

**To: Members of Planning Advisory Board**

**Date of Report: March 18, 2010**

**Staff Contact: Larry E. Cort, Director of Community Planning**

**Meeting Date: March 24, 2010**

**Subject: PUBLIC HEARING – LANGLEY PASSAGE LONG PLAT**

**Application: SUB 2006-01, Langley Passage 20-Lot Long Plat  
CA 2006-01, Critical Area Permit – Wetland**

**Applicant: Whidbey Neighborhood Partners  
PO Box 1355, Freeland, WA 98249  
Contact Person: Gary Roth**

**Location: Between Edgecliff Drive and Sandy Point Road approximately 2,000 feet  
east of Camano Avenue**

**Attachments: Master Permit Application  
Langley Passage Project Narrative  
Langley Passage Preliminary Plat – 18 Nov 2009  
Vicinity Map**

#### **ENVIRONMENTAL DOCUMENTS**

**Environmental Checklist**

**Mitigated Determination of Nonsignificance (MDNS) Revised**

**Langley Critical Areas Alliance – Notice of Appeal, 27 May 2009**

**Whidbey Environmental Action Network – SEPA Appeal, 27 May 2009**

#### **TECHNICAL PLANS, REPORTS AND REVIEWS**

**Letter from USGS to Mayor – 31 January 2006**

**Traffic Engineering NW Traffic Impact Study – 29 November 2006**

**Steward & Associates Wetland Peer Review – 6 April 2007**

**Letter and Critical Areas Assessment Report, 13 August 2007**

**Letter from HWA Geosciences to Davido Group – 14 August 2007**

**Letter Report from Aspect Consulting to Staff – 5 October 2007**

**Letter from HWA Geosciences to Davido Group – 20 March 2008**

**Letter from Davido Group to City Staff – 17 April 2008**

**SCS Engineers Hydrogeologic Peer Review – 17 June 2008**

**HWA Geosciences Soil Boring Report – 19 December 2008**

**Mark Varljen Hydrogeologic Peer Review – 1 March 2009**

**Langley Passage Drainage Report (w/Geotechnical Report) – Nov 2010**

## **Langley Passage Water, Sewer and Storm Drainage Plans – 17 Nov 2010**

### **OTHER**

#### **Copy of the December 20, 2006 Langley Comprehensive Plan**

#### **PUBLIC COMMENT LETTERS:**

##### **Letters received prior to Determination of Complete Application**

###### **April 19, 2006 through January 30, 2007**

Letter from Marianne Edain (WEAN) to City Planner, 8 May 2006

Letter from Marianne Edain (WEAN) to City Planner, 7 Oct 2006

Letter from Bruce Kortebein to City Planner, 9 Oct 2006

Letter from Edgecliff Community (Rolf Seitle) to City Planner, 10 Oct 2006

Letter from Gail Fleming to City Planner, 30 December 2006

Letter from Steve Erickson (WEAN) to City Planner, 31 Dec 2006

Letter from Laurie Keith & Fred Geisler to City Planner, 2 Jan 2007

Letter from Marianne Edain (WEAN) to City Planner, 2 Jan 2007

##### **Letters received during Notice of Application Comment Periods**

###### **February 14, 2007 through May 1, 2007**

Note from Vicki Halbakken to City Planner, 16 Feb 2007

Letter from Emmet Kramer to City Planner, undated

Email from Rhonda Salerno to City Administrator, 22 Feb 2007

Email from Louise Salmin to City Planner, 22 Feb 2007

Email from "Ed" to City Planner, 22 Feb 2007

Email from Sharon Berlin to City Planner, 22 Feb 2007

Email from Malcolm Ferrier to City Planner, 22 Feb 2007

Letter from John & Dolores Andrews to City Planner, 23 Feb 2007

Email from Gwen Brass to City Planner, 23 Feb 2007

Email from Robert Kenny to City Planner, 23 Feb 2007

Letter from Staci & Dan McGill to City Planner, 25 Feb 2007

Email from Steve Kirkpatrick & Lisa Thomson to City Planner, 25 Feb 2007

Email from Marty Kortebein to City Planner, 25 Feb 2007

Letter from Joyce Lyski to City Planner, 26 Feb 2007

Email from Nancy Horan to City Planner, 26 Feb 2007

Letter from Daniel and Louise Prewitt to City Planner, 27 Feb 2007

Letter from Gail Fleming, et al. to City Planner, 27 Feb 2007

Letter from Daniel & Louise Prewitt to City Planner, 27 Feb 2007

Email from Carl Magnusson to City Planner, 27 Feb 2007

Email from Stephanie Zea and Ruth Cox to City Planner, 27 Feb 2007

Email from Kimmer Morris to City Planner, 27 Feb 2007

Letter from Bruce Kortebein to City Planner, 27 Feb 2007

Letter from Rhonda Salerno to City Planner, 28 Feb 2007

Email from Jill Carlino to City Planner, 28 Feb 2007

Email from Alice Urbano to City Planner, 28 Feb 2007

Email from M. Martin to City Administrator, 1 March 2007

Email from Phil Cohen (Island County) to City Planner, 7 March 2007

Letter from 54 signatories to City Planner, 15 April 2007

Email from Louise Prewitt to Planning Advisory Board, 21 April 2007

Letter from John & Dolores Andrews to City Planner, 21 April 2007

Email from Vicki Halbakken to City Planner, 25 April 2007

Letter from Pauline Cruchon to City Planner, 27 April 2007

Letter from Rolf & Barbara Seitle to City Planner, 1 May 2007

Letter from Robin & Judith Adams to City Planner, 1 May 2007

### **Letters received during first SEPA Comment Period**

Email from Lynn Hays to City of Langley, 14 December 2007  
Email from Robert Kenny & Julia Glover to Mayor and Staff, 14 December 2007  
Email from Kris & Pat Rodden to Planning Consultant, 15 December 2007  
Email from Jonathon Moses to City of Langley, 15 December 2007  
Email from Linda & Leonard Good to Planning Staff, 15 December 2007  
Email from Michele Anderson to Planning Consultant, 15 December 2007  
Email from Susan Cyr to Staff, 15 December 2007  
Email from Kirk Francis to City of Langley, 15 December 2007  
Email from Joy Moulton to City of Langley, 15 December 2007  
Email from Harry Dickinson to Planning Consultant, 15 December 2007  
Email from Carolyn & Robert Lewis to City of Langley, 15 December 2007  
Email from Brenda Hartman to Planning Consultant, 15 December 2007  
Email from Patricia Stein to City of Langley, 15 December 2007  
Email from Nancy Horan to Planning Consultant, 15 December 2007  
Email from Marcia Monma to Planning Consultant, 15 December 2007  
Email from Anne Hartley to City Planner, 15 December 2007  
Email from John Hurd to City of Langley, 15 December 2007  
Email from Louise Salmin to Planning Advisory Board, 15 December 2007  
Email from Art Peterson to Planning Consultant, 16 December 2007  
Email from Rebecca Collins to Planning Consultant, 16 December 2007  
Email from Helma Lucker to Planning Consultant, 16 December 2007  
Email from Heidi Jarvis to Planning Consultant, 17 December 2007  
Email from Elizabeth Guss to City Council and Staff, 17 December 2007  
Email from Sharen Heath to Planning Staff, 17 December 2007  
Letter from Robin Adams to Planning Consultant, 17 December 2007  
Email from Sarah Birger to City, 17 December 2007  
Email from Laurie Keith to Planning Staff, 17 December 2007  
Email from Mark Wahl to Planning Staff, 17 December 2007  
Email from Rolf Seitle to Planning Consultant, 17 December 2007  
Email from Debra Goldman to City of Langley, 17 December 2007  
Email from Joan Govedare to City of Langley, 17 December 2007  
Email from Ann Rappaport to City of Langley, 18 December 2007  
Email from Rhonda Salerno to Planning Consultant, 18 December 2007  
Email from Marni Zimmerman and Robbie Cribbs to Planning Consultant, 18 December 2007  
Email from Jill Carlino to Planning Consultant, 19 December 2007  
Email from Arthur Applegate to City of Langley, 19 December 2007  
Letter from Bruce Kortebein to Planning Consultant, 19 December 2007  
Email from Patricia Friedman to Planning Consultant, 20 December 2007  
Email from Pauline Cruchon to Planning Consultant, 20 December 2007

### **Letters received during second SEPA Comment Period**

Letter from Langley Critical Area Alliance to Mayor, 16 March 2009  
Letter from Robin G Adams to Director of Community Planning, 12 April 2009  
Letter from Rolf Seitle to Director of Community Planning, 14 April 2009  
Letter from Bruce Kortebein to Director of Community Planning, 15 April 2009  
Email from Mark Wahl to Director of Community Planning, 15 April 2009  
Email from Jill and Lewis John Carlino to Director of Community Planning, 16 April 2009  
Letter from Jonathon Moses to Director of Community Planning, 16 April 2009  
Letter from Gail Fleming to Director of Community Planning, 16 April 2009  
Email from Rhonda Salerno and Gordon Collins to Director of Community Planning, 17 April 2009  
Email from Whidbey Environmental Action Network (WEAN) to Director of Community Planning, 17 April 2009  
Letter from R B Swenson to Director of Community Planning, 17 April 2009  
Letter from Carl Magnusson to Director of Community Planning, 17 April 2009

Letter from Carl Magnusson to Directory of Community Planning, 5 May 2009

Letter from Whidbey Environmental Action Network (WEAN) to Direct of Community Planning, 5 May 2009

### **Miscellaneous Letters**

Letter from Patricia Friedman to City Planner, 26 May 2007

Letter from Bruce Kortebein to City Planner, 20 June 2007

Letter from Langley Critical Area Alliance to City Planner, 7 September 2007

Letter from Langley Critical Area Alliance to Mayor, Council, PAB, Staff, 8 October 2007

Letter from Langley Critical Area Alliance to Planning Consultant, 31 October 2007

Letter from Langley Critical Area Alliance (Bruce Kortebein) to City Staff, 2 May 2008

Letter from Langley Critical Area Alliance (Bruce Kortebein) to Mayor and Staff, 19 May 2008

Letter from Langley Critical Area Alliance to Mayor, 16 March 2009

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This staff report presents for PAB review and action an application by Whidbey Neighborhood Partners for Langley Passage, a proposal to subdivide 8.52 acres into 20 building lots and three non-buildable tracts. Langley Passage will be served by a private street from Sandy Point Road and connected to the public water and sewer systems also from Sandy Point Road. The proposal is located within an area of Langley that converts automatically to the RS-7200 zoning district with the availability of sewers. The Planning Advisory Board will conduct a public hearing on the proposed subdivision and, following due deliberation, will forward a recommendation to the City Council. City staff recommend conditional approval of this application.

### **SITE INFORMATION AND PROJECT NARRATIVE:**

**Location:** Between Edgecliff Drive and Sandy Point Road approximately 2,000 feet east of Camano Avenue.

**Comprehensive Plan Land Use Designation:** Residential - Medium

**Zoning Designation:** RS-15,000, converting to RS-7,200 with sewer connection

**Shoreline Designation:** Not applicable

**Critical Areas:** Wetland on-site, high bluff 350 feet to the north

**Existing Land Cover:** Mix of cleared area, wetland and scrub forest

**Surrounding Land Uses:** The area between Edgecliff Drive and Sandy Point Road is characterized by detached single family residences on lots ranging in size from about 6,000 square feet to several acres. The densest concentration of residences occurs just west of the subject site fronting on Furman and Decker Avenues.

**Area:** The subject property contains 8.52 acres (7.98 acres in parcel number R32902-345-1350 and 0.54 acres in parcel number R32902-308-1550), of which approximately 3.4 acres has been delineated as a wetland.

**Development Potential:** As property within the RS 7200 zoning district, any total up to 31 lots would be consistent with the density standards for the district. Twenty lots are proposed.

**Open Space to be Preserved:** 48% of the site

### **APPLICATION TIMELINE**

Following a pre-application conference on February 8, 2006 between City staff and the proponents, the City received the formal application on April 19, 2006. Key milestones since that date are listed below:

|                   |  |
|-------------------|--|
| 2006 April 19     | Application submittal by WNP   |
| 2006 May 18       | Determination of Incomplete Application                                    |
| 2006 September 18 | Application re-submittal by WNP  |
| 2006 October 18   | Determination of Incomplete Application                                    |
| 2006 December 20  | Application re-submittal by WNP  |
| 2007 January 4    | Determination of Incomplete Application                                    |
| 2007 January 15   | Application re-submittal by WNP  |
| 2007 January 30   | Determination of Complete Application                                      |
| 2007 February 14  | Notice of Application Issued w/14 day comment period                       |
| 2007 March 21     | Comments from City to WNP re: complete application                         |
| 2007 April 17     | Comments from City to WNP re: results of wetland peer review               |
| 2007 April 17     | Supplemental Notice of Application due to address omissions                |
| 2007 June 19      | Request from WNP for 30-day extension                                      |
| 2007 July 16      | Approval of 30-day extension to August 17                                  |
| 2007 August 17    | WNP submittal of additional information (Cantrell, HWA, Davido)            |
| 2007 September 12 | WNP submittal of additional information (Davido)                           |
| 2007 October 2    | Comments from City to WNP re: Aug 17 and Sept 12 submittals                |
| 2007 October 5    | Aspect Consulting peer review submitted by LCAA                            |
| 2007 October 24   | WNP submittal of additional information (Davido)                           |
| 2007 December 8   | SEPA Responsible Official issues MDNS                                      |
| 2007 December 17  | Request from City to WNP for hydrogeologic evaluation                      |
| 2007 December 22  | SEPA Responsible Official withdraws MDNS                                   |
| 2008 April 21     | WNP submittal of additional information (Davido)                           |
| 2008 June 17      | Peer review on hydrogeologic issues by SCS Engineers (Varljen)             |
| 2008 October 21   | WNP submittal of HWA Soil Borings Report                                   |
| 2008 December 29  | WNP submittal of HWA Soil Borings Report (revised)                         |
| 2009 March 1      | Submittal of peer review of HWA Soil Borings Report (Varljen)              |
| 2009 March 18     | SEPA Responsible Official issues MDNS                                      |
| 2009 May 13       | SEPA Responsible Official issues Revised MDNS                              |
| 2009 May 27       | Appeals filed of SEPA threshold determination by LCAA, WEAN                |
| 2009 September 23 | Request from City to WNP for updated preliminary plat, property owner list |
| 2009 December 21  | WNP completes submittal of updated materials                               |
| 2010 March 24     | Public Hearing   |

## **BACKGROUND AND CONTEXT**

The following subsections provide an overview of the historical, cultural and physical context surrounding the proposed Langley Passage subdivision.

**Area Development History.** The Edgecliff neighborhood was included in the original incorporation of the City of Langley in 1915 and is characterized by localized concentrations of single family residential land uses interspersed with single family homes on larger lots. In particular, the north side of Edgecliff Drive is almost fully developed on relatively narrow lots with commanding, high bank views of Saratoga Passage. The other area of the Edgecliff neighborhood that has experienced substantial development is along both sides of Furman and

Decker Avenues which provide the only north-south street connectors between Edgecliff Drive and Sandy Point Road. Infill has occurred sporadically on both existing lots and on lots created through occasional short plats. Within the rectangle formed by Noble Creek, the Saratoga bluff, the eastern City limits and Sandy Point Road, there is a total of 77 single family homes.

**Topographic Character.** The site for the proposed Langley Passage subdivision slopes downward from south to north from approximately 150 feet in elevation at Sandy Point Road to approximately 100 feet in elevation at Edgecliff Drive. The slope is relatively consistent from Sandy Point Road to about two-thirds of the distance toward Edgecliff Drive, where land starts to fall off to the west with a 15-foot drop to the southern edge of the wetland. From that point, the wetland itself skirts the western edge of the subject property and curls toward the east around the base of a topographic ridge in the center of the lot where the wetland system connects to a larger system on adjacent properties.

**Zoning History.** As one of the many changes to Langley's Comprehensive Plan and Development Regulations spurred by the Growth Management Act, the City established a new zoning district that linked the availability of public sewer to an automatic conversion of RS 15,000 zoning to RS 7200. Included in this designation was the area between Edgecliff Drive and Sandy Point Road and between the long, narrow parcel that abuts the subject property on the west and the eastern City limits. First approved in 1995 (Ordinance No. 696), the appropriateness of this designation for the Edgecliff area has come under review twice, first in 2002-3 and then again in 2005-6.

In the 2002-3 reconsideration, the Planning Advisory Board recommended and the City Council concurred to retain the default conversion of RS 15,000 to RS 7200 with the availability of sewers, primarily for three reasons: to support urban densities in the Edgecliff neighborhood pursuant to the Growth Management Act; to encourage the extension of sewerage to this neighborhood as a means of facilitating the retirement of existing on-site septic systems and avoiding future septic installations; and to spread out sewer-related costs to a greater number of Langley ratepayers.

Beginning in August 2005, concerns from the "East Langley Neighborhood Citizens," which included a petition presented to the City Council on September 7, 2005, prompted a second reconsideration of the land use regulations in the eastern Edgecliff neighborhood. Following several months of discussion, the Council voted unanimously to impose an emergency moratorium on subdivisions on parcels within the sub-area called Zone D (Ordinance No. 866). Zone D includes the two parcels that make up the proposed Langley Passage long plat. The City Council subsequently lifted the moratorium on February 1, 2006 in response to additional analyses on key issues provided by City staff and upon receipt of a report from the United States Geological Survey on the potential impact on bluff stability along Edgecliff Drive from future residential development up-gradient from the bluff. The Council's decision to lift the moratorium effectively re-asserted the existing zoning regime and Comprehensive Plan direction.

*NB: The December 2007 adoption of a substantially revised Langley Comprehensive Plan removed the one-to-one relationship between the Future Land Use Map and the Zoning Map. Instead of establishing future residential densities through the Comprehensive Plan, all areas*

*zoned for predominantly residential use were re-designated as “Residential” on the Future Land Use Map to permit the creation of context-sensitive zoning. A moratorium on new subdivisions within the RS-7200 and RS-15,000 zoning districts was established in June 2007 and work is nearing completion on a revised set of subdivision regulations for the entire city. Neither the 2007 version of the Comprehensive Plan nor the soon-to-be-adopted development standards can be considered with respect to this application.*

**Site History.** With only sporadic aerial photography available, it is impossible to craft a reliable history of land cover on the Langley Passage site. However, certain events are clear from the available photographs and other documentation. First, the land was probably first cleared (logged) in the first two decades of the twentieth century due in part to the site’s proximity to the ‘skid row’ that fed felled trees from the high Edgecliff bank to the beach below. Only sporadic tree cover is in evidence along Edgecliff Drive as viewed in a series of photographs taken from the Langley Marina area after that date. An aerial photograph from the early 1950s confirms that most of the land on the uphill side of Edgecliff Drive remained covered with grass, including the northern half of the Langley Passage site (the portion containing the wetland and buffer). The southern upland portion of the site was covered with second growth deciduous trees.

Moving ahead to the 1970s, tree cover appears to have reasserted itself over most of the site with the exception of spotty patches within the area now mapped as a wetland. By the 1990s, the property was characterized by a cluster of evergreen trees at the highest elevations near Sandy Point Road, several widely scattered mature evergreens and a mix of clearing, scrub-shrub and alder on the balance of the site. There is clear evidence on a 1993 photograph of an access driveway from Sandy Point Road in the same location as the driveway that is there today.

By 2001, it appears that further clearing had occurred within the lower reaches of the property and this circumstance made possible in 2003 the movement of a historic home from its original location on Edgecliff Drive to its destination just off Sandy Point Road to the west. In the Wetland Reconnaissance Report prepared to assess the impacts on the wetland covering the northernmost portion of the subject, it was noted that a number of small alders ranging in diameter from two to twelve inches would be removed from the travel route. The Report notes that “the property has likely been completely cleared of brush and small trees in past decades, and was likely used for agriculture.” Consistent with the 2001 photograph, the wetland scientist estimated that the 2003 alder cover was probably between 5 to 10 years old.

While the effort to move the historic house through the property from Edgecliff Drive to Sandy Point Road exposed a cleared swath approximately 40 feet in width, no large conifers were removed and the house was brought through the existing cleared opening to Sandy Point Road. The 2007 peer wetland review performed by Steward and Associates described the western boundary of the subject site (where the clearing occurred to move the house) as being dominated by “emergent and invasive scrub shrub species.” Based on 2008 imagery, approximately 30% of the site in its current condition displays canopy cover with most of this treed character in the southernmost portion of the site.

**Surrounding Development Character.** In evaluating the development character of the Edgecliff neighborhood as a whole, it is clear that there is a distinct division in existing

residential intensity between those areas exhibiting medium density character (north of Edgecliff Drive and on both sides of Furman and Decker Avenues) and those areas with a much lower density (immediately east of Noble Creek and east of parcel number R32902-330-1150 to the City limits). For instance, in comparing rectangles of similar area between the developable area of Langley Passage and the middle segments of Decker and Furman Avenues, there are 20 proposed single family homes in the former and 18 existing homes in the latter. About half the lots fronting on Decker and Furman are smaller than the proposed lots in Langley Passage and about half are larger, although two of the larger lots could be subdivided. Conversely, development on properties to the east of the subject site is characterized by single family homes on larger acreage lots, ranging in size from one-third of an acre to 4.3 acres.

## **REVIEW UNDER THE STATE ENVIRONMENTAL POLICY ACT (SEPA)**

In accordance with the State Environmental Policy Act (SEPA), the Langley Responsible Official first issued a Mitigated Determination of Non-significance on December 8, 2007 with a 14-day comment period that concluded on December 22, 2007. In response to public comments regarding the timing for a hydro-geological analysis, the Responsible Official withdrew the determination on December 22, 2007. On March 18, 2009, the City's Responsible Official issued a new Mitigated Determination of Non-significance with a 14-day comment period. Based on public comment, the Responsible Official issued a final revised Mitigated Determination of Non-Significance on May 13, 2009 with a 14-day appeal period (attached).

In making this determination, the Responsible Official found that most of the potential impacts from the Langley Passage proposal could be addressed through diligent application of the City's development regulations and critical areas ordinance. Where potential impacts were identified for which there was not an effective local regulation, mitigating measures were designed to address specific impacts using the substantive authority of the State Environmental Policy Act (SEPA). These mitigating measures are noted in their entirety in the proposed conditions of approval. Two appeals of the environmental determination were filed in a timely manner on May 27, 2009.

**NOTE: These two appeals are attached to this staff report but the staff response to the issues raised by these appeals will be addressed in a separate staff report available during the week prior to the second public hearing date.**

## **MUNICIPAL CODE CITATIONS:**

The following sections of the Langley Municipal Code provide the legal basis for reviewing the Langley Passage Preliminary Plat application, and specifically the code language that existed on the vesting date for the application, or January 30, 2007.

Section 16.20.050 through 16.20.085 – Critical Areas (Wetlands)  
Chapter 17.04 – Long Plats  
Chapter 18.07 – RS 7200 Zone Residential Single Family  
Chapter 18.36 – Administration

## **CODE ANALYSIS:**

This section analyzes different aspects of the proposed Langley Passage subdivision for consistency with City's Development Regulations. The intent of this section is to describe key issues and the staff analysis associated with each issue.

### **Zoning Consistency and Density**

The subject property is specifically designated on the Comprehensive Plan Land Use Map (Figure LU-6) as part of a large block of "Residential-Medium" that stretches from Noble Creek east to the City Limits and between Edgecliff Drive and Sandy Point Road. "Residential-Medium" is described in the Comprehensive Plan as "residential density of three to eight units per acre; zoning designation – RS 7200." The proposed Langley Passage subdivision is consistent with this designation and the proposed use is consistent with permitted uses in the RS 7200 district. Each proposed lot is larger than the minimum lot size of 7,200 square feet.

### **Wetland Delineation and Mitigation**

The Critical Areas inventory for the City of Langley indicates the presence of a wetland in the northern portion of the subject site. The extent of this wetland was first mapped in 2003 when a historic home was moved across the property and was subsequently delineated by Cantrell and Associates in 2005 in support of the current proposal. Since the 2003 boundary and 2005 delineation do not match, especially along the western boundary, the City sought a peer review from Steward and Associates which concluded that the 2003 boundary was more reliable given the site character.

The wetland and associated buffer will remain undisturbed with the exception of the installation of a water line that will connect the new main serving the homes in Langley Passage with the existing main in Edgecliff Road. This "loop" is considered to be essential to enhancing reliability within the water distribution system and for promoting public health by securing a second water source for homes along Edgecliff that can remain in operation during planned or unplanned shutdowns (see below under "Water Service" for full analysis of this proposed exception). On the other hand, there is no such public health or reliability concern related to the provision of sewer service to the proposal so the sewer service will be extended along Sandy Point Road instead of Edgecliff Road.

A wetland buffer mitigation plan has been prepared to address potential disturbance of the wetland/buffer system by the installation of the water line. This plan is consistent with the critical areas regulations with respect to compensating for the disturbance, and it is important for the long term health and function of the wetland to carefully monitor the installation of the water line and the subsequent restoration of the site. Several conditions are proposed to insure that installation and restoration are in keeping with best management practices for such work and for consistency with the Langley Critical Areas Ordinance.

### **Tree Preservation and Visual Impacts**

As noted above, this site has been subject to a number of prior clearing activities and most of the non-forested portion of the site is covered in non-native invasives. However, there are significant benefits to tree preservation and enhancement that will help mitigate potential impacts on neighboring properties and the scenic corridor along Sandy Point Road. Not counting the area to be protected by the wetland, wetland buffer and additional wetland mitigation area, existing tree cover amounts to approximately 30% of the balance of the site. Retaining this percentage canopy coverage will help promote evapo-transpiration and preserve rural character and natural buffers that characterize the relationships between existing homes in this neighborhood.

## **Surface and Groundwater Management**

There is a long history of unstable bluffs fronting on Saratoga Passage on the north side of Edgecliff Drive. In 1979, the State Department of Ecology's Coastal Zone Atlas mapped the entire bluff from Sandy Point to the Langley Marina as "Unstable." At the invitation of the City of Langley, representatives of the United States Geological Survey visited the Edgecliff bluff area and confirmed continuing slide activity. While erosion at the toe caused by coastal process "is the long-term driving factor that maintains the steep slopes and destabilizes the bluffs," local geology, groundwater and human activities are contributing factors to bluff de-stabilization [see attached letter from the United States Geological Survey, dated January 31, 2006].

With the proximity of the proposed Langley Passage subdivision to the unstable bluff, and the potential that increased quantities of surface water and/or groundwater would be a consequence of site development, it was incumbent on the applicant to analyze existing and post-development conditions and design a surface water and groundwater management system that would not exacerbate existing problems down gradient of the site. The proposed design is described in the attached documents entitled *Drainage Report* (November 2009) and *Water, Sewer and Storm Drainage Plan* (November 17, 2009). Technical background for the proposed design is contained in the *Geotechnical Report* (July 18, 2007), attached as Appendix 1 to the *Drainage Report*, a *Geotechnical Engineering Study* (March 20, 2008) and the document entitled "Potential Impact of On-Site Storm Water Infiltration" (December 19, 2008).

In addition to these foundational studies supplied by the applicant in support of the Langley Passage proposal, there have been a number of related studies and peer reviews of the proposed drainage system. These studies are summarized below and are part of the public record:

- a. **Comments Regarding Langley Passage Long Plat, Aspect Consulting, October 5, 2007**  
– This review was commissioned by the Langley Critical Area Alliance to evaluate site conditions and the technical reports, studies and conclusions prepared by the applicant. Aspect recommended redesigning the development to reduce the potential for increased groundwater infiltration by reducing the amount of impervious cover (see proposed Condition No. 10), preserving forested area and reforesting other areas (see proposed Conditions No. 15 and 16), using LID techniques to promote evapotranspiration (see proposed Conditions No. 11 and 28) and increasing the effectiveness of the downstream surface water system (see Conditions No. 5-9 dependent on monitoring).

- b. **Response to Aspect Consulting Evaluation, HWA Geosciences, March 20, 2008, and Davido Consulting Group, April 17, 2008** – These responses by the applicant’s geotechnical and civil engineering consultants respectively considered the scientific arguments raised in the Aspect review, noting that “the only net increase in combined runoff and groundwater discharge from the site after development would be from loss of evapotranspiration due to removal or change in vegetation.” Davido asserted that the site should be modeled based on its current state, which is primarily cleared and not forested (only five trees are proposed for removal). HWA restated that the geotechnical analysis and system design assumed the most conservative infiltration rates.
- c. **Peer Review of Langley Passage Project Hydrogeologic Issues, SCS Engineers, 17 June 2008** – This peer review was requested by City staff who also selected the peer reviewer. SCS Engineers reviewed the Aspect Consulting Report, the HWA Geotechnical Study and Davido analysis cited above. The peer reviewers concluded that the available information regarding the geotechnical character of the site has resulted in “dueling geologic interpretations regarding what *might* exist at a site.” Consequently, the City was urged to, and ultimately did on this recommendation, require a site-specific investigation involving completion of soil borings.
- d. **Potential Impact of On-Site Storm Water Infiltration, HWA Geosciences, 19 December 2008** – This report documented the results of two soil borings performed on August 19, 2008. The borings revealed the presence of suitable infiltration receptor soils (unsaturated, permeable sands) that will result in minimal ground water mounding. Further, the study concluded that “the minor additional flows resulting from site development, and localized flows from re-distribution of pre-existing flows, will likely be absorbed by the natural ground water/surface water system” and not adversely impact downgradient slope stability or drainage.
- e. **Follow-up Peer Review, Mark Varljen, LG, LHG, 1 March 2009** – The City requested a second peer review by the same Hydrogeologist who provided the first peer review that was completed in June of 2008. After reviewing the HWA Report with the results of the soil borings, Mr. Varljen concluded that “the conditions identified by the additional exploratory work indicate that the project can proceed without undesirable impacts.” However, the peer reviewer noted that there remains some scientific ambiguity about the amount of water that will leave the wetland and enter the downstream drainage system.

Collectively, these studies, responses and reviews effectively characterize the pre- and post-development conditions and analyze potential impacts from changes in flow, volume and infiltration rates on the wetland system, downstream surface conveyance system, and bluff stability. Staff review of the proposed drainage plan focused on determining whether the following outcomes could be achieved consistent with City standards: (1) the likelihood of successfully being able to mitigate surface drainage impacts due to the proposed development; (2) preservation of overland flows to the existing wetland at the northern end of the property; (3) avoiding physical disturbance to the wetland from drainage facilities; (4) avoiding impact to the water table associated with the wetland; and (5) City preference for low impact approaches to mitigate drainage changes due to development.

In general, the City has adopted low impact development standards as the default means of mitigating runoff from development. These standards are to be used whenever feasible. This approach entails limiting impervious surfaces, keeping the stormwater on-site, and decentralizing the drainage system to mimic the existing drainage regime as closely as possible. Soils on the subject site have been demonstrated to have the potential to retain and infiltrate moisture.

The first consideration was to evaluate whether or not overland flows to the wetland will continue at historical rates in a post-development condition. This requirement will be achieved through collecting roof runoff from four of the homes located at the northern end of the development (Lots 9-12) and releasing it through flow spreaders designed to mimic the existing topography and flow pattern on the site. The current surface flows to the wetland from the developed site will be preserved. It is important to note here that another consideration with respect to protecting the wetland is the City's requirement to avoid any disturbance as long as another feasible alternative is available. As a result, potential alternatives for the drainage design that involve installing storm drainage lines through the wetland must be avoided if at all possible. Accordingly, low impact design methods emerged as the best alternative for avoiding potential impacts to the wetland system.

The second major consideration is runoff mitigation from impervious surfaces created as part of the development, in this case the roadway and impervious areas (such as roofs and driveways) on individual lots. Road and driveway runoff requires treatment prior to release. The proposed design includes treatment as well as control in rain gardens sized to handle design flows from the site (which was divided into five distinct basins for analysis) and any overflow by infiltration in four subsurface galleries located beneath the roadway median, sized conservatively to hold half again the expected volume of street/driveway runoff. Individual lot runoff is proposed to be collected and routed into rain gardens as well, with each individual home (excluding those providing flow to the wetland – see above) installing an appropriately sized facility at the time of home construction. Rain gardens function both as a means of collecting stormwater for infiltration and for promoting evapo-transpiration through the planting of new vegetation.

In a third consideration, it is clear from the studies cited above that the primary cause of the calculated post-development increase in groundwater infiltration is the reduction in the degree to which rainfall is returned to the atmosphere through evapo-transpiration. Mitigation will be required to promote evapo-transpiration within the proposed development area through limits on the total area of impervious cover, through the extensive use of rain gardens within the private street and individual lots, and through tree retention and replanting to retain the existing canopy. These proposed conditions of approval offer substantial safeguards to the degree of scientific uncertainty expressed by the City's peer reviewer. By introducing measures to increase evapo-transpiration (rain gardens, preserved tree canopy, reduced impervious cover), the post-development hydrologic function of the property will not erode and could improve existing conditions. Monitoring and a financial guarantee are also proposed to allow evaluation and assessment after the project is substantially complete.

In conclusion, the design approach proposed by the applicants is consistent with the City's adopted standards and avoids any physical or functional disturbance to the wetland.

### **Sanitary Sewer Service**

The availability of sanitary sewer in the Edgecliff neighborhood is limited. On Edgecliff Drive, the sewer main terminates just east of Noble Creek and on Sandy Point Road at a private lift station at the entrance to the Woodside subdivision. The public sewer on Sandy Point Road terminates near Cork Lane at the top of the hill just east of Camano Avenue.

Langley Passage is proposed to be served by acquiring and tying into the private force main and private lift station at Woodside Drive and extending this line to the eastern edge of the subject property. Obviously, the ability of the applicant to tie into the existing private system is subject to the consent of the current owner and approval to connect to this line is conditional upon the applicant gaining consent for transferring ownership to the City. The City has indicated that it would be willing to accept the private lift station and low pressure line subject to confirmation that the system is found to meet municipal standards.

### **Water Service**

Connection to the City water system is required for all lots within the proposed Langley Passage subdivision. Water mains are available across both the Edgecliff and Sandy Point frontages, although the wetland on the northernmost portion of the site means that any connection from the proposed lots to Edgecliff Drive would have to be built across about 60 feet of the wetland's western edge in two locations (see Figure 1 of the Steward and Associates Peer Review). The City's 2002 Comprehensive Water Plan 20-year capital program calls for a mid-block water main loop to be constructed between Sandy Point Road and Edgecliff Drive. Since the subject property is the only undeveloped lot east of Furman Avenue that fronts on both streets, staff support making the mid-block tie in association with the Langley Passage development based on the following analysis.

A looped water system is essential in this area for four primary reasons; improved flow, reliability, improved service characteristics and redundancy. The loop would improve flow by allowing water circulation in both directions, assuring better water quality within the development and general area as a whole due to the varying demands of moving water in both directions. It will also improve reliability by reducing the length of dead end lines on both Edgecliff Drive and Sandy Point Road. This provides the City with the ability to keep more customers, including all future residents of Langley Passage, with water service in the event that one of these two main lines must be shut off due to an emergency or maintenance work. Regular looping in the water distribution system provides the best means of operating and managing the system overall, helping assure adequate water supplies for fire protection and consumption. The redundancy in the system is part of an overall strategy to provide operations personnel with sufficient options to keep water flowing to the maximum extent possible.

Critical areas regulations (LMC Section 16.20.080 C) require that wetlands not be disturbed unless there are no other viable alternatives to providing adequate public services. The following

three criteria must be met before granting this exception: (1) There is no feasible and reasonable alternative with less impact – in this case, looping the line further to the east would encounter the same wetland system and looping the line to the west is not feasible due to the character of property ownership; (2) The proposal minimizes the impact and incorporates mitigation – in this case, the location proposed for the water line is along the western property line and is located outside the wetland but inside the buffer for most of this distance and mitigation is provided for in the wetland mitigation plan; and (3) Construction techniques will minimize long- and short-term impacts – approval of the exception is conditioned on a construction approach that provides maximum protection for the wetland and buffer (see condition No. 13).

Staff finds that this water main loop is needed to assure adequate safety and supplies, as at this time there are no other options available to provide a looped service to this development and the surrounding areas, and therefore the exception is justified. The sewer and storm drainage utility services have been designed without disturbance to the wetland, as other viable options have been identified.

### **Circulation and Traffic**

Vehicular access to the Langley Passage subdivision will be through the existing cleared opening from Sandy Point Road onto a private street. Two traffic circles designed around the retention of two large conifers will provide turnaround capabilities within the subdivision and a hammerhead is proposed at the northern end of the private street. Due to the possibility that development could occur on the parcel immediately west of Langley Passage, an access and utility easement will be granted to this property as part of the final plat.

While City staff believe that a pedestrian connection between Langley Passage and Edgecliff Drive would provide a safer route to downtown (with the Middle School slated for closure within the next three years, a safer route to school will be of limited duration), there is not strong code support for allowing a trail to be built and maintained in the wetland and buffer along the path of the waterline loop. Consequently, the City will not require this pedestrian connection to be completed.

### **PUBLIC COMMENTS:**

Attached to this staff report are all the comments that the City has received since the first submission on May 8, 2006, including those that were submitted prior to the January 30, 2007 vesting date. Staff have reviewed all of these comments and, where appropriate, taken the content into account to help craft this staff report and recommendation.

### **LEGAL BASIS FOR CONSIDERING THIS APPLICATION:**

In accordance with LMC 18.36.040(B), the Planning Advisory Board shall not recommend approval of a proposed development or other proposal unless it first makes the following findings and conclusions:

1. **The development is consistent with the Comprehensive Plan and meets the requirements and intent of the applicable City code and regulations.**

Staff Analysis: This application vested on January 30, 2007 which means that this required finding must be analyzed in relation to the Comprehensive Plan and development regulations in place on that date.

The Comprehensive Plan Land Use Element calls for medium density residential development in places where public services are readily available. This expectation is consistent with the Land Use Map and Zone Map that designate the subject property for medium density residential subject to the availability of sewers. Major development policies include retention of as much natural vegetation as possible, preservation and protection of critical areas and their buffers, maintenance of natural drainage patterns and water table levels, provision of a variety of housing styles and types, and connection to public services including sewer and water. The proposed Langley Passage plat supports each of these policies and is consistent with the permitted land uses, regulatory requirements, and densities associated with the RS 7200 zoning district.

Proposed Staff Finding: The proposal is consistent with the Comprehensive Plan and the requirements and intent of applicable sections of the Langley Municipal Code.

2. **The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary waste, and parks and recreation facilities.**

Staff Analysis: The applicant has demonstrated conceptual design compliance with open space, stormwater management and public facilities requirements. Provision for improvements to the City's park and recreation facilities can be accommodated by payment-in-lieu based on the anticipated number of the new residents (see Finding 4 below). Connections will be made to the City's water and sewer systems, drainage design is consistent with the adopted low impact development standards, and open space provisions are supplied by the wetland and buffer area, along with the buffer tracts.

Proposed Staff Finding: The Langley Passage subdivision makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary waste, and parks and recreation facilities.

3. **The development is beneficial to the public health, safety and welfare and in the public interest.**

Staff Analysis: This required finding mirrors language that is contained in the State law regarding subdivisions, specifically RCW 58.17.110(2)(a&b). Historically, the standard that has been applied locally in reviewing applications to subdivide land is whether or not the proposed subdivision is consistent with the Comprehensive Plan and development regulations. It can be argued that this approach is a reasonable standard, because it is consistent with the purpose and intent of most zoning ordinances.

Langley's zoning regulations follow this customary approach. Title 18, the Zoning Code, begins with the purpose at LMC 18.01.010, stating that "the purpose of this title includes, but is not limited to, promoting the health, safety and general welfare by guiding development of the city by means of the comprehensive land use plan which is, in part, carried out by the provisions of this title." Further, under "Scope" at LMC 18.01.010(A), it is stated unambiguously that "the provisions of this title shall be interpreted as the minimum requirements necessary to protect the health, safety and general welfare of the public." From this statement, it can be concluded that if a project action attains at least the minimum standards contained in Title 18, then the proposal has been designed in such a manner as to adequately protect the health, safety and general welfare of the community. Staff analysis demonstrates that the Langley Passage proposal rises to at least the minimum development standards contained in the municipal code.

The second part of the required finding is that the development must be found to be in the public interest. While significant public concern has been expressed about the Langley Passage proposal, it is not the degree to which citizen discomfort is spurred by a proposed project that determines whether or not the proposal is in the public interest. Rather, the City's Comprehensive Plan and development regulations were adopted pursuant to State law and are implemented by the City to insure that proposed developments are conditioned and approved in a manner that protects and furthers the public interest. The conditions in the MDNS and the conditions recommended by staff will provide this protection for the proposed Langley Passage subdivision.

Beyond overall consistency with the plans and regulations, a more specific test as to whether the proposed use is "beneficial" to the public interest that underpins these documents is offered in the chapter under Zoning Districts, specifically LMC 18.02.010(B) under "Purpose." Among the purposes of this chapter is the following:

- "B. To protect the character and the social and economic stability of residential, commercial and other uses, to preserve property values and to ensure the orderly and beneficial development of these uses by:*
- 1. Reserving and retaining appropriate areas for each type of use;*
  - 2. Preventing encroachment into these areas by incompatible uses; and*
  - 3. Regulating the use of individual parcels of land to prevent unreasonable detrimental effects of nearby uses."*

These three means establish a standard for meeting the goal of "orderly and beneficial development." With respect to the first standard, the zoning map is the vehicle that establishes appropriate areas within Langley for public, commercial and residential uses. The Edgecliff area has been designated for predominantly medium density residential uses.

Preventing encroachment of incompatible uses, as the second standard, is accomplished by listing and regulating permitted, accessory and conditional uses within each zoning district. Compatibility in use between the proposed Langley Passage subdivision and

surrounding uses is demonstrated by the fact that the proposed use of detached single family residential matches the predominant use in this neighborhood and is specifically permitted within the RS-7200 zoning district (listing as a conditional use would imply that this use might not be appropriate for all locations within the district). While build-out of the proposed subdivision would result in a density much higher than on abutting lots, the proposed number of residences is consistent with the zoning district standard.

Finally, the standard of preventing unreasonable detrimental effects on nearby uses was discussed above in the Analysis section. Scientific studies and peer review of the wetland, storm drainage and groundwater issues have demonstrated that all potential unreasonable effects can be mitigated through a combination of responsible site management, best construction practices, and long-term monitoring and financial accountability.

Proposed Staff Finding: The development is beneficial to the public health, safety and welfare and in the public interest.

4. **The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the Comprehensive Plan.**

Staff Analysis: The established Level of Service for major arterials (termed “major collectors” in the Transportation Element – page 134) is LOS “C” at peak hour traffic. This standard must be applied to Sandy Point Road and Camano Avenue. The traffic analysis prepared to measure the impact of the proposed Langley Passage development indicates that post-development levels of services will remain at LOS “C” or better along these streets. As a result, the development will not lower the transportation level of service below the minimum standards in the Comprehensive Plan.

The level of service for neighborhood park facilities is measured at 1.6 acres per 1,000 residents. To calculate a proportionate share of the impact of new Langley Passage residents on the City’s neighborhood park system, staff multiplied 20 (the number of proposed lots) by 1.9 (the current persons per household average) to arrive at a total of 38 expected new residents. Based on the level of service ratio of 1.6 acres per 1,000 residents, the addition of 38 new residents would create a need for 2,648 square feet of neighborhood park facility.

No neighborhood park facilities are proposed inside Langley Passage and 2,648 square feet is insufficient area to create a new park facility inside the proposed subdivision. In lieu of an on-site improvement commensurate with the level of impact, the City will require payment to be earmarked specifically for park or trail improvements within one-half mile of Langley Passage. The amount shall be established at the time of final plat review and payable prior to final plat approval and shall be calculated pro rata on the land value of 2,648 square feet from land sale comparables within Langley.

The open space level of service of 25% citywide will be met within the Langley Passage subdivision by the combination of the wetland/buffer tract and two buffer tracts.

Proposed Staff Finding: The proposed Langley Passage development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the Comprehensive Plan.

5. **The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development, and are proportional to the impacts created by the development.**

Staff Analysis: The only dedications associated with the proposed Langley Passage subdivision are related to easements to the City of Langley for placement and access to public utilities and other services.

Proposed Staff Finding: The proposed easements are reasonably necessary to serve the proposed development while allowing the City access to maintain public facilities and services.

In addition to the required findings noted above that apply to all permits for proposed development in Langley, the following decision criteria listed at LMC 17.04.090 must also be satisfied in order for the Planning Advisory Board to recommend approval of the proposed subdivision:

1. **The preliminary subdivision makes appropriate provisions for the public health, safety and general welfare and public use and interest, including the following: roads, streets and transit facilities; street names, traffic regulatory signs and mail box locations; pedestrian facilities; other public ways leading to and providing access to and within the subdivision; open spaces, recreation facilities and playgrounds; fire and emergency vehicle access; drainage and stormwater facilities; water supply; and sewage disposal.**

These provisions, which support “public health, safety and general welfare and public use and interest,” have been included in the design of the proposed Langley Passage plat and/or the conditions set forth in the MDNS and others recommended by staff.

2. **Any portion of a subdivision which contains a critical area, as defined in Chapter 16.20 LMC, conforms to all requirements of that section of the code.**

With a wetland on the northernmost portion of the site, the required 110-foot buffer has been protected in all areas except for the western edge of the site, where the public need for a looped water system merits consideration and approval of an exception consistent with LMC 16.20.080(C) with appropriate mitigation as described in the Cantrell report.

3. **The preliminary subdivision design is compatible with the physical characteristics of the proposed subdivision site.**

The proposed private street and building envelopes are concentrated in the upland portion of the site away from the wetland and the densest groupings of mature trees which will be preserved. Soil borings have been performed which indicate a receptive stratigraphy for infiltration and conditions of approval that support enhanced evapo-transpiration will further ensure that infiltration rates remain at or below existing rates.

4. **The proposal is in accord with the City's Comprehensive Plan.**

See finding 1 above in the general list of required findings.

5. **Whenever possible, the preliminary plat design includes measures to minimize clearing, with priority given to maintenance of existing vegetation and re-vegetation is incorporated into the preliminary design when possible.**

The clearing plan submitted for Langley Passage proposes to remove a maximum of five significant trees from the site due to their potential conflict with home sites. The existing 30% plus or minus tree canopy cover will be retained, and new trees will be planted to replace those lost during home construction.

6. **A proposed subdivision shall not be approved unless written findings are made that the public use and interest will be served by the subdivision.**

See finding 3 above in the general list of required findings.

7. **The subdivision will assure that all public and private facilities and improvements on and off the site necessary for the proposed development will be available when needed and will not degrade the existing level of operation and the use of such utilities, facilities and services below accepted standards.**

All required public and private facilities and improvements will either be in place at the time of need or, in the case of the wetland and downstream drainage system, will be monitored for system performance in the years following buildout of the subdivision.

**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

Staff proposes the following findings of fact and conclusions of law in support of a recommendation to conditionally approve the Langley Passage preliminary plat:

**STAFF FINDINGS OF FACT**

1. On April 19, 2006, Whidbey Neighborhood Partners submitted an application for Langley Passage, a proposed 20-lot subdivision on 8.52 acres located between Sandy Point Road and Edgecliff Drive approximately 2,000 feet east of Camano Avenue.

2. The site proposed for Langley Passage is located within the Residential-Medium designation in the Comprehensive Plan and the RS-7200 Zoning District in Title 18 of the Langley Municipal Code. The proposed use for the 20 lots within Langley Passage is single family residential.
3. There is a wetland on the northernmost portion of the Langley Passage site that has been delineated and determined through analysis to be classified as a Category III wetland, which requires a 110-foot buffer to protect functions and values. Part of the proposal includes a waterline intertie along the western edge of the wetland, for which mitigation will be required in accordance with the City's Critical Areas Ordinance.
4. The City of Langley issued a Notice of Complete Application on January 30, 2007 and a Notice of Application with a 14-day comment period to neighboring property owners on February 14, 2007. The City received 34 comments.
5. Studies have been required and submitted covering the following potential issues: (1) a wetland delineation and mitigation plan by Cantrell & Associates (peer reviewed by Steward & Associates); (2) a Geotechnical Report by HWA Geosciences; (3) a Drainage Plan by Davido Consulting Group (last version submitted November 2009); (4) a traffic study by Traffic Engineering Northwest; (5) a hydrogeological study by HWA Geosciences (the Langley Critical Areas Alliance commissioned a second hydrogeological study by Aspect Consulting – both studies were peer reviewed by SCS Engineers); and (6) a soil boring report by HWA Geosciences (peer reviewed by Mark Varljen, LG).
6. The Langley SEPA Responsible Official first issued a Mitigated Determination of Nonsignificance on December 8, 2007 with a 14-day comment period. The City received 39 comments and withdrew the MDNS on December 22, 2007 pending delivery of a hydrogeologic evaluation.
7. The Langley SEPA Responsible Official issued a new Mitigated Determination of Nonsignificance on March 18, 2009 with a 14-day comment period. The City received 12 comments and, based on these comments, issued a final revised Mitigated Determination of Nonsignificance on May 13, 2009 with a 14-day appeal period that concluded on May 27, 2009. The City received two timely appeals of the MDNS.
8. City staff reviewed all factual information contained in the record with respect to the proposed Langley Passage preliminary plat to determine if the application is consistent with the Langley Comprehensive Plan and Development Regulations (in particular Section 16.20.050 through 16.20.085 – Critical Areas (Wetlands), Chapter 17.04 – Long Plats and Chapter 18.07 – RS 7200 Zone Residential Single Family).
9. City staff reviewed the required findings and conclusions, listed at LMC 18.36.040(B), all of which must be met before the Planning Advisory Board can recommend approval of a proposed development or other proposal. City staff also review the decision criteria

for preliminary plats listed at LMC 17.04.090 to determine if each of these criteria can be met with respect to the proposed Langley Passage preliminary plat.

10. In accordance with LMC 18.36.030, staff prepared a report for the Planning Advisory Board evaluating the proposal's consistency with the City's plans, policies and regulations, summarizing the recommendation of City staff and including staff findings and conclusions.
11. After due and proper notice, the Planning Advisory Board convened a combined open record public hearing for Langley Passage and the two SEPA appeals on March 24, 2010 for the expressed purpose of accepting staff, applicant and public testimony on these matters. After --- hours, the Planning Advisory Board voted to continue the hearing leaving the record open to -----.
12. The proposal is consistent with the Comprehensive Plan and the requirements and intent of applicable sections of the Langley Municipal Code.
13. The Langley Passage subdivision makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary waste, and parks and recreation facilities.
14. The development is beneficial to the public health, safety and welfare and in the public interest.
15. The proposed Langley Passage development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the Comprehensive Plan.
16. The proposed easements for placement and access to public utilities and other services are reasonably necessary to serve the proposed development while allowing the City access to maintain public facilities and services.
17. The preliminary subdivision makes appropriate provisions for the public health, safety and general welfare and public use and interest, including the following: roads, streets and transit facilities; street names, traffic regulatory signs and mail box locations; pedestrian facilities; other public ways leading to and providing access to and within the subdivision; open spaces, recreation facilities and playgrounds; fire and emergency vehicle access; drainage and stormwater facilities; water supply; and sewage disposal.
18. The portions of the proposed subdivision which contain critical areas, as defined in Chapter 16.20 LMC, conform to all requirements of that section of the code.
19. The preliminary subdivision design is compatible with the physical characteristics of the proposed subdivision site.

20. Whenever possible, the preliminary plat design includes measures to minimize clearing, with priority given to maintenance of existing vegetation, and re-vegetation is incorporated into the preliminary design when possible.
21. The proposed subdivision will assure that all public and private facilities and improvements on and off the site necessary for the proposed development will be available when needed and will not degrade the existing level of operation and the use of such utilities, facilities and services below accepted standards.

#### STAFF CONCLUSIONS OF LAW

1. The proposed Langley Passage Preliminary Plat as conditioned is consistent with the Langley Comprehensive Plan and all applicable Development Regulations.
2. The proposed Langley Passage Preliminary Plat as conditioned satisfies the required findings for proposed developments in Langley listed at LMC 18.36.040(B).
3. The proposed Langley Passage Preliminary Plat as conditioned satisfies the decision criteria for preliminary plats listed at LMC 17.04.090 and is consistent with the State subdivision regulations at Chapter 58.17 RCW.

#### **RECOMMENDED MOTION**

I move that the Planning Advisory Board recommend that the City Council approve the Langley Passage Preliminary Plat, subject to the following conditions, and adopt the staff findings of fact and conclusions of law in support of this recommendation:

1. Development of the Langley Passage site shall generally be in conformance with the preliminary plat dated November 18, 2009, the engineering plans dated November 17, 2009 and the Drainage Report dated November 2009. Final water, sewer, storm drainage, TESC, street and other plans must be approved prior to actual construction or installation and no approval of these plans is implied by approval of the preliminary plat.
2. Within five years of preliminary plat approval, the applicant shall prepare and have approved for recording by the City Council a final plat in conformance with State law and the Langley Municipal Code.
3. All construction practices at the Langley Passage site shall conform to Best Management Practices as described in the State Department of Ecology's Stormwater Management Manual for Western Washington and, as applicable, in other standards described in LMC 15.01.025.
4. Applicant shall prepare Covenants, Conditions and Restrictions governing certain activities within the Langley Passage subdivision, which must be approved by the City of Langley.

**SEPA Conditions – Conditions applied pursuant to the issuance of a Mitigated Determination of Nonsignificance by the Langley Environmental Official**

5. Applicant shall provide a baseline pre-development conditions report of the surface drainage system along the south side of Edgecliff Road from the plat boundary up to and including the outfall to the beach. The conditions report shall include video documentation of this system to be performed on a date to be determined by the Langley Public Works Director.
6. Applicant shall monitor flow and overall performance of the surface drainage system along the south side of Edgecliff Road from the plat boundary up to and including the outfall to the beach for a period of three years from the date of 75% buildout occupancy. Monitoring shall occur four times per year (three times between October and April and one time between May and September. Monitoring shall be performed by a licensed engineer selected by the City of Langley and paid for by the applicant who shall submit a written report to the City within one month of the monitoring event.
7. Applicant shall be responsible for correcting any and all drainage problems along the south side of Edgecliff Road from the plat boundary up to and including the outfall to the beach when it can reasonably be determined that the problem has demonstrably worsened as a result of increased drainage volumes from the Langley Passage subdivision. The Langley Public Works Director shall make the final decision with respect to financial responsibility. The decision of the Public Works Director may be appealed to the City Council.
8. Applicant shall gain approval from Island County and provide documentation to the City that the County-owned section of the downstream conveyance system, from the Langley City Limits to the bottom of the outfall in the 900 block of Edgecliff Drive, is adequate to accommodate any increase in the volume of flow from the build out of Langley Passage. The applicant shall be solely responsible for making any improvements to the Island County portion of the system that may be identified by Island County to accommodate likely impacts.
9. Applicant shall provide the City of Langley with a performance bond or other acceptable financial guarantee in the amount of \$127,000 as assurance that monies are available to make any necessary capital improvements to the downstream drainage system over the life of the monitoring period. This financial guarantee shall be maintained by the developer and may not be transferred to a Homeowners' Association.
10. Applicant shall be limited to an average of 2,500 square feet per lot of impervious cover on the buildable lots, or a total of 50,000 square feet assuming the final buildable lot count is twenty. This measure does not apply to the street surface, but does apply to all impervious cover on individual lots including roof area, hard surface driveways, walkways or other hard surface features.

11. Applicant shall replace the proposed biofiltration swales with appropriately designed and installed raingardens up-gradient of the inlets to the infiltration trenches located within the street right-of-way.
12. Applicant shall use the modified wetland delineation line for the western boundary of Wetland A as identified by Steward and Associates Wetland Delineation and Review memorandum dated April 6, 2007, and shall comply with the revised mitigation implementation plan and monitoring and maintenance plan in the August 13, 2007 Cantrell and Associates, Inc. Report.
13. Applicant shall contract with a licensed and qualified wetlands scientist to monitor and oversee installation and restoration of the water line corridor and implementation of the revised mitigation and monitoring plans. The wetland scientist shall provide written field notes that document site conditions, plantings and progress on implementing the mitigation plan.
14. Applicant shall provide a public access easement for pedestrian travel and construct a path along the route of the water line installation between Edgecliff Road and the new street serving the subdivision. Since this route is located in portions of the wetland and buffer, the path design and installation shall protect the functions and values of the wetland system. [NB. The City reserves the authority to not require construction of the trail]
15. Applicant shall augment the site landscaping plans to demonstrate tree planting that will achieve 30% canopy cover at maturity. Minimum fifty-foot wide natural landscape areas shall be established as separate tracts across the Sandy Point Road frontage and along the eastern property line from Sandy Point Road then north 468 feet. These tracts shall be non-buildable and shall be owned and managed by the Homeowner's Association.
16. Applicant shall strive to retain all trees on the site with a DBH of more than six inches as indicated on the Tree Clearing Plan. In the event that such a tree must be removed, applicant shall plant three 3-inch caliper native trees for each tree removed.

**Other Conditions – Conditions applied pursuant to consistency with the Langley Municipal Code to address specific impacts from the proposed subdivision.**

17. All work within the Sandy Point Road right-of-way must be approved by Island County. Applicant shall install a stop sign, stop bar and street sign at the intersection of the private street and Sandy Point Road.
18. The street serving lots within the Langley Passage subdivision shall be private and will be owned and maintained in equal proportion by the lot owners. Fire and other emergency vehicle access must be maintained at all times. Mailbox locations must be approved by the City and US Postal Service.
19. In lieu of on-site park improvements commensurate with the level of impact, the City will require payment to be earmarked specifically for park or trail improvements within one-

half mile of Langley Passage. The amount shall be established at the time of final plat review and payable prior to final plat approval and shall be calculated *pro rata* on the land value of 2,648 square feet from land sale comparables within Langley.

20. Separate non-buildable tracts shall be created for the wetland and buffer system and for the 50-foot wide buffers along the Sandy Point Road frontage and the southernmost 468 feet of the eastern property line of the site. These tracts shall be designated and signed as Native Growth Protection Areas with exceptions for removing invasive and noxious species and hazardous trees and for limited clearing to preserve sight distance requirements to and from Sandy Point Road. These tracts shall be owned in equal proportion and maintained by the lot owners of Langley Passage.
21. Individual building lots will not be cleared until the City has issued a building permit for new residential construction. Lots for which a building permit has been issued and which contain a tree or trees to be preserved shall protect said trees with a fenced barrier erected at the drip line of the tree or group of trees.
22. Clearing limits for installation of necessary infrastructure shall be as described on Sheet 2 of the draft engineering drawings dated 11/19/2009. Clearing limits shall be delineated in the field by erection of a construction barrier prior to any site disturbance.
23. The Conditions, Covenants and Restrictions prepared for use by a Homeowners Association and/or by individual lot owners and recorded with the Island County Auditor must include adoption of the handbook entitled *Living Responsibly in a Green Community* prepared by the Whidbey Island Conservation District.
24. An easement shall be granted to the City of Langley for access and utilities throughout the entirety of the shared access private street. Access and utility maintenance easements shall also be granted to the City for blanket sewer easements across all lots and for the looped waterline connecting the subdivision to Edgecliff Drive.
25. Future access and utility connections to the northernmost portion of Island County parcel number R32902-330-1150 shall be guaranteed through granting of an access and utility easement to this parcel through the shared access private street.
26. Access from the private street to Lots 10 and 11 is limited to the locations shown on Sheet C03 to accommodate drainage control structures.
27. Street lighting, plantings within the street rain gardens, and any sign identifying the new subdivision are subject to approval by the Design Review Board.
28. Rain gardens shall be designed for all individual lots except Lots 9 to 12 and must be installed and functioning prior to issuance of a Certificate of Occupancy.
29. Applicant shall address interim storm water flow and erosion controls during installation of infrastructure and during construction on individual lots. This effort must include a

plan to insure consistent surface water flows to the wetland both before and during construction on Lots 9 to 12.

30. Trench dams shall be employed throughout the site to prohibit water following trench lines. The geotechnical engineer shall provide a recommendation for trench dam construction details, materials, and placement for waterline construction. Service lines crossing under rain gardens will require dams as well.
31. Connections to the existing water system and waterline alignment on Sandy Point Road shall be coordinated with the Langley Public Works Director.
32. The applicant proposes to tie into the private lift station and force main on Sandy Point Road that currently serves the Woodside subdivision. While the City agrees that it will accept the donation of this infrastructure, the applicant shall be solely responsible for reaching agreement with the current owners to tie into these facilities and to transfer them to City ownership. Before the City will accept ownership, the applicant must confirm that the lift station and force main are appropriately sized to accommodate the addition of Langley Passage at build out. Upgrades are the responsibility of the applicant. Connection to the sewer system and alignment within Sandy Point Road shall be coordinated and approved through the Public Works Director.
33. Bill of sale and as-builts are required after completion and City acceptance of public improvements.
34. Front yard setbacks may be reduced to a minimum of five (5) feet to encourage tree canopy preservation at the rear of lots.
35. Irrigation systems are prohibited within the Langley Passage subdivision.