

## **ORDINANCE 06-2645**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON, RENDERING A FINAL DECISION ON SEAGRASS COTTAGES II, A PRELIMINARY PLAT, PLANNED UNIT DEVELOPMENT AND SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT ALLOWING DEVELOPMENT OF A 68-UNIT MULTIFAMILY RESIDENTIAL SUBDIVISION ON AN APPROXIMATELY 20-ACRE SITE ON SEMIAHMOO SPIT IN BLAINE.**

**WHEREAS**, 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, an application for a Shoreline Substantial Development Permit (Permit # SMP-4-05), an application for a Planned Unit Development (Permit # PUD-3-05) and a SEPA checklist (SEP-19-05), and;

**WHEREAS**, a Determination of Complete Application was issued by the City of Blaine on December 23, 2005, and;

**WHEREAS**, a Notice of Application (NOA), was mailed, posted, and published in the Bellingham Herald, on December 27, 2005, and;

**WHEREAS**, a notice of public hearing was also published in the Bellingham Herald newspaper on December 27, 2005, and;

**WHEREAS**, the Department of Community Development, City of Blaine issued a Mitigated Determination of Non-significance (MDNS) on February 3, 2006, and;

**WHEREAS**, the Planning Commission held a public hearing on February 23, 2006, and subsequently held work sessions on March 1, March 29, April 5, April 19, May 3, May 10, May 17 and May 24, 2006, and;

**WHEREAS**, on June 7, 2006, the Planning Commission forwarded a recommendation to the City Council regarding the Seagrass Cottages II proposed development recommending that the City Council deny the consolidated permit applications based on the finding that the proposed development was inconsistent with the Resort Semiahmoo Master Development Plan, and;

**WHEREAS**, the City Council considered the subject applications and all information included in the public record through a closed record hearing process on June 12, 2006 and subsequently held work sessions regarding the Seagrass Cottages II development proposal on June 12, 19 ,26, and July 10, 2006, and;

**WHEREAS**, on July 10, 2006, after a review of the record and analysis of compliance and consistency issues, the City Council approved the project proposal by a 4 to 3 vote, and;

**WHEREAS**, on July 24, 2006, the Blaine City Council approved the findings, conclusions and conditions of approval for the project attached hereto as Exhibit A and incorporated by reference;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
BLAINE, WASHINGTON, AS FOLLOWS:**

**SECTION 1:** City council hereby approves the application from Gepetto Properties LLC for a proposed Preliminary Plat (Permit # LOP-4-05), referred to as Seagrass Cottages II, an application for a Shoreline Substantial Development Permit (Permit # SMP-4-05), an application for a Planned Unit Development (Permit # PUD-3-05) based upon the findings of fact and conclusions of law, and subject to the conditions all set forth in Exhibit A, attached hereto as Exhibit A, and incorporated by reference herein.

**SECTION 2: Severability.** If any section, subsection, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 3: Effective Date.** This ordinance shall be in full force and effect upon approval and is the final decision by the City Council on the above referenced applications pursuant to 36.70.C, RCW.

**PASSED BY THE CITY COUNCIL OF BLAINE, WASHINGTON** on the 24th day of July, 2006.

**CITY OF BLAINE, WASHINGTON**

By: \_\_\_\_\_  
Mike Myers, Mayor

\_\_\_\_\_  
Date

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Sheri Sanchez, City Clerk

\_\_\_\_\_  
Jon Sitkin, City Attorney

**EXHIBIT A**

**FINAL DECISION OF CITY COUNCIL**

**regarding**

**SEAGRASS COTTAGES II**

**with**

**FINDINGS OF FACT, CONCLUSIONS OF LAW,**

**AND CONDITIONS OF APPROVAL**

**I. INTRODUCTION**

**SUBJECT PROPOSAL:** **SEAGRASS COTTAGES II.** 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,  
(The Applicant) Bellingham, Washington, 98226

**II. FINDINGS OF FACT**

Based on a review of the subject application and all information included in the public record, the City Council makes the following 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 permits 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 the applicant 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 was 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:
  - o Application cover letter from Trillium Corporation dated December 20, 2005 and stamped as received by the City of Blaine on December 21, 2005
  - o City of Blaine Master Land Use Permit Application Form
  - o Applicant's Project Description dated December 20, 2005
  - o Applicant's Illustrative Site Plans (6 illustrations dated December 19, 2005)
  - o City of Blaine Shoreline Substantial Development Permit Application
  - o PUD Supplemental Application Information
  - o Preliminary Plat Supplemental Application Information
  - o Completed SEPA Checklist dated 12/20/05
  - o 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)
  - o Applicant's Exhibit #2 – Seagrass Cottages II Preliminary Stormwater Design Report (December, 2005) prepared by David Evans and Associates, Inc.
  - o Applicant's Exhibit #3 – Applicant's Statement of Relationship to City's Comprehensive Plan and Resort Semiahmoo Master Plan
  - o 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
  - o Applicant's Exhibit #5 – Letter from Merit Engineering dated July 29, 2003 regarding Geotechnical Engineering Investigation
  - o Applicant's Exhibit #6 – Report on Coastal Processes prepared by Westmar Consultants Inc. dated December 13, 2004
  - o Applicant's Exhibit #7 – Bird Survey and Impact Assessment Summary Report (December, 2005) prepared by Adolfson Associates, Inc.
  - o 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
  - o 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)
  - o Semiahmoo Resort Site Plan (Development Plan for MPR Zone) submitted February 14, 2006.
  - o 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:
- o Staff Report including Project Description, Analysis, Findings and Recommended Conditions of Approval.
  - o Notice of Application published on December 27, 2005
  - o Notice of Revised Public Hearing Date published January 27, 2006
  - o City letter to Trillium Corporation dated August 19, 2003
  - o 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 Planning Commission submitted its recommendation to the City Council in a document entitled, "Planning Commission Recommendation to City Council regarding Seagrass Cottages II." The Planning Commission recommended that the City Council deny the subject applications based on the proposal's inconsistency with specific provisions and the intent established in the Resort Semiahmoo Master Development Plan.
- 17) The City Council considered the subject applications and all information included in the public record through a closed record hearing process on June 12, 2006. The City Council held work sessions regarding the Seagrass Cottages II development proposal on June 12, 19 ,26, and July 10, 2006. On July 10, 2006, the City Council made its final decision.
- 18) 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.
- 19) 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.
- 20) 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.
- 21) 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.

- 22) 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.
- 23) 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.
- 24) 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.
- 25) 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.
- 26) 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.
- 27) 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.
- 28) 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.
- 29) 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.

- 30) 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.
- 31) 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.
- 32) 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.
- 33) 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.
- 34) 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.
- 35) The proposed subdivision includes substantial development within the Rural/Urban Shoreline Environment; therefore, a Shoreline Substantial Development Permit is required.
- 36) The subject proposal is consistent with the use regulations pertaining to the Rural and the Urban Environment designations.
- 37) 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.
- 38) 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.
- 39) 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.
- 40) The proposed development, including the proposed viewpoint, is consistent with the Recreation policies and use regulations set forth in the Shoreline Master Program.



- 41) 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.
- 42) 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.
- 43) 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.
- 44) 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.
- 45) 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.
- 46) 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.
- 47) The proposed development does not block or interfere with public use or enjoyment of publicly owned shorelines.
- 48) 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).
- 49) As required by use regulation 9(f), all public access improvements must be constructed prior to final plat approval.
- 50) The proposed development is consistent with the policies set forth in the Shoreline Management Act, RCW 90.58.
- 51) The burden of proving that the proposed development is consistent with the City of Blaine Shoreline Management Master Program rests with the Applicant.
- 52) 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.
- 53) 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 after considering 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 by the city council 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 Section 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 with the revised site plan concept contained in Attachment "F" to the Staff Report to City Council. 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) 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.
- 4) 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.
- 5) 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.
- 6) 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.
- 7) All private roads and approved modifications to public roads within the development shall be constructed to City standards prior to final plat approval.
- 8) 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.

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- 9) The proposed Viewpoint (within Tract J) shall be developed for shoreline public access as proposed.
  - 10) 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.
  - 11) 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.
  - 12) 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.
  - 13) 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.
  - 14) The City shall actively involve the Semiahmoo Resort Association (SRA) when undertaking landscape and design review of the project. SRA compliance review and recommendations shall be fully reviewed and discussed by staff prior to making a final compliance determination.
  - 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 with 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.

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- 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 II 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 shall 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) Upon approval of Seagrass Cottages II as illustrated in Attachment "F" of the Staff Report to City Council, but prior to construction of the infrastructure of the 8 duplex residential units proposed for the SW portion of the site, the City shall develop and approve a comprehensive plan update addressing the spit. The update shall address the potential transfer of density from Seagrass Cottages II to the tip of the Spit. The update shall address the full range of land use, transportation and environmental issues. The Applicant shall agree in writing to restrain from any development of the 8 subject lots until the plan is approved. The City will agree in writing to complete the plan by April 1, 2007. The applicant shall be released from a building restriction on April 1, 2007 but may at that time take advantage of the provisions contained in the master plan update.
- 36) The configuration of Lots 7-8 and Tracts E and I shall be modified to shift the locations of the residential structures away from the viewpoint parking, Tract J, while not unnecessarily reducing the functionality of the future park site, Tract I.

## **VI. APPEALS**

Any appeal of the City Council's final decision regarding the Seagrass Cottages II development must be filed with the Superior Court of Whatcom County and the Washington State Shorelines Hearings Board consistent with the timing requirements established in the Land Use Petition Act, now codified as RCW 36.70C and the Shoreline Management Act, RCW 90.58.

Signed this Day of July 24, 2006:

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Mike Myers, Mayor of Blaine

