of each year. Several comments on the record can lead to a reasonable conclusion that migratory and especially over-wintering birds adapt to higher levels of activity or noise. When they occur in relatively predictable and modulated frequency, urban, commercial or industrial noise and activities do not appear to have significant impacts on these birds. However, dramatic changes in noise and activity levels disturb feeding and resting patterns.

Several reports and expert testimony were consulted in an attempt to verify these observations, including the Bird Survey and Impact Assessment prepared by Adolfson Associates, Inc. and submitted by the applicant. There appears to be general consensus that the intertidal area along the spit provides adequate feeding conditions for the significant numbers of migratory and over-wintering birds that inhabit this area between

October and May; that the greatest concentrations of birds are generally found during November, December, January, February, March and April, and; because the birds are moving north in the spring, they are particularly sensitive to disturbance in March and April. For example, brant use the area in their migration north in late March and April of each year. However, collectively the reports appear to be deficient in site-specific data, inconclusive in their analysis, and contain conflicting direction. After reviewing all available expertise, it remains difficult to precisely determine what type of birds inhabit the waters adjacent to the site, when they are there, and what the impact is from human activity on this site.

There is, however, a consensus (among professionals) that there are significant numbers and species of migratory birds that feed and rest on the water adjacent to this site (Loons, sea ducts, bay ducts, brant). It is also generally accepted that these birds are most vulnerable to disturbance during periods of migration. Consequently, it appears reasonable and prudent that human restraint should be exercised to ensure that cumulatively, human disturbance in the uplands do not result in dwindling numbers beyond sustainable populations.

This information and some basic logic leads to the conclusion that heavy equipment operation and exterior construction (e.g. grading, framing, and external finishing work) will have the greatest potential to impact migratory bird populations during construction. We also know that, cumulatively, increased urban density can impact these birds in a number of ways. With this in mind, the proponent will be required to utilize the following on-site mitigating measures:

A. Mitigation prior to construction:

1. Vegetate the first 40 feet of waterfront in native vegetation in a manner consistent with construction of the public access trail plan.
2. Install a sound and site buffer consisting of a noise-dampening wall measuring 8 feet in height, the width of the building footprint and a minimum of 40 feet from the OHWM. The wall can be earth bermed, constructed of straw bales, wood with insulating panels or an alternative design that effectively reduces visual exposure and noise levels. Storage containers or similar aesthetically displeasing objects are not allowed.
3. Establish a no entry zone with appropriate side yard fencing within the 40 feet.
4. Deviation: Because six of the fourplex structures are further isolated from the shoreline (at least 180 feet of separation), the above conditions related to mitigation prior to construction shall not apply.

B. General restrictions during construction:

1. Stationary noise producing equipment (compressors, generators, etc) must be located on the landward side of the buildings or inside the buildings when the first floor walls are in place.
2. Nonessential noise producing equipment is prohibited from October 15 to May 15.
3. All vehicle parking shall be restricted to the landward side of the building sites.

C. Periods of no construction activity:

1. No earthwork or exterior construction will be allowed during the periods of the year with the greatest sustained concentrations of migrating birds (December, January, February or March).
2. Deviation: Because six of the fourplex structures are further isolated from the shoreline (at least 180 feet of separation), only heavy equipment operation shall be restricted during the above referenced months.

D. Periods of conditional construction activity:

1. Earthwork and exterior construction may be allowed during the months November and/or April, with the approval of the City, provided:
 - a. A qualified bird biologist monitors the site for a 5-day period immediately before construction and determines that the adjacent intertidal area is not populated with bird species whose migratory journey will be compromised because of the construction activity.
 - b. All pre-construction mitigation is completed.

E. Unrestricted interior work during construction:

1. Interior work shall be allowed all twelve months.

F. Mitigating measures during occupancy:

1. Locate the public access trail as far landward within the 30-foot shoreline public access easement as can be reasonably accommodated and vegetate the area between the beach and trail with native vegetation. (needs to be consistent with A-1 on page 9)
2. Limit outdoor lighting during the night to negligible levels over the shoreline and intertidal areas.
3. Prior to occupancy, establish residential best management practices (BMPs) that help minimize migratory bird disturbance. These shall include generally accepted BMPs sanctioned by qualified ecologist with expertise in the field and incorporated into the CC&Rs.
4. Establish leash and animal management restriction in the CC&Rs
5. Educational information and materials shall be provided to residents and shoreline users addressing the potential for migratory bird disturbance. The applicant shall garner approval of these educational information and materials from the City's Blaine / Birch Bay Birding Committee prior to final plat approval.

G. Tree Snags.

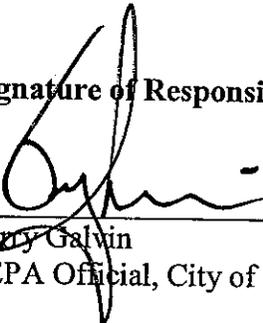
1. Information submitted by the applicant and other related documents supports a conclusion that the existing tree snags provide important perching for bald eagles and other avian species. Given the importance of strategically placed snags in this area, appropriate mitigation for the proposed development will require the placement of the snag northwest of Semiahmoo Parkway to be relocated in the shoreline corridor area and that two additional snags (perch trees or poles) be located within the shoreline corridor area, or in the Whatcom County Park if approved by the Whatcom County Parks Department. The perch type and location shall be determined by a wildlife biologist, and implemented prior to final plat approval.

18. Signage. Prior to final plat approval, the developer shall provide interpretive and informational signage along the spit public trail system to advise trail users and residents of the need to minimize activities in the shoreline that disrupt wildlife and provide educational information about the many wildlife inhabitants and their environments. The homeowners association shall be required to maintain said signage, within the boundaries of the Seagrass Cottages II development, as part of its' CC&Rs with a provision therein approved by the City providing for the City enforcement of such provision.
19. Special Inspector. At the sole cost of the developer, a qualified "special inspector" approved by the City shall be assigned the responsibility of overseeing compliance with the conditions of this MDNS and other relevant local, state and federal requirements during plat construction. Visit frequency and responsibilities shall be determined through the preliminary plat review and approval process. The inspector shall report to the Director of Community Development.
20. Pedestrian Ferry Directional Signage. The City of Blaine Comprehensive Plan, the Resort Semiahmoo Master Development Plan, the City's Urban Waterfront Development Plan and the City of Blaine – Birch Bay Transportation Plan, to name a few, reference to ferry service between Semiahmoo Spit and downtown Blaine. Specifically, the Resort Semiahmoo Master Development Plan, Page 7.14, identifies the provision of ferry service both as a measure to mitigate traffic impacts to the Spit and also to provide an amenity to the Semiahmoo Spit area. Prior to final plat approval the applicant shall identify in the Shoreline Public Access Plan for Semiahmoo Spit connections with a Spit-side terminus of a pedestrian ferry service and locations for directional signage to the pedestrian ferry service.
21. Low Impact Development. The L.I.D. (Low Impact Development) features proposed by the applicant in the design of the development shall be incorporated into the final design and construction of the project.

This finding is made pursuant to RCW 43.21C, and WAC 197-11 after reviewing a completed environmental checklist and other information on file with the lead agency. The responsible official finds this information reasonably sufficient to evaluate the environmental impact of this proposal. This information is available to the public upon request.

This MDNS is issued on February 3, 2006.

Signature of Responsible Official:



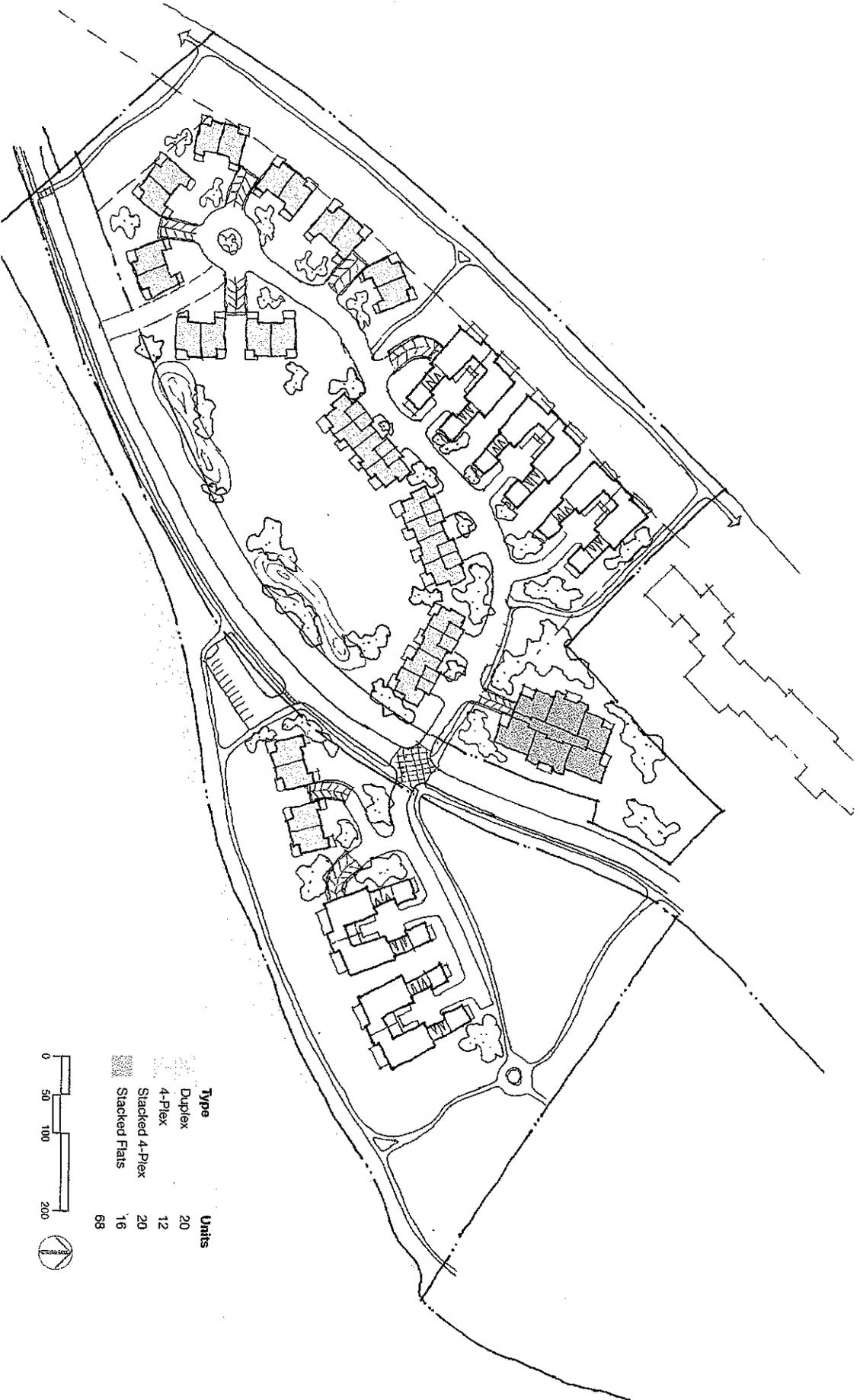
 Terry Galwin
 SEPA Official, City of Blaine

February 3, 2006

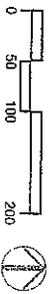
 Date

Attachment F
 Seagrass Cottages II Alternative Concept Plan

Semiahmoo Resort



Type	Units
Duplex	20
4-Plex	12
Stacked 4-Plex	20
Stacked Flats	16
	68



Seagrass Cottages II – Site Plan Concept

Map 19.2016





CITY OF BLAINE

344 H STREET • BLAINE, WA • 98230

PHONE: (360) 332-8311 • FAX: (360) 332-8330 • WEBSITE: www.ci.blaine.wa.us

ATTACHMENT "E"

SEAGRASS COTTAGES II: ALTERNATIVE DECISION FINDINGS OF FACT, CONCLUSIONS OF LAW, AND CONDITIONS OF APPROVAL

I. INTRODUCTION

In their original compliance review submitted in a report to the Planning Commission, staff concluded that the project, as proposed, "marginally" met the criteria for approval and recommended approval of the project provided the applicant makes some modifications to the original proposal (articulated in recommended Conditions of Approval to the PC). Since that time, the applicant has agreed to a number of changes to the project, including reductions in building area and height, additional open space, increased clustering and expanded view corridors. These changes are graphically illustrated in a modified site plan referred to as **Seagrass Cottages II Alternative Concept Plan** that is included as **Attachment "F"** of the staff report. They are also reflected in the 35 **Conditions of Approval** submitted in this attachment (below).

If the City Council elects to consider approval of the project, staff has prepared the following Findings of Fact (1-51) and Conclusions of Law (1-12) set forth below that will support the City Council decision, and provide a legal bases for applying the conditions of approval (1-35) to the project as conceptually proposed in Attachment "F".

Based on these Findings and Conclusions, and any additional Findings and Conclusions deemed appropriate during the course of the City Councils review, staff recommends the following approval format:

- 1) Approve the application for preliminary plat approval of Seagrass Cottages II, subject to the Conditions of Approval set forth in this attachment;
- 2) Approve the consolidated application for approval of a planned unit development, subject to the Conditions of Approval set forth in this attachment; and
- 3) Approve the consolidated application for approval of a shoreline substantial development permit, subject to the Conditions of Approval set forth in this attachment.

II. FINDINGS OF FACT

- 1) On December 21, 2005 the Department of Community Development at the City of Blaine received an application from Gepetto Properties LLC for a proposed Preliminary Plat (Permit # LOP-4-05), referred to as Seagrass Cottages II. Included in the application submission were an application for a Shoreline Substantial Development Permit (Permit # SMP-4-05), an application for a Planned Unit Development (Permit # PUD-3-05) and SEPA Review (SEP-19-05). A Determination of Complete Application was issued on December 23, 2005.

- 2) The permit and approvals requested in conjunction with the Seagrass Cottages II development are for a 68-unit multifamily residential subdivision on an approximately 20-acre parcel on Semiahmoo Spit. The proposed development includes thirteen fourplex residential structures (52 residential units) situated on five residential tracts, plus an additional eight duplex residential structures (16 units), each situated on a separate residential lot for a total of 68 residential units on thirteen residential lots or tracts. The fourplex units will be developed under condominium ownership. Members of the condominium association and the owners of the duplex lots will all be members of the Semiahmoo Community Association. Development of single-family residences has not been proposed and will not be permitted. All of the lots and tracts will be created in one phase but the development of the residential units by individual lot owners may occur over a period of years.
- 3) In addition to the 13 residential lots and tracts (Lots 1-8 and Tracts A-E), the proposed subdivision will create 6 non-residential tracts. These additional tracts include 2 private roadway tracts (Tracts F and G), a stormwater management area (Tract H), a park area (Tract I) a public viewpoint (Tract J), and a future development area (Tract K).
- 4) The project also includes construction of new private roads, public access trails, landscaping and utilities to serve the proposed development.
- 5) In order to develop the Seagrass Cottages II residential development project as proposed, the Applicant must garner City approval of the proposed Preliminary Plat, the proposed Planned Unit Development and a Shoreline Substantial Development Permit. In order to achieve project approval, the proposal must satisfy and demonstrate compliance and consistency with and conformity to the requirements of various sections of the Resort Semiahmoo Master Development Plan, the Blaine Municipal Code and other state regulations. These include the following:
 - a. City of Blaine Municipal Code Title 17, Division 1 – Administration Project Review & Approval Procedures, Chapter 17.06
 - b. City of Blaine Municipal Code Title 17, Division 5 – State Environmental Policy Act, Chapter 17.80
 - c. State Environmental Policy Act (SEPA), Washington Administrative Code, Chapter 197-11
 - d. City of Blaine Municipal Code Title 17, Division 3 – Marine Planned Recreation Zone, Chapter 17.20
 - e. City of Blaine Municipal Code Title 17, Division 3 – Planned Unit Development District, Chapter 17.48
 - f. City of Blaine Municipal Code Title 17, Division 4 – Preliminary Plat, Chapter 17.56

- g. Revised Code of Washington Chapter 58.17
 - h. City of Blaine Municipal Code Title 17, Division 5 – Shoreline Management Master Program, Chapter 17.81
 - i. The Resort Semiahmoo Master Development Plan, 1985
- 6) Pursuant to Section 17.06.070, BMC the Department of Community Development, City of Blaine, issued a Determination of Complete Application on December 23, 2005. Based on the request of the Applicant, the Director determined that the request was appropriate in this circumstance and pursuant to Section 17.06.150, BMC the project and permit review of requirements of approval for the proposed development shall be done in a consolidated manner.
 - 7) Pursuant to Section 17.06.100, BMC a Notice of Application (NOA), requesting comments from any person on the proposed development was posted as required at both the site and at City Hall. The same notification was published in a Council-designated newspaper, the Bellingham Herald, on December 27, 2005. The NOA identified a 30-day comment period from December 27, 2005 to January 25, 2006.
 - 8) A notice of public hearing was also published in the Bellingham Herald newspaper on December 27, 2005. Finally, the NOA was mailed, by certified mail, to all property owners of record as shown in the records of the Whatcom County Assessor's office in the area within 300 feet of the external boundaries of the site and to those persons who had requested a mailed NOA. Pursuant to Section 17.06.100.G.5, BMC the Applicant provided proof of certified mailing to the Director.
 - 9) The NOA included notification that a public hearing regarding the proposal would be held on February 9, 2006. On January 27, 2006, an additional notice regarding a change in the public hearing date was provided according to law informing the public and neighboring property owners that the public hearing had been re-scheduled for February 23, 2006.
 - 10) The Planning Commission, in its deliberation of the Seagrass Cottages II development, held a public hearing on February 23, 2006. After providing full opportunity for public testimony to be provided by any person wishing to provide such testimony, whether in support or in opposition to the subject proposal, the verbal portion of the public hearing was closed and the written portion of the public hearing was held open until March 1, 2006, at which time the public record was closed.
 - 11) Given that the proposed development includes a request for approval of a Planned Unit Development and given that the scale of the proposed project exceeds the Major Development Review threshold, as defined in Section 17.64.020, BMC subsequently requiring final decision authority to rest with City Council, the Planning Commission is responsible for formulating a recommendation for Council's consideration.
 - 12) Pursuant to Chapter 16.08, BMC and Chapter 197-11 WAC the proposed project was required to undergo review pursuant to the State Environmental Policy Act (SEPA). A completed SEPA Environmental Checklist was determined to be complete along with the other application submissions on December 23, 2005. The Department of Community Development, City of Blaine, acting as lead agency under Chapter 43.21C, RCW, issued a Mitigated Determination of Nonsignificance (MDNS) on February 3, 2006. A 14-day public comment period began and closed on February 17, 2006. Pursuant to Section 17.80.080.E, BMC, the *mitigation measures*

incorporated in the MDNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit.

13) Review of the proposed Seagrass Cottages II development included review of the following documents and information submitted by the Applicant:

- Application cover letter from Trillium Corporation dated December 20, 2005 and stamped as received by the City of Blaine on December 21, 2005
- City of Blaine Master Land Use Permit Application Form
- Applicant's Project Description dated December 20, 2005
- Applicant's Illustrative Site Plans (6 illustrations dated December 19, 2005)
- City of Blaine Shoreline Substantial Development Permit Application
- PUD Supplemental Application Information
- Preliminary Plat Supplemental Application Information
- Completed SEPA Checklist dated 12/20/05
- Applicant's Exhibit #1 – Set of six drawings for the Preliminary Plat of Seagrass Cottages II (dated 12/15/05) prepared by David Evans and Associates, Inc. including:
 - ◆ Preliminary Plat of Seagrass Cottages II (Sheets 1, 2 and 3 of 6)
 - ◆ Utilities Map (Sheet 4 of 6)
 - ◆ Existing Conditions Map (Sheet 5 of 6)
 - ◆ Site Plan Map (Sheet 6 of 6)
- Applicant's Exhibit #2 – Seagrass Cottages II Preliminary Stormwater Design Report (December, 2005) prepared by David Evans and Associates, Inc.
- Applicant's Exhibit #3 – Applicant's Statement of Relationship to City's Comprehensive Plan and Resort Semiahmoo Master Plan
- Applicant's Exhibit #4 – Letter and Updated Report from the Lummi Cultural Resources Department (stamped as received by Trillium Corporation on August 7, 2003) regarding Archaeological Subsurface Investigation
- Applicant's Exhibit #5 – Letter from Merit Engineering dated July 29, 2003 regarding Geotechnical Engineering Investigation
- Applicant's Exhibit #6 – Report on Coastal Processes prepared by Westmar Consultants Inc. dated December 13, 2004
- Applicant's Exhibit #7 – Bird Survey and Impact Assessment Summary Report (December, 2005) prepared by Adolfsen Associates, Inc.
- Applicant's Exhibit #8 – Memorandum dated May 24, 2004 and Technical Memorandum dated May 14, 2004 to Donovan Kehrer and Associates from The Transpo Group
- Applicant's Exhibit #9 – Applicant's Landscape Concept Plan dated December 20, 2005 and attached Appendix A to Seagrass Cottages II Design Guidelines (December, 2005)
- Semiahmoo Resort Site Plan (Development Plan for MPR Zone) submitted February 14, 2006.
- Semiahmoo Resort Parking Plan for MPR Zone) submitted February 14, 2006.

14) Additional information included in the public record by City staff prior to the public hearing included the following documents:

- Staff Report including Project Description, Analysis, Findings and Recommended Conditions of Approval.
- Notice of Application published on December 27, 2005
- Notice of Revised Public Hearing Date published January 27, 2006

- City letter to Trillium Corporation dated August 19, 2003.
 - SEPA Mitigated Determination of Nonsignificance issued February 3, 2006 by the City of Blaine
- 15) As part of the review, the Planning Commission also reviewed and considered a significant number of comments received from the public and State agencies during the public comment period, as well as all testimony provided at the public hearing.
 - 16) The proposed Seagrass Cottages II development was reviewed for consistency and compliance with the City's zoning for the subject property. The majority of the details of the City's zoning, in these particular circumstances, are found in the City adopted Resort Semiahmoo Master Development Plan and not in the zoning text directly. Pursuant to Section 17.20.050.A, BMC, projects proposed within this zone must be consistent and compliant with the overall Master Plan for the zone – the Resort Semiahmoo Master Development Plan.
 - 17) The proposed Seagrass Cottages development was reviewed for consistency and compliance with the Permitted Uses of the subject zoning, Marine Planned Recreation (MPR). Based on a review of the Site Plan provided by the Applicant, it has been found that the proposed development is consistent with the permitted use, "attached residential units", given the proposed configurations of the residential structures and lot configuration.
 - 18) The proposed Seagrass Cottages II development was reviewed for consistency and compliance with the regulations found in Chapter 17.48, BMC – Planned Unit Development (PUD). The proposed development was found to be consistent and compliant with the relevant regulations found in this chapter of the BMC with the exception of confirmation from the City's Public Works Department that the City can and will provide water and sanitary sewer service.
 - 19) The proposed Preliminary Plat of Seagrass Cottages II was reviewed for consistency and compliance with the regulations found in Chapter 17.56, BMC – Preliminary Plat – and in Chapter 58.17, Revised Code of Washington (RCW). Pursuant to the standards of review found in the BMC and the RCW, the proposed development was found to be consistent with these standards of review subject to conditions.
 - 20) The proposed Seagrass Cottages II development was reviewed for consistency with the Resort Semiahmoo Master Development Plan. The proposed development was found to be consistent with the Resort Semiahmoo Master Development Plan to a large degree; however, in a few respects the proposal was found to be inconsistent with the Resort Semiahmoo Master Development Plan. In these cases it was found that consistency with the Resort Semiahmoo Master Development Plan required additional conditions to the proposed plat.
 - 21) The subject proposal is consistent with the Land Coverage standard for Sub Area B of the Spit established in the Resort Semiahmoo Master Development Plan in that the proposed development includes less than 40% land coverage. Based on an analysis of the proposed development, within the context of the pattern of development existing or planned for Sub Area B, the subject proposal will not result in nor contribute to the overall development on the Spit exceeding the 40% standard established for Sub Area B; therefore, the proposal is consistent with the land coverage/impervious surface requirement for the Sub Area as a whole.
 - 22) The proposal is consistent with the height requirements set forth in Section V(C)(2) of the Resort Semiahmoo Master Development Plan limiting building heights to forty-

five (45) feet except within 200 feet of the County park where building heights shall be limited to twenty-five (25) feet.

- 23) The subject development was reviewed for consistency with the pattern of development described on page 5.33 of the Resort Semiahmoo Master Plan, with the illustration of anticipated public access and views to the water's edge also presented on page 5.33, with the table of impervious/pervious surface distribution presented on page 5.29, and with the illustration of impervious surface distribution presented on page 5.31. It was found that the proposed development was not consistent with the intent expressed in these and other portions of the Resort Semiahmoo Master Development Plan, especially with respect to the portion of the development area identified as the Beach Clusters area in the Master Plan. It was further found that modifications to the proposed development were necessary to ensure consistency with the intent established in the Master Plan related to clustering of development, impervious surface distribution, provision of open space, provision of view corridors, building mass, density and scale of development, and progression of development intensity from the tip to the neck of the Spit.
- 24) The proposed development is within the range of dwelling units planned for the Beach Clusters portion of the Spit. The proposal does not include the higher density planned for the Bay Condominiums and Harbor Condominiums portions of the Spit. The overall number of units proposed is slightly below the number of units planned for the overall development area in the Resort Semiahmoo Master Development Plan. However, given that the total number of units proposed does not exceed the maximum number allowed, the proposal is found to be consistent with the densities allowed in the Resort Semiahmoo Master Development Plan.
- 25) The proposed development incorporates development of the Upper Beach Trail adjacent to the shoreline throughout the subject property consistent with the Resort Semiahmoo Master Development Plan. The proposal also includes development of two cross-spit trails consistent with the standards set forth in the Resort Semiahmoo Master Development Plan.
- 26) The Applicant has proposed to develop a Viewpoint within Tract J. Provision of such a Viewpoint is consistent with the Resort Semiahmoo Master Development Plan and the Shoreline Master Program.
- 27) As shown on page 5.43 of the Resort Semiahmoo Master Development Plan, the proposed development area includes the area identified as Parking Area 4. The proposed development has not included development of this parking facility, but has proposed to develop the Viewpoint within Tract J that would provide at least the 10 public access parking spaces planned for Parking Area 4. However, the proposed development does not provide an alternate location within the development that would accommodate the additional 208 parking spaces planned for Parking Area 4. Additional commitment from the Applicant would need to be provided to ensure that overall parking needs for the Spit will be accommodated at a location away from the shoreline, either within the proposed future development site (Tract K) or at other acceptable locations outside the development area.
- 28) The proposal does not specifically call for the improvements identified in the Resort Semiahmoo Master Development Plan for the Transition zone and the Arrival Point zone; although, the Illustrative Plan provided by the Applicant does show site improvements in the vicinity of the Arrival Point zone that appear to be consistent with the Resort Semiahmoo Master Development Plan. Compliance and consistency

with the Master Plan requires that these improvements be incorporated into the development.

- 29) The proposal includes the improvements associated with the Park zone that identify development of a major, central open space that would, in part, link the beach to the north with the Marina to the south.
- 30) To be consistent with the Resort Semiahmoo Master Development Plan, all Primary paths must be eight to ten feet wide and paved with asphaltic concrete. To be consistent with the Resort Semiahmoo Master Development Plan, all Secondary Paths must be four to six feet wide and paved with either concrete, asphaltic concrete or crushed rock. Six feet of width is preferred.
- 31) The proposed Seagrass Cottages II development was reviewed for consistency with the City of Blaine Shoreline Management Master Program. The proposed development was found to be consistent with the Shoreline Master Program to a large degree; however, in a few respects the proposal was found to be inconsistent with the Master Program. In these cases it was found that consistency with the Master Program could be achieved with additional conditions and/or modifications to the proposed development.
- 32) The proposed development is located within 200 feet of the ordinary high water mark and, therefore, is within the jurisdiction of the City of Blaine Shoreline Management Master Program.
- 33) The proposed subdivision includes substantial development within the Rural/Urban Shoreline Environment; therefore, a Shoreline Substantial Development Permit is required.
- 34) The subject proposal is consistent with the Use Regulations pertaining to the Rural and the Urban Environment designations.
- 35) The proposed development includes landscaping and a landscape concept plan that are generally consistent with the General Landscaping Regulations from the City Shoreline Master Program.
- 36) The subject proposal, as conditioned by the recommendations contained in the Archaeological Survey of the site prepared by the Lummi Indian Nation and Mitigating Condition No. 2 from the Mitigated Determination of Nonsignificance (MDNS) is consistent with the Archaeological policies and use regulations set forth in the Shoreline Master Program.
- 37) The proposed development, as conditioned by Mitigating Conditions Nos. 3-8 from the MDNS, is consistent with the Landscape Modification policies and use regulations set forth in the Shoreline Master Program.
- 38) The proposed development, including the proposed viewpoint, is consistent with the Recreation policies and use regulations set forth in the Shoreline Master Program.
- 39) The proposed residential subdivision, as conditioned by the Mitigating Conditions from the MDNS, is consistent with the Residential policies and use regulations set forth in the Shoreline Master Program.
- 40) It has been found that the proposal includes development of the Upper Beach Trail and two cross-spit trails, which will increase use of the shoreline and provide public access points within and through the development. The development is consistent with the Residential policies and use regulations from the Shoreline Master Program.

- 41) The proposed development, as conditioned by the Mitigating Conditions from the MDNS, is consistent with the Road policies and use regulations set forth in the Shoreline Master Program.
- 42) Section 6.2 from the Natural Systems portion of the Shoreline Master Program sets forth use regulations that pertain to Bars and Spits. The subject proposal is located on a spit; therefore, the use regulations apply. The proposed development has been found to be consistent with the applicable use regulations.
- 43) As stated in a previous finding, the proposed development does provide public access to the shoreline within and through the development. The proposed development configuration will tend to limit impacts to the vegetation within the shoreline setback and will be consistent with the applicable use regulation.
- 44) To be consistent with use regulation 6 (for Bars and Spits), any proposed or replacement parking areas must be located on uplands away from the shoreline.
- 45) The proposed development does not block or interfere with public use or enjoyment of publicly owned shorelines.
- 46) The preliminary plat includes the location of public access easements and conservation easements on its face. All such easements and any additional public access easements required by the City shall run with the land in perpetuity as set forth in use regulation 9(d).
- 47) As required by use regulation 9(f), all public access improvements must be constructed prior to final plat approval.
- 48) The proposed development is consistent with the policies set forth in the Shoreline Management Act, RCW 90.58.
- 49) The burden of proving that the proposed development is consistent with the City of Blaine Shoreline Management Master Program rests with the Applicant.
- 50) As required in the City of Blaine Shoreline Management Master Program, construction or substantial progress toward construction of the proposed project must be undertaken within two (2) years of the approval of a Shoreline Substantial Development Permit, and all construction completed within five (5) years, unless an extension of one year is requested and granted. Furthermore, land disturbance and plat construction must wait 21 days following the date of receipt of the City's Notice of Decision by the Department of Ecology.
- 51) Any Finding of Fact that is also a Conclusion of Law is hereby adopted as such.

III. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, now entered are the following Conclusions of Law:

- 1) A properly completed application packet for the Seagrass Cottages II development was received by the City of Blaine on December 21, 2005. The application packet included applications for preliminary plat approval, planned unit development approval and shoreline substantial development permit approval, SEPA Environmental Checklist and other supporting documentation.

- 2) All public notice requirements regarding the filing of the application, the public comment period and the holding of the public hearing related to the application were provided in conformance with the applicable laws.
- 3) Pursuant to Chapter 17.56 BMC, subdivision of property into five or more lots requires approval of a preliminary plat. The proposed Seagrass Cottages II development includes subdivision of land into five or more lots; therefore, approval of a preliminary plat is required.
- 4) Pursuant to Chapter 17.56 BMC, a request for preliminary plat approval requires review by the Planning Commission and, in this case, the forwarding of a recommendation for action by the City Council.
- 5) Pursuant to Section 17.48.340 BMC, development within the Marine Planned Recreation (MPR) zoning district shall be reviewed using the planned unit development procedures. The proposed development is located within the Marine Planned Recreation zoning district; therefore, review of the proposal requires use of the planned unit development procedures.
- 6) Section 17.64.020 BMC establishes the threshold for Major Development Review. The proposed development exceeds the Major Development Review threshold, thus requiring City Council review and approval.
- 7) Pursuant to BMC 17.48 and 17.64, the City Council has the authority to make final decisions regarding applications for planned unit developments and major development proposals based upon a recommendation from the Planning Commission, and the Planning Commission has the authority to make such a recommendation to the City Council.
- 8) Pursuant to Section 1.5 of the Blaine Shoreline Management Master Program, no substantial development within the shoreline jurisdictional area is allowed without approval of a shoreline substantial development permit based on consistency with the Shoreline Management Act (RCW 90.58) and the shoreline goals, policies and regulations of the City of Blaine. The proposed development includes substantial development within the jurisdiction of the City of Blaine Shoreline Management Master Program; therefore, approval of a shoreline substantial development permit is required.
- 9) Section 17.06.150 BMC establishes a process for consolidated review of permit applications pertaining to the same development proposal. The Applicant has provided a written request for use of the consolidated permit application review process, and said process has been utilized in conjunction with review of the Seagrass Cottages II development proposal.
- 10) The consolidated application for approval of a preliminary plat, planned unit development and shoreline substantial development permit has been reviewed for compliance and consistency with all applicable plans, policies and regulations of the City of Blaine including the Resort Semiahmoo Master Development Plan, the Blaine Comprehensive Plan, the Blaine Municipal Code and the Blaine Shoreline Management Master Program, as well as applicable state law.
- 11) With the mitigating measures included in the project application and those established pursuant to the Mitigated Determination of Nonsignificance (MDNS) issued pursuant to RCW 43.21C, and with the mitigating measures set forth as conditions of approval, below, the consolidated application has been found to be

consistent with the requirements set forth in the above-referenced planning and regulatory documents.

12) Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

IV. City Council Decision

For the reasons set forth in the above Findings of Fact and Conclusions of Law, the City Council hereby approves the following land use applications with conditions as set forth in **V. Conditions of Approval**:

- 1) Approve the application for preliminary plat approval of Seagrass Cottages II, subject to the Conditions of Approval set forth below;
- 2) Approve the consolidated application for approval of a planned unit development, subject to the conditions of approval set forth below; and
- 3) Approve the consolidated application for approval of a shoreline substantial development permit, subject to the conditions of approval set forth below.

V. CONDITIONS OF APPROVAL

- 1) Except as noted below, the Seagrass Cottages II subdivision shall be developed and the associated improvements shall be made consistent the revised site plan concept contained in **Attachment "F"**. All accompanying application materials and maps shall be revised to be consistent with Attachment "F" and these conditions.
- 2) The Mitigating Conditions Numbers 1-21 from the Mitigated Determination of Nonsignificance issued by the City on February 3, 2006 shall be implemented in their entirety.
- 3) Prior to preliminary plat approval, the Applicant shall provide an analysis of Sub Area B with respect to impervious surfaces, including the proposed development, all existing development within the Sub Area and all other impervious surfaces identified and planned for in the Semiahmoo Resort Master Plan. Said analysis shall demonstrate how the proposed development, with design modifications if necessary, will not result in nor contribute to exceeding the 40% maximum impervious surface standard for Sub Area B established in the Resort Semiahmoo Master Development Plan.
- 4) Following review and approval of construction plans by the City, all public access improvements identified in the project applications, including, but not limited to, the public viewpoint, the two cross-spit trails and the Upper Beach Trail, shall be collaboratively designed with public input and approved by the City prior to construction by the Applicant. All such improvements shall be completed prior to final plat approval unless adequate surety in a form acceptable to the City has been provided by the Applicant and approved by the City.
- 5) Unless otherwise approved through an amendment to the City Parks Plan, all primary trails shall be eight to ten feet wide and paved with asphaltic concrete and be designed and constructed to City standards.

- 6) Unless otherwise approved through an amendment to the City Parks Plan, all secondary trails shall be six feet wide and paved with either concrete, asphaltic concrete or crushed rock and be designed and constructed to City standards.
- 7) The Upper Beach Trail as proposed shall be constructed within the public access easement adjacent to the ordinary high water mark along the shorelines of the subject property consistent with Condition 11 from the Mitigated Determination of Nonsignificance. In addition, the trail shall be set back as far as possible from the ordinary high water mark to maximize the separation from the water's edge. A three to four-foot high vegetated buffer of native vegetation shall be installed along the waterward side of the trail to provide visual screening for wildlife, and the City shall limit the number of points of access onto the trail to minimize shoreline impacts. The Applicant shall coordinate design and construction of the Upper Beach Trail with the City, and the City shall review and approve all construction plans prior to construction.
- 8) All private roads and approved modifications to public roads within the development shall be constructed to City standards prior to final plat approval.
- 9) Turn-arounds with designs that are consistent with City of Blaine Development Standards and that have been approved by the Fire Chief shall be installed at the terminus of all private roads.
- 10) The proposed Viewpoint (within Tract J) shall be developed for shoreline public access as proposed.
- 11) A Homeowners Association shall be established prior to final plat approval that will be responsible for all operation, maintenance and repair responsibilities associated with private roadways (Tracts F and G), private walkways, and stormwater management facilities. This condition may also be satisfied if the Applicant demonstrates to the satisfaction of the City that all such operation, maintenance and repair responsibilities will be undertaken by the Semiahmoo Resort Association.
- 12) A Road and Drainage Maintenance Agreement ensuring that the Homeowners Association or Semiahmoo Resort Association will be responsible for maintenance of private roadways and drainage facilities shall be approved by the Public works Director and recorded prior to or in conjunction with recording of the final plat.
- 13) All proposed and all additionally required public access or conservation easements shall be shown on the final plat and recorded prior to or in conjunction with recording of the final plat.
- 14) The Applicant shall amend the Landscape Concept Plan to include all of the elements, goals and guidelines articulated in the Resort Semiahmoo Master Development Plan and subsequently garner City approval prior to land disturbance activity and implementation.
- 15) Except as further limited through Conditions of Approval No. 26 and 30, below, the maximum height of all residential structures shall be forty-five (45) feet, except within 200 feet of the Whatcom County park property where the maximum height shall be twenty-five (25) feet.
- 16) Improvements consistent with the Transition zone and the Arrival Point zone shall be incorporated into the project design and site improvement plans. These improvements shall be reviewed and approved by the City with assistance from a third-party professional and the Semiahmoo Resort Association (as agreed to by the

applicant). Said improvements shall be installed by the Applicant prior to final plat approval unless adequate surety in a form acceptable to the City has been provided by the Applicant and approved by the City.

- 17) The final design for site improvements within the proposed park area (Tract I) shall be reviewed and approved by the City following consultation with the City Parks Board prior to construction. All such improvements shall be completed prior to final plat approval unless the Applicant has provided adequate surety in a form acceptable to the City that has been reviewed and approved by the City to ensure timely construction of all such improvements.
- 18) Prior to preliminary plat approval, the Applicant shall submit a shared parking plan that is consistent and complies with the Resort Semiahmoo Master Development Plan that identifies the location or locations away from the shoreline that will accommodate the future parking requirements set forth in the Resort Semiahmoo Master Development Plan. This plan may include areas within the proposed development, such as the future development site (Tract K) or adjacent sites. The Applicant shall also provide some form of legally binding commitment or contract or financial assurance that ensures that at least the 208 additional parking spaces planned for Parking Area No. 4 as shown in the Resort Semiahmoo Master Development Plan will be constructed.
- 19) Construction of the project cannot begin and is not authorized until twenty-one days after the date of filing of the required Notification to the Department of Ecology or until after resolution of any issues raised during the twenty-one day review period.
- 20) Construction of the project must be commenced within two (2) years from the date of approval unless a one-year extension has been granted in advance by the City.
- 21) Construction of the project must be completed within five (5) years from the date of approval unless a one-year extension has been granted by the City.
- 22) The Applicant shall implement all the recommendations of the geotechnical engineer report, dated December 11, 2002, later supplemented (July 29, 2003) and prepared by Merit Engineering, unless further studies present new or different facts that are determined acceptable by the City. The plans for site grading and road construction shall be reviewed by a geotechnical engineer during the construction design phase and the work shall be monitored during construction by a state licensed geotechnical engineer. Recommendations of the geotechnical engineer's report as it relates to residential construction will be included in the CC&Rs of the Seagrass Cottages Subdivision. Excavation for foundations of residential construction shall also be monitored during construction by a state licensed geotechnical engineer.
- 23) The Applicant shall submit for review/comment and approval by the Public Works Department an engineering analysis and design report for improvements to the sanitary sewer system necessary to serve the proposed development. Where appropriate, the analysis and report shall address the wastewater lift station and force main to serve the development and the completion of existing Lift Station No. 4. The system design shall comply with Ecology "Orange Book" criteria for pump stations and force mains including provisions for system redundancy, annual pressure testing, and overflow protection.
- 24) The Applicant shall submit for review and approval by the Public Works Department and/or City staff an amended water analysis investigation report that, as suggested

by the engineer, is based on groundwater elevation data collected from a longer monitoring period and during more extreme changes between high and low tides.

- 25) A grouping of two duplex residential units shall be added to the proposed development and shall be clustered around the proposed turn-around at the south end of the development. These additional units would be identified as Lots 9 and 10 and would be part of a cluster of eight duplex units. Landscaping shall be incorporated to provide visual screening from Semiahmoo Parkway.
- 26) The maximum height for all duplex units shall be 35 feet, except within 200 feet of Semiahmoo Park where the maximum height shall be limited to 25 feet.
- 27) A 75-foot building setback shall be provided from Semiahmoo Park.
- 28) Groups of residential units shall be clustered to the maximum extent practicable to provide a view corridor between the group of duplex units and the groups of fourplex units.
- 29) The number of four-plex units located in Tracts B and C shall be reduced from a total of six to three and these units shall be clustered within a modified Tract C.
- 30) The four-plex units in revised Tract C, as well as those in Tracts A and E, shall have a maximum height of 35 feet.
- 31) Private open space in the remainder of Tract B shall be consolidated in the area between the duplex units and the remaining four-plex units in Tract C to provide view corridors.
- 32) The two four-plex units proposed within Tract D shall be replaced with a single multifamily residential structure containing stacked residential flats. The maximum density within Tract D shall be 16 dwelling units. The maximum height within Tract D shall be 45 feet.
- 33) Total land coverage by residential buildings (including land covered by eaves and overhangs) shall be reduced by approximately 15 to 20 percent from the coverage presented in the original application. This will result in a reduction in land coverage from a proposed 2.71 acres to between approximately 2.17 and 2.30 acres. The development's total residential building footprint (not including areas covered by eaves and overhangs) shall be reduced to between approximately 1.95 and 2.07 acres. These figures shall be used as guidelines for future staff review and shall be understood to be approximate and subject to minor modifications based on final architectural designs.
- 34) If authorized pursuant to applicable State Law, a portion of the required Traffic Impact Fees paid to the City by the developer shall be used to support ferry service between Semiahmoo Spit and downtown Blaine.
- 35) Prior to the construction of the duplex residential units proposed for the southwest portion of the Site, the City and the Applicant agree, through acceptance of this condition, to enter into a good faith discussion regarding possible opportunities for transferring density out of the Seagrass Cottages II development area and into other

mutually acceptable locations. Acceptance of this condition is not intended to establish an expectation that the above-described discussions will necessarily result in any transfer of density, nor is it intended to limit the Applicant with respect to completing the Project as approved.

ATTACHMENT G SEAGRASS COTTAGES II: PUBLIC COMMENT SUMMARY

Doc #	Date Received	Name	Description
1	Feb. 13	John L. Bower	States that the Waterbird Impact Assessment (WIA) inadequate to provide City with what it needs to know regarding the impact to birds from development.
2	Feb. 13	John L. Bower	WIA Summary of Findings
3	*Jan. 14	Sue Chickman	Opposes development because the proposed area is an "Important Bird Area" and is threatened by boating, other recreational activities, and shoreline alterations. Also, the development proposes "cottages" that are far from cottage size and will increase threats to nature.
4	Jan. 10	James Chorey	Opposes development until parking needs to be further addressed by Trillium in cooperation with the Semiahmoo Marina Condominium Association. They should be deterred from using the Marina parking which is valuable to current property owners.
5	Jan. 22	Brooke Finley	Opposes development and is concerned that no new EIS has been made and that this is only phase I of future development plans.
6	Feb. 3	Trevor Hoskins	Development on the Spit will prove to be a disaster to traffic, disturbance of wildlife, etc. The proposal is dissimilar to the master plan in regards to numbers and sizes of buildings.
7	Jan. 2	Marilyn Jensen	Requests a referral to other documents/assessments not compiled by Trillium in regards to the proposal, such as SMP for the Spit. The increased traffic, impermeable surface, air pollution, noise pollution, etc. are all a serious risk to the water belonging to the people.
8	Jan. 17	Marilyn Jensen	Strongly objects to any more building on the Spit and recognizes the impacts of traffic and the lack of facilities available to the "new" residents. Does not see how this could be allowed even under weakened shoreline regulations. Also great concern for wildlife species, habitat, and water quality that will be negatively impacted by development.
9	*Jan. 12	Michael & Helen Meier	Opposes development and is concerned about the Spit's ability to handle increased traffic, human contact, waste, etc. Suggests that Trillium will not use any of the

			Spit for the benefit of the public.
10	Jan. 9	David Morrison	Requests additional information regarding development. Suggests that Trillium provide a master plan for its land on the Spit to ensure adequate access, parking, open space, etc. for each phase of development on the Spit. Include this condition in the SEPA determination.
11	Jan. 25	John & Ingrid Nantz	Opposes development of the Marina parking lot and asks that no development will be permitted that limits or changes the existing lot.
12	Jan. 12	William S. Robinson	Requests extreme diligence in the review process to protect the natural beauty and resources of the Spit. Also comments that the Master Plan is outdated and this development should be considered inappropriate.
13	Feb. 13	Lincoln L. Rutter	Opposes SEPA-MDNS because of the lack of proper field studies; window of limitation on construction activity should be much longer, the stormwater plan is inadequate to deal with the urbanization of the Spit, the "New" application possesses all of the same problems inherent to the prior SC application. The development is inconsistent with the Master Development Plan and should be denied.
14	Jan. 24	Suzanne Schwake	Opposes development because the Spit is a unique piece of land in Washington State and states that development, if any, should be met with extra-careful scrutiny.
15	Jan. 17	Steve Taylor	Strongly opposes the development on the basis of following 20 year old plans and that no EIS has been completed. There are long-term irreparable impacts to the Spit if development is permitted. Must think in terms of public benefit over private interest.
16	Jan. 26	Dorna Theaman	Shares ideas for the development, including: a fenced in dog park that incorporates some parking, and having adequate parking at the Marina.
17	Feb. 3	Frank Meriwether	WA State Dept. of Health is concerned about the possible impacts on shellfish harvesting from the proposed development. Increased impervious surfaces will increase runoff and more development will mean greater amounts of domestic waste that must be routed elsewhere.
18	*Jan. 19	Lena Tso & Kelly Easter	Lummi review of the site indicated the existence of the Semiahmoo Village Site, and it is highly likely that cultural resource are present in the proposed project area.
	Public Hearing		

19	Feb. 23	Lincoln Rutter	Plat inconsistent with City "clustering" code and the building sizes do not meet "cottage" standards. The development should consider impacts such as traffic and pollution, effects on wildlife & birds.
20	Feb. 23	Ron Miller	Opposes the project and questions the existence of view corridors and a look at natural history. Concerned with the fact that the site is 10' above sea level and the potential effects a natural disaster could have.
21	Feb. 23	Geoff Menzies	Development is not consistent with long-term interests in maintaining the environmental quality and water quality in Drayton Harbor. Development should require a new EIS to analyze shellfish, runoff, and pollution impacts.
22	Feb. 23	Jan Hansen	Opposes development but if it must happen, ensure that view corridors are protected for the public. States that plans are outdated and that we should be looking at a long-term (50-200 years) planning horizon.
23	Feb. 23	Patty Rutter	Opposes development and the negative impact it will have on public use and benefit. There is also concern with the lack of fire facilities and funding.
24	Feb. 23	Penny Senoff	Preserve the Spit for its beauty. The Master Plan does not look like the proposed development and should look into the future to determine which is the best route not into the past.
25	Feb. 23	Sheli Moore	Opposes development, but would like to see height restriction and density reduced if there has to be development.
26	Feb. 23	Henry Schwake	Development design is not being considered; arranged in a line like boxcars without much effort given to pauses, vistas, view corridors, etc. The buildings and site design are out of scale for the Spit.
27	*March 1	Robert & Lois Franco	Deny proposal. Restrictions to development should include: 1) the amount of land should be limited, 2) illustrative depictions should provide guidance for overall density, 3) review City Comp Plan, 4) require more thorough environmental study with regards to long-term impacts, 5) require lower height limits and a true image of a "beach house," 6) ensure funding will remain available during the entire project, 7) impact on the development of commercial entities envisioned for the Spit, and 8) require developer to pay in advance.
28	March 1	Joanne Slivinski	Opposes development and includes reasons such as; it is the site of a Native American burial ground, it is home to numerous shorebird and raptor and other wildlife, it will negatively impact the health of Drayton Harbor. If all else fails, the

			City should use Eminent Domain to obtain the land for public good and the best stewardship of the land.
29	*Feb. 28	Andie Menzies	Requests that all public comment be reviewed again. Deny proposal due to the large inconsistency between the "beach cottages" and the City code of "clustering," a disregard for the impact of bird species, immense traffic impacts, and there is currently no watchdog for the project.
30	March 1	James Hollaway	Does not support approval of project. Traffic mitigation is overlooked along with the potential loss of the natural environment. At minimum, more planting trees along roadways should be required to screen the noise and views associated with traffic.
31	March 1	Terry Feist	Email in support of comments received from Glenn Rinkel.
32	Feb. 27	Robert Dales	Opposes development and is concerned that public comment/PC process doesn't allow sufficient community involvement to protect the Spit. Also, there is a lack of infrastructure and public facilities, including natural disaster (such as tsunami) planning for the development. If there must be development make sure that it is "good" and responsible.
33	Feb. 28	Ron Miller	Opposes the development and suggests that the property either be downzoned or acquired by the public. If approved, major changes to the proposal should include a reduction in density, height limits, and building size, traffic studies/mitigation, a plan for storm water and other project expenses, and plentiful view corridors.
34	Feb. 27	Sheli Moore	Development will negatively impact habitat, including birding and shellfish. Establish larger view corridors, downsize "cottages," do not relocate eagle/falcon habitat, reconsider parking and its impact, consider impacts to public facilities and transportation. Review Growth Plan for the area and consider an update before approval of project.
35	Feb. 21	Michael DiSpigno	Summary of the investigation into the design criteria used for the sanitary pump near the Hotel. The design of the pump is consistent with the Master Plan and the "Cottages" should have a negligible effect on the pump operation. Attached work of calculations/design.
36	Feb. 27	Michael McFarlane	Requests a considering the connection of the proposed public trail in SCII to Semiahmoo County Park. Increase public access and complete the vision of a looped trail system to connect all improvements on the Spit.
37	Feb. 28	John Bennitt	Reconsider outdated "plans," science and population has changed and focus on the

			next 25 years and how "we" want the Spit to look.
38	March 1	Greg Booth	Opposes SCII and unhindered growth of the area. People move to the area because of its natural beauty which should be protected. Measure the long-term effects SCII will have on the land and community (transportation, sewage treatment, water supply, emergency response infrastructure...).
39	Feb. 27	Scott Brown	Appalled at the idea of a "total build out" plan. Opposes development and urges for protection of the Spit.
40	March 1	John & Carol Choulochas	Consider the impacts of past development projects. The land is already disturbed and is a fragile ecosystem. Reduce the plan to fill the Spit with buildings/traffic.
41	Feb. 28	Cal Clements Jr.	The Spit should not be developed further. Find a way to compensate Trillium to acquire the Spit property as a public park.
42	Feb. 28	Suzanne & Larry Conrad	In favor of backing up and rethinking the entire proposal. The Spit is a valued jewel in the community.
43	Feb. 27	Robert Dales	Copy of previous comment letter:
44	Feb. 28	Eileen Eddy	Supports Glenn Rinkel's comments. Preserve the natural beauty of the Spit and do not over-develop the land.
45	Feb. 27	Keats & Gail Garman	Disappointed with SCII because it will seriously impact the recreational/education. Also tsunami modeling should occur before any consideration of future development.
46	March 1	Janet Hansen	Concerned with the amount of impervious surfaces (even 20% will have negative effects) and the impacts to an "Important Birding Area." A new environmental assessment should be required.
47	March 1	John Hinchman	Opposes development and supports letters of Rinkel and Rutter. Review impacts to infrastructure and retain the natural beauty and public benefits of the Spit.
48	Feb. 28	Lucy & Craig Johnson	Retain a balance of growth and concern for the environment. Consider the long-term impacts, both economically and environmentally, and consider a compromise with the developer that will allow for some profits but also protection of the Spit for future use.
49	March 1	Patti Jordan	Deny SCII proposal. In agreement with Rutter.
50	March 1	Judi Lachner	Deny SCII proposal. Plan for the future.
51	Feb. 26	Nicole McCaig	Deny SCII proposal and consider: revising/updating the Master Plan, the aesthetic/wildlife importance of the Spit, the sensitivity of the area and the negative impact of increased density, and the lack of public facilities and infrastructure.

			Consider implementing the Eminent Domain Law.
52	March 1	Andie Menzies	Email w/ missing attachment
53	Feb. 28	Geoff Menzies	Requests that the latest science on urbanization and impacts to shellfish growing areas is shared with the PC. Runoff and wet-season will have a great impact to water quality and shellfish as a result of the SCII proposal and increased impervious surfaces. Included research document: PSAT #PSAT04-09 - <i>Coastal Urbanization & Microbial Contamination of Shellfish Growing Areas</i>
54	Feb. 28	Glenn Rinkel	Discusses the difference in developing to maximize footprint and developing to maximize the enjoyment of an area (the latter example of 20 years ago, still made the developer money). Consider the reason SCI was denied and review studies that show the negative impacts this kind (SCII) of development will have on the Spit.
55	Feb. 27	Lincoln Rutter	Deny application: 1) violates the Master Plan more so than SCI, 2) the negative impact on birds has not been properly studied/considered, 3) the biofiltration swale as designed is incapable of dealing with the magnitude of pollution generated by the large scale development, 4) SEPA review is logically disconnected from conclusions drawn by Whatcom County and other unbiased individuals as it relates to traffic, and 5) the suggestion by the applicant that the drawings in the Master Plan as only "illustrative" and not binding is legally incorrect.
56	March 1	Jayne St. Myer	Appalled by horrific size and scope of massive "cottages." The design is based on greed and does not consider the public benefit, views, or the bird/wildlife habitat.
57	Feb. 27	Daryl & Bob Schmidt	Deny proposal. Protect this unique land as a tourist attraction, for community enjoyment, and for wildlife and habitat preservation.
58	Feb. 27	Ed Schellinck	Current proposal does not do anything for the public or the natural quality of the Spit. If approved the Spit will become just another example of urban sprawl.
59	March 1	Penny Senov	Correct link for the seaside institute.
60	Feb. 26	Penny Senov	Suggest the idea of making "great plans" that the community can be proud of and stand behind, such as principles used by the Seaside Institute. A plan should include: all buildings with plans/elevations, illustrations of relationships with other features, architecture/materials, principles of New Urbanism, native landscaping, using environmentally safe materials, creating open spaces... Current infrastructure is not ready and development should take time to ensure that it is "good" and responsible. Attached article – "green acres"

61	Feb. 27	Juby & Alex Woodard	Oppose development, permits should be denied and a moratorium should be implemented until at least appropriate infrastructure is in place.
62	March 1	Wayne Schwandt	Response to public comment at the SCII Public Hearing Feb. 23: 1) Impervious surface limitation at 10-20% necessary to protect water quality are not supported in literature. 2) 4-plex footprint was used to generate impervious surfaces totals. The depiction does not create an architectural style. "Cottages" may not be the best term but the idea is to achieve a "...beach house image." 3) The statement that Peregrine Falcons live on the Spit is not supported. 4) Groundwater has been monitored and a final report will be submitted. 5) Public open space area and access has been increased since SCI.
Additional Docs Distributed later			
	Feb 28	Patti Rutter	Comment letter expressed opposition to project based on 1) footprint and square footage of project; 2) traffic impacts and infrastructure costs; 3) potential limitations on fire and police services; 4) limitations on staffing for enforcement; and 5) insufficient bird survey.
	Feb. 21	Adolfson Environmental	Response to public comments regarding MDNS conditions related to bird impacts and Winter Bird Survey Update
	March 1	City of Blaine	Water service availability letter
	March 1	City of Blaine	Sanitary sewer service availability letter
	March 6	Whatcom County PDS	Letter addressing MDNS Condition #10 (off-site traffic mitigation)
	March 21	Wayne Schwandt	Letter with attachments responding to questions raised by Planning Commission regarding impervious surfaces, groundwater monitoring, low impact development standards, Semiahmoo Resort Association, and Seagrass Cottages building mass and style.
	March 1	Pew Oceans Commission	Pew Oceans Commission Report
	April 5	Wayne Schwandt	Letter with attachments addressing impervious surface distribution and calculations.
	April 5	Pam Andrews	Semiahmoo Spit Impervious Surface Distribution spreadsheet