ATTACHMENTS:

1) Aggregate Resource Inventory 2014 Study Update Whatcom County, Washington.

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Presentation by ELEMENT Solutions of the Aggregate Resource Inventory 2014 Study Update Whatcom County, Washington.

Whatcom County Comprehensive Plan Mineral Resources Action Plan item #11 is to: Budget for and update the Aggregate Resource inventory study to document the short and long range availability and location of quality mineral resources, to be completed by 2010.

As part of the 2013-2014 Budget, an Additional Service Request was submitted by Planning and Development Services, allocating $25,000 for the project. The project was completed in December 2014.

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
Whatcom County Comprehensive Plan Mineral Resources Action Plan item #11 is to:

Budget for and update the Aggregate Resource inventory study to document the short and long range availability and location of quality mineral resources, to be completed by 2010.

As part of the 2013-2014 Budget, an Additional Service Request was submitted by Planning and Development Services, allocating $25,000 for the project.

Over the past few months, ELEMENT Solutions worked on and completed the attached study, titled "Aggregate Resource Inventory 2014 Study Update Whatcom County, Washington".
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December 22, 2014

Submitted To:  Whatcom County Administrative Services Finance Department
            311 Grand Avenue, Suite 503
            Bellingham, WA 98225

RE:  Aggregate Resource Inventory 2014 Study Update
    Whatcom County Department of Planning and Development Services
    5280 Northwest Drive
    Bellingham, Washington 98226

Dear Sir or Madam,

Element Solutions is pleased to present the following 2014 Aggregate Resource Inventory Study Update. As a Bellingham firm that has served the greater Whatcom County community for over 20 years, we are deeply invested in the continued economic vitality of our region and understand the critical role of local aggregate mineral resources in sustaining construction and infrastructure improvement as our county grows, as well as the complex environmental and social consequences of mineral resource development. The following report describes the approach, methods, and work plan that were used to comprehensively evaluate and describe the existing aggregate mineral resources within Whatcom County, and presents the results of our findings. We enjoyed working with you and the Surface Mining Advisory Committee to better inform responsible, sustainable mineral resource management. Thank you for the opportunity to contribute towards planning and development in Whatcom County now and in the future.

Should you have any questions concerning this report or any other aspect of this communication, please do not hesitate to contact me at (360) 671-9172, or by email at ppittman@elementssolutions.org.

Sincerely,

[Signature]

Paul Pittman, MS, LEG
Earth Sciences Manager – Principal
# Executive Summary

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Executive Summary

In 2003, GeoEngineers, Inc. was retained by the Whatcom County Department of Planning and Development Services (WCPDS) to provide an empirical estimate of proven and potential aggregate resources in Whatcom County. The study, which culminated in the publication of the 2003 Whatcom County Aggregate Resource Inventory, was intended to inform long-term planning and decision making as stipulated in the 1997 Whatcom County Comprehensive Plan (WCCP), which prioritized designating a “50-year supply of commercially significant construction aggregate supply.” Today, the WCCP continues to function as an evolving guide for planning and development in the County, and undergoes regular review and revision; the latest WCCP update is required to be completed by June 30, 2016. This Aggregate Resource Inventory Update builds upon the 2003 Aggregate Resource Inventory to provide the County and the Surface Mining Advisory Committee (SMAC) with the most accurate and current information regarding existing aggregate resource reserves and consumption, and to inform policymaking regarding the designation and use of Mineral Resource Lands (MRLs) in Whatcom County.

Population growth, economic recession and recovery, and the state and local regulatory environment were all significant factors influencing aggregate resource production and use over the study period. A new MRL area, MRL-25 North Star, was established in 2005, adding approximately 3.58 million cubic yards of material to the 2013 reserve. Four existing or former MRLs, MRL-2 Agate Bay, MRL-10 Aldrich, MRL-14 South Pass, and MRL-24 Oat Coles were found to be idle, reclaimed, rezoned, or otherwise repurposed between 2004 and 2012, resulting in a loss of approximately 5.50 million cubic yards of aggregate reserve. Whatcom County Surface Mine Registration data was used to calculate the estimated volume of aggregate extracted in each MRL between 2004 and 2012. Approximately 14.75 million cubic yards of pit run, sand, and gravel were mined in Whatcom County over the nine-year period, leaving 63.33 million cubic yards of gross aggregate remaining in reserve. Using a per-capita consumption estimate of 8.51 cubic yards per county resident integrated with the median population growth projections, existing aggregate reserves will be depleted by the year 2042. Of the existing reserve, an estimated 35.84 million cubic yards is gravel, with the remaining 27.48 million cubic yards sand. The estimated volume of gravel reserve above the water table is approximately 24.15 million cubic yards, with approximately 11.69 million cubic yards below the water table. The estimated volumes of sand above and below the water table are approximately 19.40 million cubic yards and 8.08 million cubic yards, respectively. Between 2004 and 2012, bedrock MRLs in Whatcom County reported a total extraction volume of 2.87 million cubic yards of quarry rock, with 33.03 million cubic yards remaining in reserve in 2013. Applying an estimated per-capita consumption volume of 1.65 cubic yards per county resident integrated with the aforementioned median population projections for Whatcom County, the existing bedrock aggregate reserve will be depleted by the year 2079. This estimate could change dramatically if crushed quarry rock is used to supplement natural aggregate products more extensively in the future.

There has been no permitted resource extraction or MRL expansion within the Potential Resource Areas (PRAs) denoted in the 2003 Aggregate Study over the study update period. Even with the addition of MRL-25 North Star, the net area of existing MRLs has also not changed appreciably since 2003. Several additional areas in Whatcom County where potentially economic deposits of glacial outwash, metamorphic bedrock, or marine terraces occur were identified and assessed to the extent feasible using existing studies, data, and desktop geospatial imaging. It is likely that without any additional resource allocation, in twenty years some of the effects of local aggregate resource scarcity will be experienced in Whatcom County. Recommendations provided to address this shortage include streamlining the process for achieving MRL designation and expansion, as well as resource exploration that emphasizes compatible land use applications.
1. Whatcom County Aggregate Resource Inventory 2014 Update

1.1. Introduction
Population growth in Whatcom County has increased at a rate approximately 0.4% greater than the Washington State average over the past 50 years. Rapid growth has fueled perceptions of scarcity in the aggregate and construction industries. Anecdotal evidence suggesting a dwindling aggregate reserve have resulted in intensifying concern that burgeoning demand will soon outpace the aggregate resource supply within designated MRL areas. This very real threat underscores the importance of an accurate quantitative baseline to inform mineral resource policymaking and public discussion, an inherently difficult task. Variables affecting estimates of aggregate and bedrock resource consumption include the rate of projected population growth, present and future infrastructure maintenance demands, and the type, density, and rate of future development and construction. The commercial supply of aggregate is similarly influenced by a range of economic, environmental, regulatory, and social factors, which often exert a greater influence over aggregate supply than the actual physical resource reserve. Approximately 60% of currently designated MRL area contains active, permitted aggregate mines. The remaining 40% is often utilized for site access or processing purposes, highwall rounding, benching, and/or buttressing, or stormwater detention. In some instances, a significant percentage of MRL designated area is uneconomical for extraction due to low quality resource or discontinuous distribution of the deposit, excessive overburden, or shallow groundwater. However, it is likely that the target mineral resource extends throughout and beyond the existing MRL boundaries in many areas with active, permitted mines.

1.2. Purpose
The purpose of the Aggregate Resource Inventory Study Update was to evaluate and revise estimates of sand, gravel, and hard rock mineral consumption and reserves in designated MRL areas, and conduct a comprehensive desktop analysis of existing studies, data, and documentation concerning the extraction, use, and processing of aggregate mineral resources in Whatcom County between 2004 and 2012. The geographic scope of the project area includes existing MRL designated areas in Whatcom County; non-MRL designated areas with potentially commercially significant aggregate reserves were evaluated qualitatively and were described to the extent feasible within the project scope and budget. In addition, a brief discussion of existing and potential aggregate resource extraction alternatives such as aggregate importation and aggregate recycling is included in Section 7.2 of the study update.

1.3. Project Team
Element Solutions served as project principal for the 2014 aggregate study update. Consultant Micah Gregory-Lederer was the lead report author and researcher, while Paul Pittman, MS, LEG, was project manager, providing technical oversight, research guidance, and project coordination at every stage of work plan execution. Draft report technical editing and content review expertise was provided by Chuck Lindsay, LEG, LHG, of AESI. Professional consultant services were also offered by Letitia Wheeler of Wheeler Consulting.
2. Methodology

2.1. Data Management

The initial phase of project action involved extensive information gathering, organization, and verification. A master spreadsheet was compiled to record, track, and display data, including estimates of known, measured, and inferred reserves in each MRL. Individual MRL and mine data were revised to reflect the most currently available information wherever discrepancies were encountered. Specific updated attributes included MRL zoning and MRL area acreage, DNR permitted mine dimensions, pit abandonment and reclamation status, the addition or termination of DNR surface mining reclamation permits within each respective MRL, and the sale or transfer of mines and mineral land. Extraction records from Whatcom County Surface Mine Registration data sheets were sorted and organized based upon the reporting year and MRL. The resulting data set was then used to assess annual consumption within each MRL and to update the measured reserve estimates provided in GeoEngineers, Inc., 2003. Estimated per-capita aggregate and bedrock consumption volumes were calculated from existing Washington State Office of Financial Management (OFM) population data and then integrated with median population growth projections for Whatcom County, as presented in the July 2013 Whatcom County Population and Employment Projections and Urban Growth Area Allocations - Phase I Technical Report, to estimate local aggregate demand in the future.

Literature and data utilized for quantitative evaluation of aggregate reserves included:

- GeoEngineers, Inc., 2003 data aggregate and bedrock MRL data, as presented in Tables B-1 and B-2.
- Whatcom County Surface Mine Registration data sheets for production years 2004 through 2012.

Materials used for qualitative analysis and factual verification of quantitative data included:

- GeoEngineers, Inc., 2003 MRL descriptions and predictive analysis.
- Interviews, oral communication, and email correspondence with regulatory, industry, and stakeholder representatives.
- Air photo, orthophoto, satellite, and LiDAR image analysis of MRLs and priority resource areas.
- Literature, documents, and peer-reviewed publications pertaining to the occurrence and/or abundance of aggregate mineral resources in Whatcom County, as cited.
2.2. Unit Conversion and Materials Data
For the purpose of this assessment, all values reported as tons were converted to cubic yards using the conversion factors recommended in the 2007 U.S. Bureau of Land Management publication H-3890-1 Handbook for Mineral Examiners, whereby:

- 1.62 cubic yards of pit run = 1 short ton pit run.
- 1.45 cubic yards of sand = 1 short ton sand.
- 1.42 cubic yards of gravel = 1 short ton gravel.

The abbreviations “c.y.” and “WC” are occasionally used throughout this report to indicate cubic yards and Whatcom County, respectively. If the material type was not denoted on the record data sheet, the product was assumed to be pit run.

2.3. Interviews
The following persons were interviewed over the course of the study update. Interview notes and, in some cases, written responses to a generic questionnaire (attached in Appendix V) were summarized and recorded.

- Andrew Wiser, LEG – Geohazard Specialist and Planner, Whatcom County Planning and Development Services
- Joshua Fleischman – Planner, Whatcom County Planning and Development Services
- Kim Brandtt – Weighmaster, Aggregates West
- Richard Owens – General Manager, Whatcom Builders Supply
- Keith Korthuis – Advertising Director, Ferndale Ready Mix and Gravel
- Rian Skov – Senior Reclamation Geologist, Washington State Department of Natural Resources
- Karen Deal – Environmental Land Use Program Director, Lakeside Industries
- Dan McShane – Geologist, Stratum Group

Repeated attempts to contact numerous other industry representatives and regulatory officials were unsuccessful.

2.4. Projected Population Growth for Predictive Modeling
The use of projected population growth data to model future aggregate resource extraction rather than a fixed estimate of annual production is one key difference between the data projections developed for this report and those presented in the original inventory. In GeoEngineers, Inc., 2003, a fixed annual extraction rate of 1.7 million cubic yards per year was used to estimate dates for aggregate and bedrock reserve depletion. The linear regressions that were developed by Element Solutions from the aforementioned OFM data are presented in Table 1 below. The final (2030 – 2040) regression was extrapolated upon to derive a median population projection through 2063. Together with estimated per capita consumption volumes, these regressions were used to generate the charts attached in Appendices II and III.
Table 1: Whatcom County Projected Population Growth

<table>
<thead>
<tr>
<th>Decadal Interval</th>
<th>Starting Population for Interval (OFM median projection after 2010)</th>
<th>Ending Population for Interval (OFM median projection)</th>
<th>Linear Regression (Element Solutions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010 - 2020</td>
<td>201,140</td>
<td>225,307</td>
<td>Y = 2416.7(X) + 176973</td>
</tr>
<tr>
<td>2020 - 2030</td>
<td>225,307</td>
<td>256,643</td>
<td>Y = 3133.6(X) + 162635</td>
</tr>
<tr>
<td>2030 - 2040</td>
<td>256,643</td>
<td>284,901</td>
<td>Y = 2825.8(X) + 171869</td>
</tr>
</tbody>
</table>

2.5. Aggregate and Bedrock Production and Reserve Estimates

In this report, graphical representations of estimated future bedrock extraction volumes are presented separately from those of aggregate (sand, gravel, and pit run) in the attached appendices. In all predictive analysis, annual bedrock and aggregate extraction estimates are based on estimated per-capita consumption volumes. Bedrock material mined in Whatcom County is often used for different applications than construction aggregate, which suggests that extraction of the resource may not be driven by entirely the same market forces as those that influence aggregate demand. Commercial and industrial markets for bedrock mineral resources include the use of dunite (olivine) for its refractive properties in applications such as sand casting of molten metals, while quarried limestone, metasedimentary, and metavolcanic rock is commonly processed for use as riprap and decorative stone in addition to quarry spall and other crushed rock products. At this point in time, available data does not indicate that bedrock production is increasing in response to the real or perceived scarcity of naturally occurring aggregate resources.

2.6. Resource Classification

Measured, indicated, and inferred reserve estimates were used for all predictive analyses in the study update. These reserves meet the general criteria of identified reserves as referenced in GeoEngineers, Inc., 2003 and depicted below in Table 2, adapted from the U.S. Geological Survey resource classification system:

Table 2: Classification of Gravel and Bedrock Resources (modified from USGS, 1976)

<table>
<thead>
<tr>
<th>Measured</th>
<th>Indicated</th>
<th>Inferred</th>
<th>Hypothetical</th>
<th>Speculative</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deposit whose engineering properties, reserves in tons or cubic yards, and grain sizes are measured with a margin of error &lt;20% (that is, a mine or a well-drilled prospect).</td>
<td>Deposit whose measurements, together with reasonable geologic projections, can be used to compute reserves in tons or cubic yards.</td>
<td>Reasonable extension of indicated or measured deposit (generally &lt;0.50 miles); thickness contours can be drawn with confidence.</td>
<td>Undiscovered resources that may reasonable be expected to exist; applicable where landforms, water wells, proximal mines, or geophysical data justify such an extension.</td>
<td>Unexplored surficial deposits with no subsurface data.</td>
</tr>
<tr>
<td>Active mine.</td>
<td>Densely drilled deposit.</td>
<td>Deposit with good subsurface control.</td>
<td>Possible deposit defined only by poor subsurface control.</td>
<td>Possible deposit; mapped with surficial data only.</td>
</tr>
</tbody>
</table>
2.7. Assumptions and Data Limitations

Significant limitations regarding the resolution, accuracy, and availability of aggregate mining and production data were encountered in each phase of project execution. Access to proprietary information regarding the quantity and quality of materials mined at specific locations, as well as quantitative estimates of aggregate resource remaining in privately owned commercial deposits was frequently withheld or otherwise limited. Annual DNR surface mining permit data sheets were described in personal communication with Washington DNR Senior Reclamation Geologist Rian Skov on August 4, 2014 as containing insufficient detail and accuracy for quantitative analysis, and were therefore disqualified from use in this report. Several key assumptions were made to facilitate the data analysis included in this report. These assumptions included:

- Quantitative estimates of known and measured reserves presented in GeoEngineer’s, Inc., 2003 and Loen et. al., 2001 were calculated using the best available science and data, and as such were assumed to be accurate with an acceptable margin of error given the level of inquiry.

- Descriptions of regional geology, aggregate and bedrock mineral deposits (including estimated thickness of overburden), and resource distribution within MRLs and PRAs as reported in Loen et. al., 2001 and GeoEngineers, Inc., 2003 were assumed to be fundamentally sound and accurate.

- Information provided to Whatcom County by local operators through the annual Surface Mine Registration data sheets was assumed to be reasonably accurate and representative of actual annual production volumes.

- Unpermitted and/or unrecorded extraction of aggregate resources was assumed to not occur with sufficient frequency or magnitude so as to have a profound influence on estimates of existing reserves or projections of future resource abundance.

- Median estimated projections for population growth presented in the Whatcom County Population and Employment Projections and Urban Growth Area Allocations Phase I Technical Report (July 2013) were assumed to represent the most likely trend for future population growth in Whatcom County; linear regressions based upon the median projections presented in this technical report were used in all graphical analysis where projected population growth was a factor or variable.

3. MRL Resource Descriptions and Analysis

3.1. Aggregate Mineral Resource Lands

Sixteen of the twenty-five active and former Whatcom County MRL areas are presently being mined for aggregate resources. The most recent addition to this database, MRL-25 North Star, was designated an MRL in 2005 and is described in detail in Section 3.4. A detailed summary of the observed and documented changes in land use, ownership, or production noted in the following MRL descriptions is provided in Section 3.5; please refer to Figure 1 (Appendix IV) for a labeled Whatcom County MRL map. The charts provided in the attached appendices depicting current and projected MRL aggregate extraction volumes were developed from Whatcom
County Surface Mine Registration data sheets, and contain unverified, operator-reported values. In all instances where aggregate type (pit run, sand or gravel) was withheld from county data reporting, a composition of pit run was assumed for the material. In addition, some discrepancies between MRL area and WDNR Surface Mining Reclamation Permit area were observed in the data set; where these discrepancies were observed, all recorded values were included in the summary.

MRL-1 Saxon

- The Saxon mineral resource land (MRL-1) was described in GeoEngineers, Inc., 2003, as occupying a 155.15 acre area. The WCPDS MRL layer (2012) indicates a total area of 180.72 acres, with a single DNR permitted mine area of 41 acres (WDNR Permit No. 11841) held by Concrete Nor’ West (CNW); the permit area was expanded from 20 acres in 2008.
- Based upon the WCPDS MRL GIS layer area and WDNR surface mining reclamation permit information, 11.07 percent of the MRL area is permitted for surface mine extraction.
- The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 2,700,000 cubic yards of gross aggregate resource.
- Between 2004 and 2012, 230,000 cubic yards of pit run was extracted from the MRL, as reported on Whatcom County Surface Mine Registration data sheets.
- The estimated remaining reserve in the MRL is 2,470,000 cubic yards of gross aggregate; 8.52 percent of the aggregate resource that existed in 2003 was depleted by 2012.
- The average amount of material extracted annually across the specified period was 25,556 cubic yards/year.
- The single active pit in the Saxon MRL is currently above the groundwater table (2013 pictometry).
- The resource overburden is estimated to be 2 feet thick (GeoEngineers, Inc., 2003).

MRL-3 Karb

- The Karb mineral resource land (MRL-3) was described in GeoEngineers, Inc., 2003 as “an approximate 35-acre area,” per the 2012 WCPDS MRL layer and current DNR permitted mine acreage data, the roughly 38-acre parcel contains a single 9.9 acre area permitted for surface mining (WDNR Permit No. 12325), for a total permitted surface mining area that covers 26.18 percent of the MRL area.
- The original WDNR surface mining reclamation permit holder, Wilder Construction Company, was purchased by Granite Construction Incorporated in 2007; Granite is presently the sole operator on the Karb MRL.
- The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 740,000 cubic yards of gross aggregate resource.
- Between 2004 and 2012, 26,548 cubic yards of pit run was extracted from the MRL, as reported on Whatcom County Surface Mine Registration data sheets.
- No aggregate extraction (“NR” or “0”) was reported for 2004 and the years 2008 through 2012.
• The estimated remaining reserve for the MRL is 713,452 cubic yards; 3.59 percent of the aggregate resource that existed in 2003 was depleted by 2012.

• The average amount of material extracted annually across the specified period was 2,950 cubic yards/year.

• The single active pit is currently above the groundwater table (2013 pictometry).

• The resource overburden is estimated to be 6 feet thick (GeoEngineers, Inc., 2003).

MRL-4 Cedarville

• The Cedarville mineral resource land (MRL-4) occupies an approximately 26 acre area, of which 22.5 acres (87.34 percent) is permitted mine area (WDNR Permit No. 11998). The sole permitted operator in MRL-4 is Cowden Gravel & Ready Mix.

• The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 130,000 cubic yards of gross aggregate resource.

• Between 2004 and 2012, 21,559 cubic yards of pit run was extracted from the MRL, as reported on Whatcom County Surface Mine Registration data sheets.

• The estimated remaining reserve for the MRL is 108,441 cubic yards of aggregate; 16.58 percent of the aggregate resource that existed in 2003 was depleted by 2012.

• The average amount of material extracted annually across the specified period was 2,395 cubic yards/year, with no aggregate extraction ("NR" or "0") reported for 2005.

• Active surface mining and/or groundwater drainage appears to extend beyond the MRL designated boundary onto parcels to the south and west.

• The single active pit in the Cedarville MRL appears to be at or below the groundwater table (2013 pictometry)

• The resource overburden is estimated to be 1 foot thick (GeoEngineers, Inc., 2003).

MRL-5 Mountain View

• The Mountain View mineral resource land (MRL-5) occupies an approximately 23 acre area, of which 18 acres (76.73 percent) is permitted mine area (WDNR Permit No. 12021) for the Cherry Point pit. The sole permitted operator in MRL-4 is Len Honcoop Gravel Inc.

• The measured and inferred reserves as reported in GeoEngineers, Inc., 2003 was 80,000 cubic yards of gross aggregate resource.

• Between 2004 and 2012, 52,963 cubic yards of pit run and 92,250 cubic yards of sand were extracted from the MRL, as reported on Whatcom County Surface Mine Registration data sheets.

• According to GeoEngineers, Inc., 2003 estimated measured and inferred reserve, the MRL would have been depleted by 2007; a total of 145,213 cubic yards of gross aggregate was mined from the Cherry Point pit between 2004 and 2012, equivalent to roughly 182 percent of the 2003 estimated reserve.

• The average amount of material extracted annually across the specified period was 16,145 cubic yards/year.
• The single active pit in the Mountain View MRL is currently above the water table (2013 pictometry).

• The resource overburden is estimated to be 20 feet thick (GeoEngineers, Inc., 2003).

**MRL-6 Axton**

- The Axton mineral resource land (MRL-6) was described in GeoEngineers, Inc., 2003, as occupying a 141.45 acre area, with 80.54 acres of permitted mine area; the WCPDS MRL layer (2012) indicates a total area of 164.09 acres, with multiple WDNR permits encompassing a total permitted mine area of 124.3 acres.

- Current (2013) operators include Granite Northwest and Cowden Gravel & Ready Mix (WDNR Permit No.’s 10449, 10355, and 10286), Whatcom Asphalt Company Inc. (Whatcom Builders) (WDNR Permit No. 10363), and Whatcom County Public Works (WDNR Permit No. 10356)

- Based upon the WCPDS MRL GIS layer area and WDNR surface mining reclamation permit information, 75.75 percent of the MRL area is permitted for surface mine extraction.

- The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 10,700,000 cubic yards of gross aggregate resource.

- Between 2004 and 2012, 549,252 cubic yards of pit run, 19,259 cubic yards of sand, and 170,896 cubic yards of gravel were extracted from the MRL, as reported on Whatcom County Surface Mine Registration data sheets. A total of 739,407 cubic yards of gross aggregate, or 6.91 percent of the 2003 estimated measured and inferred reserves, was mined between 2004 and 2012.

- The estimated remaining reserve at the Axton MRL is 9,960,593 cubic yards of gross aggregate.

- Roughly half of the permitted mine area within the Axton MRL has been excavated to depths at or below the water table (2013 pictometry).

- The resource overburden is estimated to be 8 feet thick (GeoEngineers, Inc., 2003).

**MRL-7 Siper**

- The Siper mineral resource land (MRL-7) was described in GeoEngineers, Inc., 2003, as occupying a 225.21 acre area, with 227.11 acres of WDNR permitted mine area; the WCPDS MRL layer (2012) indicates a total MRL area of 264 acres, with multiple WDNR surface mining reclamation permits accounting for a total permitted mine area of 228.2 acres.

- Based upon the WCPDS MRL GIS layer area and WDNR surface mining reclamation permit information, 86.44 percent of the MRL area is permitted for surface mine extraction.

- Current (2013) operators include CNW (WDNR Permit No.’s 12528 and 10359 consolidated into permit number 11742 for a total permit area of 184 acres), Kelly Enterprises (Van Boven) (WDNR Permit No. 12020), Cowden Gravel & Ready Mix (WDNR Permit No. 10664), and Whatcom County Public Works (WDNR Permit No. 11328).

- The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 15,000,000 cubic yards of gross aggregate resource.

- Between 2004 and 2012, 2,931,464 cubic yards of pit run was extracted from the MRL, as reported on Whatcom County Surface Mine Registration data sheets.
• An average of 325,718 cubic yards of aggregate was mined annually from the MRL between 2004 and 2012; 19.54 percent of the measured and inferred reserves reported in GeoEngineers, Inc., 2003 were depleted by 2012, with 12,068,536 cubic yards of aggregate remaining in reserve.

• Roughly half of the permitted mine area within the Siper MRL has been excavated to depths at or below the water table (2013 pictometry).

• The resource overburden is estimated to be 1 foot thick (GeoEngineers, Inc., 2003).

MRL-8 Mission

• The Mission mineral resource land (MRL-8) occupies an approximately 75 acre area, with 78 permitted acres accounted for in two separate WDNR surface mining reclamation permits.

• Current operators (2013) are Cowden Gravel & Ready Mix (formerly Van Boven, WDNR Permit No. 12681) and Washington Asphalt Company Inc./Whatcom Builders (WDNR Permit No. 10959).

• The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 800,000 cubic yards of gross aggregate resource.

• Between 2004 and 2012, 1,307,774 cubic yards of pit run and 389,273 cubic yards of gravel were extracted from the MRL, as reported on Whatcom County Surface Mine Registration data sheets.

• According to the GeoEngineers, Inc., 2003 estimated measured and inferred reserve, the MRL would have been depleted by 2006; a total of 1,697,047 cubic yards of gross aggregate was mined from MRL-8 between 2004 and 2012, equivalent to roughly 212 percent of the 2003 estimated reserve.

• The average amount of material extracted annually across the specified period was 188,561 cubic yards/year.

• Both active pits within the Mission MRL appear to be at or below the groundwater table (2013 pictometry).

• The resource overburden is estimated to be 3 feet thick (GeoEngineers, Inc., 2003).

MRL-9 Pole Road

• The Pole Road mineral resource land (MRL-9) was described in GeoEngineers, Inc., 2003, as occupying a 537 acre area, with 367.79 acres of permitted mine area; the WCPDS MRL layer (2012) indicates a total area of 602.13 acres, with seven WDNR permits accounting for a total permitted mine area of 455.14 acres.

• Current (2013) operators include Granite Northwest (WDNR Permit No. 10648), Van Boven (WDNR Permit No. 11966), A&B Rock (Aaron and Brandon Crabtree, WDNR Permit No. 12685), Everock Enterprises (S&W, WDNR Permit No. 11556), LBC Properties LP (Ferndale Ready Mix and Gravel, DNR Permit No.’s 11870 and 11012), and Doris J. Johnson (Johnson Gravel LLC, WDNR Permit No. 12696).

• Based upon the WCPDS MRL GIS layer area and WDNR surface mining reclamation permit information, 75.59 percent of the MRL area is permitted for surface mine extraction.
• The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 11,200,000 cubic yards of gross aggregate resource.

• Between 2004 and 2012, 2,851,612 cubic yards of pit run, 457,689 cubic yards of sand, and 1,380,116 cubic yards of gravel were extracted from the MRL, as reported on Whatcom County Surface Mine Registration data sheets. A total of 4,689,417 cubic yards of gross aggregate, or 41.87 percent of the 2003 estimated measured and inferred reserve, was mined between 2004 and 2012.

• The estimated remaining reserve in the Pole Road MRL is 6,510,583 cubic yards of gross aggregate.

• All of the active permitted mines within the Pole Road MRL appear to have been excavated to depths at or below the groundwater table (2013 pictometry).

• The resource overburden is estimated to be 1 foot thick (GeoEngineers, Inc., 2003).

(Former) MRL-10 Aldrich

• The former MRL-10 Aldrich area has been rezoned R10A and has a “Rural” designation in the WCCP; it is no longer a MRL.

• The former MRL area is located most proximal to Paradise Road, and does not appear in the current (2012) WCPDS MRL GIS map layer. The former MRL area contains a single DNR permitted surface mine (WDNR permit No. 10746) that remains active, operated by Paradise Enterprises (Starkenberg and Wiersma).

• The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 2,000,000 cubic yards of gross aggregate resource.

• Between 2004 and 2012, 13,108 cubic yards of pit run and 2,400 cubic yards of sand were extracted from the MRL, as reported on Whatcom County Surface Mine Registration data sheets. A total of 15,508 cubic yards of gross aggregate, or .78 percent of the 2003 estimated measured and inferred reserves, was mined between 2004 and 2012.

• The estimated remaining reserve in the former Aldrich MRL is 1,984,492 cubic yards of gross aggregate.

• The resource overburden is estimated to be 1 foot thick (GeoEngineers, Inc., 2003).

MRL-11 Meadowlark

• The Meadowlark mineral resource land (MRL-11) occupies an approximately 41 acre area, of which 40 acres (96.88 percent) is permitted mine area (WDNR Permit No. 11555). The sole operator in MRL-11 is Alsand Enterprises (Starkenberg and Wiersma).

• The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 530,000 cubic yards of gross aggregate resource.

• Between 2004 and 2012, 54,100 cubic yards of pit run and 213,950 cubic yards of sand were extracted from the MRL, as reported on Whatcom County Surface Mine Registration data sheets.

• The estimated remaining reserve in the MRL is 261,950 cubic yards of aggregate; 50.58 percent of the aggregate resource that existed in 2003 was depleted by 2012.
• The average amount of material extracted annually across the specified period was 29,783 cubic yards/year, with no aggregate extraction ("NR" or "0") reported for 2004 and 2010.
• Two permitted mines exist outside of the MRL to the east.
• A portion of the permitted mine area in the Meadowlark MRL is below the groundwater table (2013 pictometry).
• The resource overburden is estimated to be 0 feet thick (GeoEngineers, Inc., 2003).

MRL-12 Kendall
• The Kendall mineral resource land (MRL-12) was described in GeoEngineers, Inc., 2003, as occupying a 112.47 acre area, with 50 acres of permitted mine area; the WCPDS MRL layer (2012) indicates a total area of 130.45 acres, with a single DNR permit (DNR Permit No. 12984) accounting for a total permitted mine area of 58 acres. Cowden Gravel & Ready Mix is the sole operator in the Kendall MRL.
• The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 5,300,000 cubic yards of gross aggregate resource.
• Between 2004 and 2011, 430,539 cubic yards of pit run was extracted from the MRL, with no aggregate extraction ("NR" or "0") reported for 2012 as recorded in Whatcom County Surface Mine Registration data sheets.
• The estimated remaining reserve in the Kendall MRL is 4,869,461 cubic yards of gross aggregate; 8.12 percent of the aggregate resource that existed in 2003 was depleted by 2012.
• The average amount of material extracted annually between 2004 and 2012 was 47,838 cubic yards/year.
• The active pits within the Kendall MRL are currently above the groundwater table (2013 pictometry).
• The resource overburden is estimated to be 1 foot thick (GeoEngineers, Inc., 2003).

MRL-13 Nooksack
• The Nooksack mineral resource land (MRL-13) was described in GeoEngineers, Inc., 2003, as occupying a 136.57 acre area, with 115.53 acres of permitted mine area; the WCPDS MRL layer (2012) indicates a total area of 154.19 acres, with three WDNR permits accounting for a total permitted mine area of 115.53 acres.
• Current (2013) operators include CNW (WDNR Permit No. 11872), Everson Aggregates (Aggregates West, WDNR Permit No. 12073), and Brad Hoy (WDNR Permit No. 12712).
• Based upon the WCPDS MRL GIS layer area and WDNR surface mining reclamation permit information, 74.93 percent of the MRL area is permitted for surface mine extraction.
• The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 5,000,000 cubic yards of gross aggregate resource.
• Between 2004 and 2012, 685,269 cubic yards of pit run was extracted from the MRL, as reported on Whatcom County Surface Mine Registration data sheets.
• The estimated remaining reserve for the MRL is 4,314,731 cubic yards of aggregate; 13.71 percent of the aggregate resource that existed in 2003 was depleted by 2012.
• The average amount of material extracted annually between 2004 and 2012 was 76,141 cubic yards/year.

• The three permitted mine areas within the Nooksack MRL are currently above the groundwater table (2013 pictometry).

• The resource overburden is estimated to be 20 feet thick (GeoEngineers, Inc., 2003).

MRL-15 Van Buren

• The Van Buren mineral resource land (MRL-15) was described in GeoEngineers, Inc., 2003, as occupying a 270 acre area, with 120 acres of permitted mine area; the WCPDS MRL layer (2012) indicates a total area of 313.41 acres, with two WDNR permits accounting for a total permitted mine area of 199.5 acres.

• Current (2013) operators include CNW (WDNR Permit No. 12478) and Len Honcoop/Aggregates West (WDNR Permit No. 11866).

• The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 8,200,000 cubic yards of gross aggregate resource.

• Between 2004 and 2012, 809,668 cubic yards of pit run, 230,915 cubic yards of sand, and 415,099 cubic yards of gravel were extracted from the MRL, as reported on Whatcom County Surface Mine Registration data sheets. A total of 1,455,682 cubic yards of gross aggregate, or 17.5 percent of the 2003 estimated measured and inferred reserves, was mined between 2004 and 2012.

• The estimated remaining reserve in the MRL is 5,934,650 cubic yards of aggregate.

• The average amount of material extracted annually across the specified period was 161,742 cubic yards/year.

• All active pits within the Van Buren MRL are currently above the groundwater table (2013 pictometry).

• The resource overburden is estimated to be 2 feet thick (GeoEngineers, Inc., 2003).

MRL-16 Valley View

• The Valley View mineral resource land (MRL-16) was described in GeoEngineers, Inc., 2003, as occupying a 130.4 acre area, with 142 acres of permitted mine area; the WCPDS MRL layer (2012) indicates a total area of 151 acres, with two WDNR permits accounting for a total permitted mine area of 182 acres.

• As described above, the WDNR surface mining reclamation permitted area exceeds the MRL-designated acreage.

• Current (2013) operators include Dan Colacurcio Jr. (WDNR Permit No. 11853) and Whatcom County Public Works (WDNR Permit No. 10357).

• The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 2,000,000 cubic yards of gross aggregate resource.

• Between 2004 and 2012, 159,506 cubic yards of pit run and 24,225 cubic yards of gravel were extracted from the MRL, as reported on Whatcom County Surface Mine Registration data.
sheets. A total of 183,731 cubic yards of gross aggregate, or 9.19 percent of the 2003 estimated measured and inferred reserves, was mined between 2004 and 2012.

- The estimated remaining reserve in the MRL is 1,816,269 cubic yards of aggregate.
- The average amount of material extracted annually across the specified period was 20,415 cubic yards/year.
- Orthophoto analysis indicates that the designated MRL area is minimally mined; however, extensive mining activity appears to be ongoing outside of the MRL boundaries to the south.
- A partially reclaimed pit or impoundment area in the southwestern portion of the Valley View MRL is at or below the groundwater table; the remaining MRL area appears to be either reclaimed or underutilized; an active WDNR permitted surface mine immediately south of the MRL is currently being mined at or below the groundwater table in roughly 2/3 of the mine area (2013 pictometry).
- The resource overburden is estimated to be 7 feet thick (GeoEngineers, Inc., 2003).

**MRL-17 H Street**

- The H Street mineral resource land (MRL-17) was described in GeoEngineers, Inc., 2003, as occupying a 331.89 acre area, with 101 acres of permitted mine area; the WCPDS MRL layer (2012) indicates a total area of 395.16 acres, with two WDNR permits accounting for a total permitted mine area of 164.5 acres.
- Current (2013) operators include Boundary Industries/Honcoop (WDNR Permit No. 12998) and WSDOT (WDNR Permit No. 10019).
- The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 7,500,000 cubic yards of gross aggregate resource.
- Between 2004 and 2012, a total of 32,851 yards of aggregate (pit run) was extracted from the MRL, as reported on Whatcom County Surface Mine Registration data sheets.
- The estimated remaining reserve in the MRL is 7,467,149 cubic yards of gross aggregate.
- The average amount of material extracted annually between 2004 and 2012 was 3,650 cubic yards/year, with no aggregate extraction ("NR" or "0") reported for the years 2004, 2005, 2009, and 2010.
- Portions of the actively mined area in the southern half of the H Street MRL are presently at or below the groundwater table (2013 pictometry).
- The resource overburden is estimated to be 1 foot thick (GeoEngineers, Inc., 2003).

**MRL-18 Killam**

- The Killam mineral resource land (MRL-18) was described in GeoEngineers, Inc., 2003, as occupying a 99 acre area, with 99 acres of permitted mine area; the WCPDS MRL layer (2012) indicates a total area of 115.3 acres, with a single WDNR permit (WDNR Permit No. 12530) accounting for a total permitted mine area of 37 acres. Herbert Killam is the sole operator within the MRL.
- The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 5,500,000 cubic yards of gross aggregate resource.
• Between 2004 and 2012, 406,000 cubic yards of pit run, 16,471 cubic yards of sand, and 308,475 cubic yards of gravel were extracted from the MRL, as reported on Whatcom County Surface Mine Registration data sheets. A total of 730,946 cubic yards of gross aggregate, or 13.29 percent of the 2003 estimated measured and inferred reserves, was mined between 2004 and 2012.

• The estimated remaining reserve in the MRL is 4,769,054 cubic yards of gross aggregate.

• The average amount of material extracted annually between 2004 and 2012 was 81,216 cubic yards/year, with no aggregate extraction ("NR" or "0") reported for 2008.

• Active surface mining in the Killam MRL is presently above the groundwater table (2013 pictometry).

• The resource overburden is estimated to be 1 foot thick (GeoEngineers, Inc., 2003).

3.2. Bedrock Mineral Resource Lands

Of the six bedrock MRL areas, five reported quarry mining over the study period; please refer to Figure 1 (Appendix IV) for a labeled Whatcom County MRL map. MRL-14 South Pass, an unpermitted limestone quarry in northeastern Whatcom County, is not actively mined by the operator (WSDOT) and has no reported extraction volumes from 2004 to 2012. Of the five producers, one unique MRL, MRL-20 Twin Sisters, contains a quarry mining operation for dunite, an ultramafic rock valued for the refractive properties of its dominant mineral olivine. Another, MRL-19 Ace Rock, is presently embroiled in ongoing litigation over numerous alleged environmental, zoning, and permit violations. Although reported extraction volumes from MRL-19 are nearly double the combined production from all other bedrock MRLs over the study period, the future status of production in MRL-19 under the current operator is undetermined. Execution of a Stop Work Order by Whatcom County halted production in 2012, and it is likely that future extraction from the existing pit or successful expansion of the MRL by approximately 27.5 acres as proposed by the operator in 2010 would be a protracted affair requiring substantial financial investment and legal intervention. Estimates of bedrock MRL reserves were calculated from all existing bedrock MRL areas, regardless of production activity.

MRL-14 South Pass

• The existing WSDOT mine is unpermitted, and no WDNR data is available regarding past production.

• The measured, indicated, and inferred reserve as reported in GeoEngineers, Inc., 2003 was 3,000,000 cubic yards of Devonian limestone quarry rock.

MRL-19 Ace Rock

• The Ace Rock mineral resource land (MRL-19) was described in GeoEngineers, Inc., 2003, as occupying a 17.19 acre area, with 11 acres of permitted mine area; the WCPDS MRL layer (2012) indicates a total area of 20 acres, with a single WDNR permit (WDNR Permit No. 11848) accounting for a total permitted mine area of 10 acres. The sole operator within the MRL is Lummi Rock/Aggregates West.

• The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 2,300,000 cubic yards of quarry rock.
• The target rock is metamorphic lithic sandstone and black phyllite belonging to the Lummi Island Formation.

• Between 2004 and 2012, 1,783,305 cubic yards quarry rock was extracted from the MRL, as reported on Whatcom County Surface Mine Registration data sheets. The total represents 77.54 percent of the 2003 estimated measured and inferred reserves within the MRL.

• The estimated remaining reserve in the MRL is 516,695 cubic yards of quarry rock.

• The average amount of material extracted annually across the specified period was 198,145 cubic yards/year.

**MRL-20 Twin Sisters**

• Alternately known as the Swen Larson MRL, MRL-20 was described in GeoEngineers, Inc., 2003, as occupying a 18.44 acre area, with 10 acres of permitted mine area; the WCPDS MRL layer (2012) indicates a total area of 21.38 acres, with a single WDNR permit (WDNR Permit No. 12069) accounting for a total permitted mine area of 20 acres. The sole operator within the MRL is Longview Timber Company/Olivine Corporation.

• The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 50,000 cubic yards of quarry rock.

• The target rock is olivine-rich dunite.

• Between 2004 and 2012, 173,030 cubic yards of quarry rock was extracted from the MRL, as reported on Whatcom County Surface Mine Registration data sheets. According to GeoEngineers, Inc., 2003 estimated measured and inferred reserves, the MRL would have been depleted by 2007; 346 percent of the 2003 estimates reserves were extracted by 2012.

• The average amount of material extracted annually between 2004 and 2012 was 19,226 cubic yards/year, with no resource extraction ("NR" or "0") reported for the years 2004, 2005, and 2010.

**MRL-21 Goodwin**

• The Goodwin mineral resource land (MRL-21) was described in GeoEngineers, Inc., 2003, as occupying a 129.05 acre area, with 40 acres of permitted mine area; the WCPDS MRL layer (2012) indicates a total area of 149.64 acres, with a single WDNR permit (WDNR Permit No. 12917) accounting for a total permitted mine area of 75.2 acres. The sole operator within the MRL is currently Siper Quarry LLC (Cowden Gravel & Ready Mix), formerly Trillium/Alpine Investment LLC.

• The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 6,400,000 cubic yards of quarry rock.

• The target rock is metasedimentary bedrock belonging to the Chilliwack group.

• Between 2004 and 2012, 653,165 cubic yards of quarry rock was extracted from the MRL, as reported on Whatcom County Surface Mine Registration data sheets. The total represents 10.21 percent of the 2003 estimated measured and inferred reserves within the MRL.

• The estimated remaining reserve in the MRL is 5,746,835 cubic yards of quarry rock.

• The average amount of material extracted annually between 2004 and 2012 was 72,574 cubic yards/year.
MRL-22 Tilbury

- The Tilbury mineral resource land (MRL-22) was described in GeoEngineers, Inc., 2003, as occupying a 542.22 acre area, with 100 acres of permitted mine area; the WCPDS MRL layer (2012) indicates a total area of 747.57 acres, with a single WDNR permit (WDNR Permit No. 10362) accounting for a total permitted mine area of 100 acres. The sole operator within the MRL is Lehigh Northwest Cement Company (formerly Tilbury Cement).
- The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 24,200,000 cubic yards of quarry rock.
- The target rock is a gray, fossiliferous limestone.
- Between 2004 and 2012, 49,500 cubic yards of quarry rock was extracted from the MRL as reported on Whatcom County Surface Mine Registration data sheets. The total represents only 0.20 percent of the 2003 estimated measured and inferred reserves within the MRL.
- The estimated remaining reserve in the MRL is 24,150,500 cubic yards of quarry rock.
- The average amount of material extracted annually between 2004 and 2012 was 5,500 cubic yards/year, with no resource extraction ("NR" or "0") reported for the years 2006, 2011, and 2012.

MRL-23 Clausen

- The Clausen mineral resource land (MRL-23) was described in GeoEngineers, Inc., 2003, as occupying a 206.51 acre area, with 5 acres of permitted mine area; the WCPDS MRL layer (2012) indicates a total area of 239.44 acres, with a single WDNR permit (WDNR Permit No. 10361) accounting for a total permitted mine area of 22.3 acres. The sole operator within the MRL is Clausen Lime Company/Washington Department of Natural Resources.
- The measured and inferred reserve as reported in GeoEngineers, Inc., 2003 was 600,000 cubic yards of quarry rock.
- The target rock is “Permian to late Devonian limestone of the Chilliwack group” (GeoEngineers, Inc., 2003).
- Between 2004 and 2012, 227,727 cubic yards of quarry rock was extracted from the MRL, as reported on Whatcom County Surface Mine Registration data sheets. The total represents 38.12 percent of the 2003 estimated measured and inferred reserves within the MRL.
- The estimated remaining reserve in the MRL is 371,273 cubic yards of quarry rock.
- The average amount of material extracted annually between 2004 and 2012 was 25,414 cubic yards/year, with no resource extraction ("NR" or "0") reported for the years 2005 and 2008.
- An approximately 3.5-acre area of the Clausen quarry pit floor is at or below the groundwater table (2013 pictometry).

3.3. Reserve Abundance and Reporting

Aggregate resource areas MRL-5 (Mountain View), MRL-8 (Mission), and bedrock MRL-20 (Twin Sisters) all reported quantities of extracted resource far in excess of their estimated reserves. These quantities, representing 181 percent, 212 percent, and 346 percent (respectively) of their 2003 estimated reserve, suggests the presence of volumetric errors in the qualitative data.
These potential sources of error may include inaccurately estimated measured, indicated, and inferred reserves and/or inaccurately reported production volumes.

While the aforementioned MRLs display the potential data errors most dramatically, the fact of quantitative errors in production reporting and/or deposit reserve estimation is an unfortunate limitation of the data collection process. The potential for statistically significant errors to propagate undetected throughout the data pool does exist, and cannot be feasibly mitigated with the existing data set.

3.4. MRL Additions and Expansions

Despite several proposed MRL additions and expansions, notably the contentious attempts to expand MRL-1 Saxon in 2008 and MRL-19 Ace Rock in 2011 made by Concrete Nor’west and Lummi Rock LLC respectively, no significant changes to existing MRL areas have been made between 2004 and 2014. As of November 2014, the North Star MRL located south of Brown Road and immediately west of North Star Road in western Whatcom County is the only aggregate resource area to be designated MRL since 2003. At the time of MRL designation, two permitted aggregate mines already existed at the site, and the current MRL designation conforms to the permitted mine area. For consistency, the North Star MRL will be referred to as MRL-25 North Star in this report.

MRL-25 North Star

Two active DNR permits (No. 13095 and No. 10647) account for the 34.8 acres of permitted mine area within the MRL, which was established in 2005. The deposit is dominantly sand (roughly 80 percent), with economic reserves likely extending to or below the maximum permitted depth of 95 and 100 feet, respectively. Mapped as emergence deposits of the Everson Interstade glacial period (Lapen, 2000), the deposits formed by wave action on uplifted marine terraces. The overburden thickness is estimated to be between 6 and 8 feet across the permitted mine area, and no geologic conditions exist that would restrict lateral or vertical expansion of the existing mine. The water table is estimated to be between 110 and 120 feet below ground surface, as indicated in geotechnical borings conducted in 2004 and 2009 (Korthuis, 2014). The estimated depth of the present pit floor is approximately 70 feet below ground surface. Extensive mining in the eastern half of the MRL during the 1990’s and early 2000’s depleted much of the existing reserves there prior to MRL zoning. Mining in the Polaris pit, which is located immediately west of the largely depleted North Star pit, accounts for the majority of recent production. Whatcom County records indicate extraction from the pit began in 2007 and is ongoing. Reserve and production estimates as determined from WDNR permit information and personal communication with the current operator are as follows:

- The North Star MRL contains a single 34.8 acre permitted mine, equal to the entire area of the MRL.
- Subtracting the estimated volume of overburden from the permitted reserve volume indicates that the original permitted reserve within the North Star MRL was approximately 4,364,260 cubic yards of sand and gravel.
- Assuming a mined area of 6.94 acres (calculated from 2013 pictometry) and a pit floor depth of 70 feet below ground surface, the total remaining reserve volume minus reported and
estimated extraction volumes indicates a total remaining reserve of approximately 3,580,503 cubic yards of sand and gravel.

- Assuming an average bulk composition of 82 percent sand and 18 percent gravel, the current permitted aggregate reserve within the MRL is 2,936,013 cubic yards of sand and 644,490 cubic yards of gravel.

A proposal to expand the North Star MRL to the south by approximately 19.7 acres was an item on the 2012 Whatcom County long range planning docket (PLN2012-00009). As of the last update on 9/19/2013, no action had been taken.

3.5. MRL Depletion or Inactivity

The following MRLs were found to be idle, reclaimed, or otherwise underutilized between 2004 and 2012:

1) **MRL-2 Agate Bay** is no longer being utilized by any extractive industry, as no evidence of disturbed ground or other surficial expressions of mining activity were observed in historic air photo, orthophoto, and LiDAR analysis of the site. There were no Whatcom County Surface Mine Registration data sheets or other permit records in existence for the MRL over the study period; WDNR Permit No. 11899 was terminated May 19, 2008 following reclamation of the site (personal communication, Rian Skov, L.G., Senior Reclamation Geologist WDNR). As stated in GeoEngineers, Inc., 2003, estimated reserves in 2003 for the Agate Bay MRL were approximately 2,400,000 cubic yards of gross aggregate resource, and it is presently unknown how much, if any, of this reserve has been depleted.

2) **MRL-10 Aldrich** is no longer zoned as an MRL; despite ongoing surface mining operations, it is presently zoned R10A with a comprehensive plan designation of “Rural.”

3) **MRL-14 South Pass** is not associated with any WDNR surface mining reclamation permits, and no resource production was reported from the mine over the study period (2004 through 2012).

4) **MRL-24 Oat Coles** exists outside of any potential resource areas identified in GeoEngineers, Inc., 2003, and has not been used for resource extraction purposes since receiving MRL designation. No WDNR Surface Mining Reclamation Permits are associated with the MRL, and adjacent rural residential and forestry interests suggest incompatible land use in the immediate vicinity.

4. Conclusions

4.1. Aggregate Mineral Resource Lands

In GeoEngineers, Inc., 2003, the total identified (measured, indicated, and inferred) gross aggregate reserves within existing MRLs were reported to be approximately 80,000,000 cubic yards. The elimination of MRL designation for (then) MRL-2 (Agate Bay), MRL-10 (Aldrich), and the inactive MRL-24 (Oat Coles) reduces the original GeoEngineers, Inc., 2003 reserve estimation by 5,500,000 cubic yards, to 74,500,000. The addition of MRL-25 North Star increases estimated aggregate reserves by 3,580,503 cubic yards. Analysis of Whatcom County Surface Mining Registration data sheets from 2004 to 2012 indicates a total extraction volume of 14,754,391
cubic yards between 2004 and 2012, an average of 1,639,377 cubic yards per year. The total estimated 2013 measured, indicated, and inferred aggregate reserve within active Whatcom County MRLs is 63,326,112 cubic yards of pit run, sand, and gravel.

Table 1: Estimated Aggregate Reserves, Cubic Yards

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<td>80,000,000</td>
<td>63,326,112</td>
<td>14,754,391</td>
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The national average per-capita aggregate consumption in 1996 as estimated by the USGS was 8.7 metric tons, or 5.37 cubic yards per person (USGS, 1999). The average per-capita consumption volume in Whatcom County over the study period (2004 to 2012) was approximately 8.51 cubic yards of aggregate per county resident. In the 2003 Aggregate Inventory, GeoEngineers, Inc. reported a per-capita extraction volume of 12 cubic yards per person, based upon oral communication with Washington DNR geologist William Lingley1. These respective lower, medium, and higher-end estimates of per-capita extraction volumes represent the data range displayed in the attached graphical analysis. Please refer to Appendix II for a detailed graphical illustration of the aggregate mineral resource data described in Sections 4.1 through 4.3. Table 2 below uses the median per capita consumption estimates integrated with the median population growth forecast to present the projected reserve depletion timeline in existing aggregate MRLs.

Table 2: Estimated Aggregate Reserve Depletion in Existing MRLs

<table>
<thead>
<tr>
<th>2012 Reserves</th>
<th>Estimated Per Capita Consumption, WC</th>
<th>Number of Years for Reserve Depletion (from 2012)</th>
<th>Date of reserve Depletion</th>
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<td>63,326,112 c.y.</td>
<td>8.51 c.y. per person</td>
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<td>2042</td>
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Correlative Data and Assessment of Predictive Valuation
Trends in various industry sectors and economic growth barometers were examined in order to assess any correlations or relationships between aggregate and bedrock resource extraction and the markets they serve. A particularly strong correlation was noted in the graphs below illustrating new building permits issued in Whatcom County between 2002 and 2012 (US Census Data) and annual aggregate and bedrock extraction between 2004 and 2012. The general trend observed in both charts appears to support a correlation between new building construction and aggregate resource extraction during the housing bubble and subsequent market recession. As new building construction is directly correlated with population growth (speculative bubbles notwithstanding) and is associated with general infrastructure expansion, the data presented below further supports utilizing per-capita consumption for predictive analysis of future aggregate extraction volumes, rather than projecting future extraction volumes with a fixed constant.

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1 In 1992, William Lingley and Connie Manson published the Directory of Washington Mining Operations, suggesting that in 1991 each person in Washington State consumed 12 cubic yards of sand, gravel, and crushed rock, a value converted from 16 tons; using the conversion factor of 1.5 tons per cubic yard suggested by Loen, et. al., 2001 and used in GeoEngineers, Inc. 2003, a volume of 10.7 cubic yards per person would have been indicated; for sand and gravel alone, Lingley and Manson suggested a per-capita demand (based upon DGER survey data) of 12 tons, or 8 cubic yards per person using a conversion factor of 1.5.
Resource Composition by Reporting MRL

In all instances where the material type was not noted on Whatcom County Surface Mine Registration Data sheets, a composition of pit run was assumed for the material. The following table depicts the approximate quantity of material (pit run, sand, and gravel) extracted in Whatcom County MRLs between 2004 and 2012.

Table 3: 2004 – 2012 Aggregate Resource Extraction Volumes by MRL, Cubic Yards

<table>
<thead>
<tr>
<th>MRL</th>
<th>Pit Run</th>
<th>Sand</th>
<th>Gravel</th>
<th>Total Reported Extraction</th>
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Estimated Aggregate Reserve Composition

The composition of unscreened pit run is highly variable, typically ranging from 40 to 80 percent hard stone gravel (¼ inch to 3 inches in diameter) and 20 to 60 percent sand (less than ¾ inch in diameter). Assuming a mid-range average pit run composition of 60 percent gravel and 40 percent sand, when applied to the bulk volume data presented in Table 3 the overall aggregate resource composition in Whatcom County MRLs is approximately 56.6 % gravel, 43.4% sand. These estimates corroborate the data presented in Table B-2 in GeoEngineers, Inc., 2003, which
indicated that gravel accounted for 46,000,000 cubic yards (57.5 percent) of the 80,000,000 cubic yard 2003 aggregate reserve, with sand comprising the remaining 34,000,000 cubic yards (42.5 percent). Table 4 below presents the estimated relative composition of existing 2012 aggregate reserves in Whatcom County, derived from current Element data.

Table 4: Estimated 2012 Reserve Composition, Cubic Yards

<table>
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<tr>
<th>2012 Reserves</th>
<th>Volume Gravel</th>
<th>Volume Sand</th>
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<tbody>
<tr>
<td>63,326,112</td>
<td>35,842,580</td>
<td>27,483,532</td>
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Depending upon the intended use and applicable material standards for the aggregate product, sand is often removed from pit run by screening during processing, and may be added later in known quantities as required to ensure product consistency. The abundance of sand in locally mined deposits and relatively low demand for sand has resulted in a surplus of the resource, particularly in MRL areas located in western Whatcom County. For this reason, it is likely that as permitted aggregate reserves are depleted, mines targeting deposits with stratigraphy containing abundant gravel will see a higher demand for their product, while deposits composed predominantly of sand will require more processing to meet the same market needs. Over time, this may result in the more rapid depletion of gravel reserves than sand reserves, exacerbating the difference in reserve abundance between the two resources.

Estimated Reserve Relative to the Groundwater Table
An extensive investigation into the occurrence and distribution of groundwater across MRL areas was performed during the original 2003 aggregate inventory. Using percentages derived from the reserve estimates of aggregate material (gravel and sand) above and below the water table provided in Table B-2 of the original study (GeoEngineers, Inc., 2003), the following table (Table 5) presents the estimated 2013 reserve volumes above and below the groundwater table. It is worth noting that in some areas, the presence of groundwater may have limited further resource extraction or diverted surface mining to areas still above the water table, resulting in the disproportionate extraction of aggregate resources existing above the water table. The potential for this type of preferential extraction to skew the data set may reduce the accuracy and resolution of the following estimates. Furthermore, the distribution of sand and gravel above and below the water table is not uniform, and should not be assumed to be consistent across any geographic area.

Table 5: Estimated 2013 Reserves Above and Below the Water Table (WT), Cubic Yards

<table>
<thead>
<tr>
<th>Gravel Above WT</th>
<th>Gravel Below WT</th>
<th>Sand Above WT</th>
<th>Sand Below WT</th>
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<td>24,154,780</td>
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4.2. Bedrock Mineral Resource Lands
Between 2004 and 2012, bedrock MRLs in Whatcom County reported a total quarry rock extraction volume of 2,866,916 cubic yards, an average of 316,761 cubic yards of quarry rock per year. Production ranged from a high of approximately 475,000 cubic yards in 2007 to a low of approximately 200,000 cubic yards in 2012. The total estimated measured, indicated, and inferred bedrock reserve (based on 2003 estimates) is 33,033,084 cubic yards of quarry rock.
Table 6: Estimated Bedrock Reserves, Cubic Yards

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<tr>
<td>35,900,000</td>
<td>33,033,084</td>
<td>2,866,916</td>
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The bedrock extraction projections provided in this report (see Appendix II) use a per-capita annual extraction volume of 1.65 cubic yards per person, derived from 2004 - 2012 average net extraction volumes (Whatcom County Surface Mine Registration data sheets) and U.S. Census data for Whatcom County; all projections use the median projected population growth model presented in the July 2013 Phase I Technical Report Whatcom County Population and Employment Projections and Urban Growth Area Allocations. The slightly lower per-capita consumption rate of 1.3 cubic yards per person cited in GeoEngineers, Inc., 2003 as adapted from Whatcom County, 2001 NRC meeting minutes, as well as the significantly higher fixed annual consumption volume of 1.7 million cubic yards per year used to estimate reserve depletion GeoEngineers, Inc., 2003, provided values for comparison and are displayed in Chart 6, Appendix III. Assuming an annual per-capita consumption of 1.65 cubic yards per person, the existing MRL bedrock reserve will be depleted by the year 2079. This estimate may change dramatically in the event that crushed quarry rock is used more extensively to supplement natural aggregate reserves.

Table 7: Estimated Reserve Depletion in Existing Bedrock MRLs

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<th>2012 Reserves</th>
<th>Estimated Per Capita Consumption, WC</th>
<th>Number of Years for Reserve Depletion (from 2012)</th>
<th>Date of reserve Depletion</th>
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<td>1.65 c.y. per person</td>
<td>67</td>
<td>2079</td>
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5.1. Columbia Valley
The Columbia Valley Potential Resource Area (PRA) has not been explored for aggregate extraction or reserve potential since the original Whatcom County Aggregate Study (GeoEngineers, Inc., 2003) report published results documenting the failure of three soil samples collected from the Columbia Valley subarea to pass the WSDOT degradation test for Class A concrete and asphalt-treated base; one sample also failed to meet the WSDOT LA Abrasion test requirements (GeoEngineers, Inc., 2003). Several large radius wellhead protection areas exist in the Columbia Valley subarea vicinity, further precluding extensive exploration within the PRA. However, there is significant potential in the area for the localized extraction of the abundant low quality metasedimentary glacial outwash, which may have various applications in construction and as structural fill. With the exception of a small portion of the adjacent Kendall Quarry (MRL-12) which extends into the Columbia Valley PRA, there are presently no MRL zoned areas within the Columbia Valley.

5.2. Bedrock Units
There have been no publicly documented efforts since GeoEngineers, Inc., 2003 to further study the economic value of the extensive bedrock deposits present in Whatcom County, which
include the metasedimentary and metavolcanic units of the Chilliwack Group, the Lummi Island Formation, the Yellow Aster Complex, and the Fidalgo Ophiolite. The significant initial exploration investment, high processing costs, stringent regulatory environment, and an overall reduction in demand for raw materials associated with the economic recession have likely been limiting factors for additional bedrock mineral exploration and extraction. The specialized applications of certain processed bedrock resources are influenced by regional supply and demand, which may or may not correlate with fluctuations in the local aggregate commodities market. The low grade metamorphic rock and limestone which comprise the bulk majority of bedrock mineral extraction may be quarried for use as riprap or processed into quarry spill or other crushed rock products and used for a variety of commercial and industrial applications. Most commonly, quarry rock is used for applications where sand, gravel, or pit run is unsuitable. The inconsistent or low quality material common in many current and former bedrock quarries in eastern Whatcom County and the high transportation costs associated with moving material to and from the resource areas may preclude the extensive substitution of bedrock for other forms of aggregate at this time.

5.3. Other Development in Identified Potential Resource Areas

- Two WDNR surface mining reclamation permits (WDNR Permit No.’s 12664 and 11874 have been issued within the PRA-12 area, a “low probability” PRA described in GeoEngineers, Inc., 2003 as “predominantly underlain by sand.” An active surface mine (Ganslor pit) operated by Pacific Concrete Industries exists in the northwest corner of the PRA under WDNR Permit 11874; the area is not zoned MRL.
- The Columbia Aggregates WDNR Permit (WDNR Permit No. 12679) remains active in PRA-6, although continued local opposition and an unfavorable regulatory environment have stalled repeated attempts to secure a conditional use permit.
- Four WDNR permitted surface mines exist in PRA-1 in the northwest corner of the study area, near MRL-16 Valley View. They include WDNR Permit No.’s 10365, 11869, 12853, and 10674. Desktop orthophoto analysis (2013 pictometry) indicates that three of the permitted areas contain active pits or ground disturbance indicative of surface mining activity, and two of the three appear to have pits at or below the water table. Whatcom County records indicate that MRL zoning for the permitted mine areas was lifted for UGA designation, and that reclamation is ongoing for one of the permitted mines.
- A single WDNR permitted mine exists near the eastern boundary of PRA-3, the “Flint pit” operated by Daniel Colacurcio (Colacurcio Bros Construction). Desktop orthophoto analysis indicates that the pit is at or below the water table. PRA-3 is within a “low probability” priority resource area as preliminarily determined in GeoEngineers, Inc., 2003.
- A single pit (WDNR No. 12729) operated by WDNR exists in the southern arm of PRA-15, a “medium probability” PRA as determined in GeoEngineers, Inc., 2003. The target aggregate is likely shallow quaternary alluvium.

6.1. PRA Investigation Summary and Work Plan

A desktop assessment of seven additional potential resource areas was performed to assess hypothetical resource potential outside of existing MRLs. The sites were selected based upon the mapped occurrences of potential aggregate source units, including glacial outwash deposits of the Sumas Stade of the Fraser Glaciation and emergence (sand) deposits of the Everson Interstade, as well as potential bedrock source units belonging to competent metavolcanic and metasedimentary members of the Chilliwack group, the Lummi Island Formation, and several known limestone outcrops in northeastern Whatcom County. General subsurface information obtained from Washington Department of Ecology well log data was used to supplement geologic unit descriptions to further assess the resource potential of the area. Areas where the aggregate reserve appeared to be less than 20 feet thick, where the deposit area was less than 20 acres, or where extensive overburden (silt, clay, hardpan, till, topsoil, or fill) presented a significant obstacle to resource extraction were excluded from consideration. No material testing of the resource or geotechnical assessment was performed to substantiate or assess the deposits described here. Zoning restrictions, well head protection areas, and other external factors influencing access feasibility were not considered in assessing the following sites for resource potential. All estimates of deposit quality, volume, occurrence, and composition are hypothetical, and are subject to significant change and reassessment pending a comprehensive subsurface investigation.

Squalicum PRA

A significant deposit of Sumas Stade glacial outwash is mapped in the vicinity of Squalicum Creek in northwestern Bellingham, an area where historic gravel mining has already depleted portions of the reserve. Geologic maps indicate the deposit extends roughly from Noon Road in the northeast to Bellingham Bay in the west, fanning out in an outwash delta towards the bay across a nearly 1,500 acre area that includes a large swath of reclaimed industrial and commercial property near Marine Drive and Squalicum Way. Preliminary analysis of adjacent well logs indicates that layers of sand and gravel in variable abundance are present to depths ranging from 20 feet below ground surface to 60 feet or greater below ground surface, with little to no overburden. It is likely that the outwash deposits of sand and gravel overlie glaciomarine drift at unknown depths. A shallow water table throughout much of the area may complicate resource extraction. The Squalicum PRA is located entirely within the Bellingham city limits and/or UGA.

Agate Bay PRA

A glacial outwash deposit near Y-Road on the east side of Lake Whatcom may contain shallow deposits of sand and gravel to depths of 30 feet and greater. Well logs indicate that clay interbeds and/or high fines content in the deposit may be encountered at variable depths, and the sand and gravel layers are likely discontinuous across the deposit. Historic surface mining in the Agate Bay MRL likely targeted portions of the deposit along the northeastern border of the PRA. The water table depth is highly variable in the area, ranging from 16 feet to over 85 feet below the ground surface. The Agate Bay PRA is located within the Lake Whatcom Watershed.
Lake Terrell PRA
Two MRLS (MRL-25 North Star and MRL-5 Mountain View) presently exist in this PRA. Reported extraction volumes and anecdotal information from operator interviews suggest significant resource potential with minimal overburden in some areas, with a locally deep water table up to 120 feet below ground surface in the northwest area of the PRA. The emergence deposits are dominantly sand, with a discontinuous layer of sand and gravel 40 to 70 feet thick that has been mined 12 to 20 feet below the ground surface. Variability in the substrate in the Lake Terrell area necessitates extensive subsurface exploration to constrain deposits. The PRA is located near the Cherry Point industrial complex.

Lummi Rock PRA - Bedrock
As noted in GeoEngineers, Inc., 2003, nearly 2/3 of Lummi Island is underlain by competent metamorphic sandstone, phyllite, and metavolcanics of the Lummi Island Formation. The quality of the deposit may be inconsistent across the island; however, the existing MRL area contains material approved by WSDOT for use as riprap and asphalt aggregate. The potential for barge transport further enhances the feasibility of quarry rock extraction on Lummi Island.

Sumas Mountain Front Range PRA
The western front range of Sumas Mountain contains deep glacial outwash deposits overlain by a mantle of Holocene alluvium. Successful mining of the underlying sand and gravel is ongoing in the Siper MRL (MRL-7) to the south, and the mapped regional distribution of the unit suggests that the potential resource extends north of Swift Creek. Four geotechnical borings performed in the vicinity of Swift Creek and Goodwin Road suggest that substantial glacial outwash deposits may exist in the area, with a shallow alluvial overburden of loose sands, silts, and gravels approximately 18 to 40 feet thick. The underlying outwash persists beyond the total depth (TD) of the borings, the deepest of which reached TD at 61.5 feet below ground surface (bgs). Groundwater was encountered between 16 and 51 feet bgs in all four borings.

Chilliwack Group PRA - Bedrock
The existence of potentially economic deposits of limestone/marble and other metasedimentary bedrock (conglomerate, greywacke, siltstone, argillite, and ribbon chert) belonging to the Chilliwack Group is well documented in Whatcom County, and is described in detail by former Western Washington University professor W.R. Danner (Danner, 1966) and in various governmental publications (Moen, 1962 and Loen et al., 2001, among others). The metavolcanic rocks associated with the deposit are interbedded within metasedimentary sequences, and may also have economic potential. Units with indistinguishable metavolcanic and metasedimentary are mapped as “heterogeneous metamorphic” rocks in Lapen, 2001. Although the quality and occurrence of the rock units is highly variable where they occur on Sumas Mountain, Red Mountain, and Black Mountain, localized deposits of competent material likely exist throughout the map unit; the Siper Quarry in MRL-21 (formerly Goodwin Quarry) produces material from a unit mapped as heterogeneous metamorphic rock of the Chilliwack Group, and abandoned limestone quarries near Silver Lake Road (Doaks Quarry and the Balfour Quarry) suggest that quality bedrock aggregate was once mined from these easily accessible deposits for local road building and construction projects. Active and former quarries in three other MRL areas, MRL-23 Clausen, MRL-22 Tilbury, and MRL-14 South Pass, target deposits of limestone and metamorphic rock belonging to the Chilliwack Group of Cairnes.
Yellow Aster Complex PRA - Bedrock
The Yellow Aster Complex outcrops over two relatively small areas adjacent to the US/Canadian border, near Vedder Mountain and Black Mountain, respectively, in northeast Whatcom County. A competent gneiss with wide compositional deviations among end members, the unit has been described as highly metamorphosed igneous intrusive rock ranging from granitic orthogneiss to gabbro, pyroxenite, metabasalt, and meta-andesite (Lapen, 2001). Following a reconnaissance-level field assessment of two outcrops of the Yellow Aster Complex in Whatcom County, GeoEngineers reported in 2003 “given the size of the mapped area and the possible quality of the rock, the (Yellow Aster Complex) has the potential to meet the requirements of the County.”

7. Aggregate Mining Alternatives

7.1. Discussion
The current Whatcom County Comprehensive Plan seeks to balance the demand for aggregate resources and the continued health of the aggregate mineral industry with competing land use designations, environmental concerns, and social interests. A multidimensional approach that employs regulatory, scientific, and economic tools will be necessary to achieve the desired 50-year supply of aggregate resource; this goal may be possible using locally available material and local operators, with Whatcom County consumers and producers alike benefitting from the comparatively low freight transit costs and microeconomic growth associated with local aggregate extraction. However, aggregate extraction alternatives may be an effective means for meeting future aggregate demand by supplementing locally mined aggregate products, while reducing the area potentially impacted by more widespread and intensive resource extraction activities across Whatcom County. These alternatives include imported aggregate from out of county sources as well as recycled aggregate products, dominantly concrete and asphalt. Both of these alternative sources of aggregate are already contributing to the aggregate supply in Whatcom County, albeit in a limited capacity.

7.2. Aggregate Importation
The import of aggregate is presently conducted by truck, rail, and barge in Whatcom County. Numerous domestic and international commercial aggregate operations barge aggregate products throughout the Strait of Georgia, Strait of Juan de Fuca, and greater Puget Sound region. The proximity of deep water ports to aggregate markets in Whatcom County makes barge transport particularly appealing, as barged freight transit costs are often significantly less per ton-mile when compared to truck or rail transportation. However, transferring, staging, and stockpiling a large volume of aggregate requires infrastructure that presently does not exist in Whatcom County. Consequently, aggregate import presently accounts for a relatively small volume of material used locally, and is typically of a type or quality not available commercially within the county. In order for aggregate importation to occur in sufficient volume to reduce the anticipated production demands on local aggregate operators, extensive coordination with the Port of Bellingham and other public and private port entities would be required to facilitate the development of import infrastructure. A secure large-volume handling area for imported aggregate products would likely require substantial Port and industry investment.
7.3. Aggregate Recycling
The recycling of concrete and asphalt products is ongoing in Whatcom County, with a negligible effect on overall aggregate supply. Anecdotal information obtained through personal communication with asphalt and concrete recycling operators in Whatcom County indicates that while demand for recycled aggregate products is high, maintaining supply is a constant challenge. Typically, concrete and asphalt is transported to the recycling facility from county-wide project areas and is stockpiled until sufficient volumes are available to process; once the recycled aggregate product is made available, it quickly sells out. In general, recycled aggregate is a more feasible alternative to virgin mined aggregate in densely developed urban areas, where a consistent supply of raw material for recycling is provided by highway, street, bridge and building improvement projects. In Whatcom County, where rapid growth is ongoing in urban, suburban, and rural areas alike, the demand for aggregate resources vastly exceeds the supply of raw material available for recycling. There is potential for the more widespread use of recycled aggregate in the future, as sprawling local municipalities transition towards a more densely developed urban core model.

8. Recommendations

8.1. Discussion
Current data indicates that even with little or no substitution of crushed bedrock for natural aggregate, existing MRL designated areas have sufficient reserves to provide Whatcom County with pit run, sand, and gravel over the next twenty years provided that all available MRL area is utilized for resource extraction. This conclusion has been corroborated anecdotal in operator interviews. However, at current production rates the existing estimated sand and gravel reserves will not meet the 50-year supply planning goal stipulated in the Whatcom County Comprehensive Plan, and unanticipated or accelerated infrastructure growth could increase consumption rates significantly and shorten the reserve lifespan dramatically. In Whatcom County, project action related to any number of proposed large-scale residential, commercial, or industrial developments, such as the Waterfront District Sub-Area Plan or the Gateway Pacific Terminal, could cause a tremendous spike in aggregate demand. For example, if aggregate demand increased to a moderate per-capita consumption volume of 12 cubic yards per county resident, the estimated reserve would be exhausted by the year 2035, twenty years from the publication of this study update and seven years earlier than the more conservative projected per-capita consumption volume of 8.51 cubic yards per county resident used for predictive purposes throughout this study update (see Chart 1, Appendix II for a graphical representation of projected reserve depletion estimates). Furthermore, it should be noted that all reserve estimates were calculated based upon measured, indicated, and inferred volume estimates within MRL areas; the extent to which permitted extraction of these resources can occur in the future is limited by the geology of the deposit and other site-specific considerations as well as the regulatory environment.

8.2. Achieving a 50-Year Supply of Aggregate Resources
It is likely that without any additional resource allocation, in twenty years some of the effects of local aggregate resource scarcity will be experienced in Whatcom County. These may include increased consumer costs related to higher transportation and extraction costs for local
operators mining distant reserves or extracting material below the water table (where permitted and permissible), substitution of crushed bedrock for natural aggregate, and importation of aggregates from out-of-county sources. To reduce or eliminate some of these effects, which could potentially retard growth, increase infrastructure maintenance costs, and result in revenue loss and negative cash flow for local small businesses and municipalities, we recommend that in addition to revisiting the original recommendations in GeoEngineer’s, Inc., 2003, some or all of the following measures should be considered over the next WCCP update interval:

1) Identify existing MRL areas with potential for lateral expansion and encourage resource utilization in these areas by expanding MRL boundaries where adjacent land use is compatible and where reclamation is ongoing in other areas of the MRL.

2) Conduct additional scientific inquiry into aggregate deposit occurrence and economic potential within identified PRAs, focusing on areas where adjacent land use is compatible and well head protection zones (5-year and/or 10-year time of travel) will not be impacted.

3) Develop a comprehensive, multi-objective, scientific approach for determining future MRL areas, with a clear regulatory process and consistent, predictable outcome if the process is followed and all conditions are met.
   - Due to the substantial amount of time required to permit, fund, and develop infrastructure for resource development, it is imperative that MRL designation is not convoluted with mine permitting and the associated regulatory and public process.
   - Adoption of an MRL overlay to identify MRLs without changing underlying zoning may help conserve mineral resource deposits while reducing land-use conflicts.

4) Support field verification of operator reported extraction volumes and incentivize accurate data reporting. Update aggregate inventory data set to monitor trends in resource extraction and consumption.

5) Rezone existing MRL areas that are uneconomic, unpermitted, or depleted and reclaimed.

6) Promote the use of “inferior” aggregate material that does not meet WSDOT standards for projects where lower quality product satisfies all applicable requirements.

To manage some of the environmental and social consequences of aggregate pit mining, which include noise pollution, aesthetic blight, dust, heavy truck traffic, potential for aquifer contamination, and potential for slope destabilization:

1) Collaborate with WDNR to incentivize reclamation of depleted or uneconomic permitted mines; an example of this would be allowing MRL expansion contingent upon reclamation of existing permitted pits that are at or nearing depletion.

2) Employ MRL overlays rather than rezoning to encourage reclamation objectives that are compatible with future land use goals.

3) Implement a minimum threshold value for potential MRL areas to ensure resource value is sufficient to support future reclamation.

4) Establish a residential density requirement for adjacent lands, i.e. R10A maximum or similar, and develop an appropriate buffer distance from zones of incompatible land use, such as Urban Growth Areas and Rural Villages.
Closure

This report was prepared and submitted by:

Micah Gregory-Lederer
Environmental Scientist

Paul Pittman, MS, LEG
Earth Sciences Manager – Principal

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References


5) Korthuis, Keith, Ferndale Ready Mix and Gravel, personal communication, October 2014.


10) USGS, Natural Aggregates – Foundation of America’s Future, United States Geological Survey Fact Sheet FS 144-97, February 1999
Appendix I

1) Aggregate and Bedrock Reported Mineral Resource Extraction By MRL, 2004 to 2012
   - All data is unverified and appears as recorded on Whatcom County Surface Mining
     Registration Data Sheets.
MRL-5 Mountain View - Annual Production, 2004-2012

- Extraction Volume (c.y.)
- Year
- Pit Run
- Sand

MRL-6 Axton - Annual Production, 2004-2012

- Extraction Volume (c.y.)
- Year
- Pit Run
- Sand
- Gravel

MRL-7 Siper - Annual Production, 2004-2012

- Extraction Volume (c.y.)
- Year
- Pit Run
MRL-15 Van Buren - Annual Production, 2004-2012

MRL-16 Valley View - Annual Production, 2004-2012

MRL-17 H Street - Annual Production, 2004-2012
Appendix II

1) Charts 1 through 4, Aggregate MRL and Net Volume Graphical Analysis
Chart 1: Projected Net Aggregate Production Over Time, 2013 - 2063

- GE, 2003: 12 c.y. per person (personal communication)
- WC Data AVG: 8.51 c.y. per person (non-weighted average, 2004-2012)
- National AVG: 5.37 c.y. per person (USGS)
- 2012 Estimated Reserves
Appendix III

1) Bedrock Mineral Resource Charts
   - Chart 5: Net Bedrock MRL Production Pie Chart, 2004 - 2012
   - Chart 6: Projected Bedrock Reserve Depletion Over 50-Year Interval
Chart 5: Net Bedrock Production by MRL (c.y.), 2004 - 2012

- MRL-19, 1,783,305
- MRL-20, 173,030
- MRL-21, 653,165
- MRL-22, 49,500
- MRL-23, 228,727
Appendix IV

1) Map Figures
   - Figure 1: Whatcom County MRL Map
   - Figure 2: Whatcom County MRL and PRA Compilation Map
Appendix V

1) Whatcom County Aggregate Study 2014 Update - Operator Questionnaire
Whatcom County Aggregate Study 2014 Update
Operator Questionnaire

Operator (Optional):  
Name/Title (Optional):  
Number of Mines Owned (in WC):  
Number of Mines Operated (in WC):  
Years of Operation:  
Materials Produced:  

(1.) Is there potential to expand your existing mines? Why or why not?

(2.) Is there potential to increase your rate of production? Why or why not?

(3.) How much processing do you do? How much processing is economic?

(4.) Do you import or export any materials in or out of Whatcom County? Why or why not?

(5.) Do you think that existing aggregate mines will be able to meet the needs of Whatcom County for the next twenty years? Next fifty years? Why or why not?
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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<td>Date</td>
<td>Date Received in Council Office</td>
<td>1/13/2015</td>
<td>Nat. Rec. Comm./ Introduction</td>
</tr>
</tbody>
</table>

Purchasing/Budget: 

Executive: Jack Lovas

TITLE OF DOCUMENT: Amendments to the mineral resources portion of the comprehensive plan and zoning code

ATTACHMENTS:

1) Staff Memo to Council
2) Proposed Ordinance
3) Exhibit A - Applicant Proposed Amendments
4) Option 2 - Surface Mining Advisory Committee and Planning Commission Proposed Amendments
5) Staff report to Planning Commission - PC Findings and Recommendation
6) Surface Mining Advisory Committee proposal for Conditional Use rather than Administrative Approval
7) Comprehensive Plan Map and Zoning Map Amendment - MRL Designation process comparison
8) Permitting process comparison for mineral extraction

SEPA review required? (X) Yes ( ) NO
SEPA review completed? (X) Yes ( ) NO
Should Clerk schedule a hearing? (X) Yes ( ) NO
Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Proposed amendments to the Mineral Resources portion of the Comprehensive Plan and Zoning Code. The proposed Comprehensive Plan amendments include changes to general mineral extraction policies that implement Goal 8K (adverse impacts), Goal 8Q (MRL designation), and MRL Designation Criteria. Proposed amendments to the zoning code include altering the permitting process from administrative approval use to a conditional use permit, changing the distance from rural or residential districts that surface mining activities associated with forest practices within the forestry zones trigger a discretionary permit, changing the notification distance for discretionary permits associated with surface mining, and requiring noxious weeds to not be established in buffers of surface mining operations.

COMMITTEE ACTION:
11/12/2014: Withdrawn from the Agenda
12/9/2014: Held in Committee

COUNCIL ACTION:
11/12/2014: Withdrawn from the Agenda
12/9/2014: Held in Committee

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
Memorandum

TO: Whatcom County Council
FROM: Joshua Fleischmann, Planner
THROUGH: Mark Personius, Long Range Planning Manager
DATE: December 31, 2014
SUBJECT: Comprehensive Plan and Zoning text amendments for Mineral Resource Lands and surface mining; PLN2013-00008

For the December 9th Natural Resources Committee meeting, 2 exhibits were provided to the committee as part of the Agenda Packet. Exhibit A was the proposal as included in the amendment application submitted by councilmembers Weimer and Brenner, while Exhibit B (hereinafter Option 2) was the Surface Mining Advisory Committee recommendation that was forwarded to the County Council by the Planning Commission. The accompanying staff report contained an analysis of Exhibit A and Option 2 and the Planning Commission's Findings of Fact and Reason for Action in support of Option 2.

At the meeting, the committee chose to make Exhibit A the working draft for the January 13th meeting. Included with this packet is a revised Ordinance with findings for Exhibit A.
ORDINANCE NO. 2015-
AMENDING WHATCOM COUNTY CODE TITLE 20 AND THE COMPREHENSIVE
PLAN REGARDING SURFACE MINE PERMITTING, THE MINERAL RESOURCE
LANDS DESIGNATION PROCESS AND MINERAL RESOURCE LANDS
DESIGNATION CRITERIA.

WHEREAS, an application has been submitted to amend the Rural (R),
Agriculture (AG), Rural Forestry (RF), Commercial Forestry (CF) and Mineral
Resource Land (MRL) Special zoning districts to require a conditional use permit for
surface mining subject to Washington State's Surface Mining Act; and

WHEREAS, the proposed amendment has been reviewed under the State
Environmental Policy Act (SEPA); and

WHEREAS, in accordance with RCW 36.70A.106 Whatcom County Planning
and Development Services notified the Department of Commerce of the proposed
zoning text and comprehensive plan amendments; and

WHEREAS, notice of the Whatcom County Planning Commission hearing on
the proposed amendment was published in the Bellingham Herald; and

WHEREAS, the Whatcom County Planning Commission held a work session
on the proposed amendment; and

WHEREAS, the Whatcom County Planning Commission held a public hearing
on the proposed amendment and considered all testimony; and

WHEREAS, the Whatcom County Planning Commission forwarded its findings
and reasons for action to the County Council; and

WHEREAS, the Whatcom County Council has reviewed the Planning
Commission recommendation; and
WHEREAS, the Whatcom County Council held 2 work session in the Natural Resources Committee; and

WHEREAS, the Whatcom County Council held a public hearing on the proposed amendment and considered all testimony; and

WHEREAS, the Whatcom County Council hereby adopts the following findings of fact and conclusions:

FINDINGS
1. An application for Comprehensive Plan and related zoning amendments was received by Whatcom County on December 21, 2012.

2. A revised application for Comprehensive Plan and related zoning amendments was received by Whatcom County on January 23, 2013.

3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on July 5, 2013. The associated comment period ended July 19, 2013 and the appeal period concluded July 29, 2013.

4. The Surface Mining Advisory Committee held work sessions with Whatcom County PDS Staff on March 26, 2014; April 23, 2014; May 28, 2014, June 25, 2014; and July 23, 2014.

5. A press release of the Planning Commission briefing was published in the Bellingham Herald on 09/08/2014.

6. The Planning Commission held a work session on September 11, 2014.

7. The Planning Commission held a public hearing on October 23, 2014.

8. Notice of the proposed amendment was sent to the Department of Commerce on 8/15/2014.

9. On 08/20/2014 the Department of Commerce acknowledged receipt of the notice, and that a copy of the notice had been forwarded to other state agencies.

10. The Growth Management Act (GMA) includes multiple planning goals that are relevant to the proposed comprehensive plan amendments.
11. GMA Planning Goal #7: Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

Through previous MRL designation proposals, it has been affirmed that MRL designation is not a “right-to-mine”, insomuch as upon receiving MRL designation, a permit is still required for the act of mineral extraction.

The proposed amendments would require that a site specific environmental analysis, as well as consideration of the maintenance and upgrade of public roads, be conducted on a site prior to MRL designation. If, in keeping with recent decisions, MRL designation does not include a “right-to-mine”, subject to the results of the environmental analysis, then a mineral extraction permit applicant would have no assurances that the results of their site specific environmental analysis would result in an approved MRL designation or permit. Further, if designation is predicated on an operating plan, if a mineral extraction company goes out of business or is sold, or if the property is sold, it is unclear if the new owner would be bound to the operating plan, need to complete a new environmental analysis, or risk losing MRL designation based on the lack of an environmental analysis.

12. GMA Planning Goal #11: Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

13. Whatcom County’s County-Wide Planning Policy A-3 states: Citizens shall be notified in a timely manner of opportunities to have input and key decision points in the planning process. This should include actions such as use of telephone hotlines, notification to interest groups, pre-development meetings, early incorporation of public comments and broader notification of property owners and residents during a planning process as well as working more extensively with community and neighborhood groups. The cities shall also develop a public participation process to solicit and incorporate
comments from residents outside city limits but within proposed Urban Growth Areas

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

14. There are no interlocal agreements affecting the proposed amendments.

15. Whatcom County Comprehensive Plan contains goals and policies that are applicable to the proposal.

16. Proposed Policy 8K-2: Consider the maintenance and upgrade of public roads before designating MRLs and approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

The underline represents changed conditions from the present policy. Within the past few years, applications for MRL designation have resulted in a public process where citizens have requested that impacts from mineral extraction be considered as part of MRL designation. Proponents of MRL designation note that the purpose of designation is to protect the resource from incompatible uses, and that designation is not a right-to-mine. Twice since 2006, a Comprehensive Plan map and zoning map amendment application for the expansion of a MRL designation has reached the County Council, and both times the amendment was not approved by Council. Consideration of maintenance and upgrade of public roads may not be possible without a mineral extraction plan, which is not presently required as part of the MRL designation process. Mineral extraction permits are presently reviewed by Public Works – Engineering for potential impacts to public roads, and necessary maintenance and upgrading of the roads may be required for approval.

The proposed amendments alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be).
Through the SEPA process, impacts to public roads are considered through Checklist Item #14 – Transportation as part of the permitting process.

17. Proposed Policy 8K-7: Designate site-specific mineral resource lands only after mineral extraction impacts have been anticipated and evaluated, and potential adverse environmental impacts have been addressed through appropriate mitigation and/or reasonable alternatives.

Within the past few years, applications for MRL designation have resulted in a public process where citizens have requested that impacts from mineral extraction be considered as part of MRL designation. Proponents of MRL designation note that the purpose of designation is to protect the resource from incompatible uses, and that designation is not a right-to-mine. Twice since 2006, a Comprehensive Plan map and zoning map amendment application for the expansion of a MRL designation has reached the County Council, and both times the amendment was not approved by Council. Anticipation and evaluation of potential adverse environmental impacts associated with mineral extraction, and mitigation and/or reasonable alternatives may not be possible without a mineral extraction plan, which is not presently required as part of the MRL designation process.

18. Proposed Policy 8K-8: Expansion of existing MRL designations for a mine site will require that the existing mine is in full compliance with all permits and regulations.

In December 2010, Whatcom County PDS received an application for a Comprehensive Plan map and zoning map amendment to expand an existing MRL designation. The mine associated with the MRL designation has received stop work orders and been assessed penalties as part of a notice of violation. The operation within this MRL is now going through receivership. No work has been done on the Comprehensive Plan MRL expansion amendment for over 2 years, and there is presently no mining activity occurring. The proposed policy would prevent expansion of MRL designations when a mine within the designation is subject to compliance orders.

19. Proposed Policy 8Q-4: Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:

(1) On-site environmental review, with county as lead agency, and
(2) application of appropriate site specific conditions, and
(3) notification to neighboring property owners within 1,000 feet to insure opportunity for written and oral input and/or appeal, and
(4) access to de novo review by the Hearing Examiner if administrative approval is denied or appealed.
The underlines and strikethroughs represent changed conditions from the present policy. The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Criterion #4 of Policy 8Q-4 would be unnecessary through the conditional use process, since conditional use approval is made by the Hearing Examiner. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. However, it is worth noting that, according to former PDS geologist, Doug Goldthorp:

"Since the inception of the surface mining administrative approval use permit requirement in 1997, 24 surface mining administrative approval use applications (ADMs), and the 3 amendment applications to those ADMs have been conditionally approved. There was either a DNS, MDNS, and one DS SEPA determination in each case. Of the 27 combined ADMs, ADM amendments and associated SEPA determinations, 3 appeals (11%) have been filed and adjudicated by the WC Hearing Examiner. In all 3 cases, the Hearing Examiner has upheld the staff determination. In a few cases, the Hearing Examiner determination has been upheld by the WC Council, and in one case, upheld by the WA Superior Court."

This information indicates that, while the sample size is relatively small, the Technical Administrator’s determinations have been upheld as appropriate, when challenged. However, the purpose of the amendment is to ensure a public process that is presently absent, and this amendment would provide an avenue for a public process.

20. There is no anticipated effect upon the rate or distribution of population growth, employment growth or development of land as envisioned in the Comprehensive Plan, as a result of the proposed Comprehensive Plan amendments. However, lands that have a proven resource may become converted to a use incompatible with surface mining if mineral resource extraction companies don't pursue designation as a result of increased costs and lack of certainty in the designation process.

21. The proposed comprehensive plan amendments may affect the ability of the county and/or other service providers to provide adequate services and public facilities including transportation facilities, though not necessarily
through an increased demand for services. Recent efforts to designate lands for mineral extraction have failed. Mining companies may be hesitant to apply for designation, due to the costs associated with studies to determine potential impacts/mitigation/alternatives, if there are no reassurance that they could recoup the costs through designation and subsequent mineral extraction. Additionally, by limiting MRL designations in forest lands to 20 acres at a time, large areas of potential resources may not be efficiently extracted. This situation may result in increased costs for the resource. If mining companies decide to not apply for new designations in Whatcom County, the costs of mineral resources would likely climb as the local supply diminishes and more costly imports become a primary source of material. If the costs of capital facilities increase, there may be less money throughout the rest of the provider's budget.

22. The proposed amendments may discourage mining companies from applying for designation, due to the costs associated with studies to determine potential impacts/mitigation/alternatives, if there are no reassurances that they could recoup the costs through designation and subsequent mineral extraction. If true, the rate of conversion to mineral resource lands from agriculture and forestry would likely slow, positively impacting the protection of agriculture and forestry lands. However, the proposed amendments would then, necessarily negatively impact the availability of mineral resource lands.

23. The proposed amendment does not change the zoning of any area therefore the amendment does not include nor facilitate illegal spot zoning.

24. Goal 2G: Encourage citizen participation in the decision-making process

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

25. Policy 2D-3: Streamline development regulations to eliminate unnecessary time delays.

Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may
take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. By changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

26. Policy 7D-7: Streamline and coordinate the permit process and sustain a supportive customer service approach towards permitting.

Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. By changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

27. Policy 8K-1: Avoid significant mineral extraction impacts on adjacent or nearby land uses, public health and safety, or natural resources.

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

28. Policy 8N-2: Allow rock crushing, washing and sorting in the forest zones when appropriate as long as conflicts with other land uses can be mitigated.

Rock crushing, washing and sorting are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be).
Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

29. Policy 8N-3: Allow commercial surface mining operations in the forest zones when appropriate as long as conflicts with other land use zones can be mitigated.

Commercial surface mining operations are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

30. Goal 10J: Minimize conflicts between different land uses.

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

31. Policy 11B-5: Process the environmental review of building and development applications within an established time-frame that is predictable and expeditious.

The proposed amendments to Policy 8Q-4 alter the permitting process from
administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Whatcom County Code (WCC) 2.33 – Permit Review Procedures states that unless otherwise exempted in WCC 2.33.020 or 2.33.090(C), the county shall issue a notice of final decision on an administrative approval use or conditional use within 90 days of the date of completeness if the project is exempt from SEPA review. If the project is subject to SEPA review, the county shall issue a notice of final decision within 120 days.

32. The Washington State Department of Natural Resources completed a study entitled Reconnaissance Investigation of Sand, Gravel, and Quarried Bedrock Resources in the Bellingham 1:100,000 Quadrangle, Washington (Jan. 2001). This study indicates that the working lifetime of most of the significant pits in the county is 10 to 20 years (p. 5).

33. The Whatcom County Surface Mining Advisory Committee Final Report and Recommendations (October 20, 2004) states:

   . . . Theoretically, there is enough total supply in existing MRLs to satisfy demand over the first 20 years of the planning period. However, there is an imbalance in the demand and supply of sand and gravel. There is a greater need for gravel resources than sand and, as we approach the end of the 20-year planning period, we can anticipate a shortage of gravel. Additionally, shortly after the 20-year planning period, we will run out of sand and gravel resources if existing MRLs are not expanded. . . (p. 7).

CONCLUSIONS

1. The subject Comprehensive Plan amendments are consistent with the approval criteria of WCC 2.160.080. The subject zoning text amendments were processed in accordance with WCC 20.90.050

   NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Whatcom County Zoning Code is hereby amended as shown in Exhibit A.

   BE IT FURTHER ORDAINED that if any section, subsection, sentence, 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. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause or phrase thereof, irrespective of the
fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

**ADOPTED** this ____ day of ________, 2015.

**ATTEST:**

Dana Brown-Davis, Clerk of the Council

**WHATCOM COUNTY COUNCIL**
**WHATCOM COUNTY, WASHINGTON**

Carl Weimer, Council Chair

**WHATCOM COUNTY EXECUTIVE**
**WHATCOM COUNTY, WASHINGTON**

Jack Louws, County Executive

(  ) Approved    (  ) Denied

Date Signed:__________________
EXHIBIT A

Title 20 Zoning Amendments

Chapter 20.36
RURAL (R) DISTRICT

20.36.130 Administrative approval uses
.133 Surface mining subject to Washington State's Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

20.36.150 Conditional uses.
.197 Surface mining subject to Washington State's Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

Chapter 20.40
AGRICULTURE (AG) DISTRICT

20.40.130 Administrative approval uses
.136 Surface mining subject to Washington State's Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations. Site reclamation must be to agricultural use within any MRLs adopted after May 1, 2001. No off-site dust shall be generated from the operation.

20.40.150 Conditional uses.
.197 Surface mining subject to Washington State's Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations. Site reclamation must be to agricultural use within any MRLs adopted after May 1, 2001. No off-site dust shall be generated from the operation.

Chapter 20.42
RURAL FORESTRY (RF) DISTRICT
20.42.050 Permitted uses.
.058 Surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW); provided, that administrative approval a conditional use permit is required for accessory rock crushing activities located within ±2,000 feet from a rural or residential district.

20.42.130 Administrative approval uses.
.133 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing, when within a Mineral Resource Land Special-District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

20.42.150 Conditional uses.
.197 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

Chapter 20.43
COMMERCIAL FORESTRY (CF) DISTRICT

20.43.050 Permitted uses.
.055 Surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW); provided, that administrative approval a conditional use permit is required for accessory rock crushing activities located within ±2,000 feet from a rural or residential district.

20.43.130 Administrative approval uses.
.133 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing when within a Mineral Resource Land Special-District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

20.43.150 Conditional uses.
.189 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

Chapter 20.73
MINERAL RESOURCE LANDS SPECIAL DISTRICT (MRL)
20.73.130 Administrative approval uses.
The following uses are permitted subject to administrative approval pursuant to WCC 20.84.235.

Surface-mining subject to Washington State’s Surface-Mining Act (Chapter 78.44 RCW) and accessory washing and sorting; provided that:

(1) The notification requirements of WCC 20.84.235 shall be expanded to all property owners within 1,000 feet of the external boundaries of the subject property:

(2) At minimum, the activity adheres to the development and performance standards of WCC 20.73.650 and 20.73.700. In addition, no excavation shall occur within the five-year zone of contribution for designated well-head protection areas. Excavations may occur within the 10-year zone of contribution outside of the five-year zone of contribution if they are not within 10 vertical feet of the seasonal high water table. If a fixed radii method is used to delineate a well head protection area, the surface-mining applicant may elect to more precisely delineate the well head protection boundary using an analytical model; provided, that the delineated boundary proposed by the surface-mining applicant is prepared by a professional hydrogeologist; and further provided, that the delineated boundary has been reviewed and approved by the Washington State Department of Health. The hydrogeologist shall be selected by mutual agreement of the county, water purveyor, and applicant; provided, if agreement cannot be reached the applicant shall select a consultant from a list of no less than three qualified consultants supplied by the county and water purveyor.

(3) Buffers are established of sufficient size and with sufficient vegetation or berms to ensure that noise, dust, and other impacts to surrounding property owners are within applicable regulations and performance standards. When completing a reclamation segment, buffer may be reduced for a three-month period to establish the final reclaimed topography.

(4) The applicant provides insurance policies or a similar type of protection as appropriate to cover potential liabilities associated with the proposed activity, renewals of bonds or insurance be submitted upon expiration of previous bonds or insurance. The bonding agent shall notify the county on any change of status in the bond.
(5) Application of additional site-specific conditions may be required to mitigate potential impacts that are not otherwise regulated through WCC 20.73.650 and 20.73.700 or through federal, state, or local regulations.

(6) Notice of the decision shall be mailed to all property owners within 1,000 feet of the external boundaries of the subject property within two days of issuance of the decision. The applicant shall provide typed, self-adhering mailing labels with the names and addresses of all property owners within 1,000 feet of the subject property with the application to facilitate the notice.

(7) Appeal to the hearing examiner under WCC 20.84.235 of an administrative permit shall be made by de novo review.

.132 Rock crushing within Commercial and Rural Forestry Districts when located further than 2,000 feet from a rural or residential district.

20.73.150 Conditional uses.
.152 Mineral processing facilities including rock crushing, asphalt and concrete batch plants and accessory washing and sorting.

.153 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW); provided that:

(1) The notification requirements of WCC 2.33.060.D.2.b shall be expanded to all property owners within 2,000 feet of the external boundaries of the subject property.

(2) At minimum, the activity adheres to the development and performance standards of WCC 20.73.650 and 20.73.700. In addition, no excavation shall occur within the five-year zone of contribution for designated well head protection areas. Excavations may occur within the 10-year zone of contribution outside of the five-year zone of contribution if they are not within 10 vertical feet of the seasonal high water table. If a fixed radii method is used to delineate a well head protection area, the surface mining applicant may elect to more precisely delineate the well head protection boundary using an analytical model; provided, that the delineated boundary proposed by the surface mining applicant is prepared by a professional hydrogeologist; and further provided, that the delineated boundary has been reviewed and approved by the Washington State Department of Health. The hydrogeologist shall be selected by mutual agreement of the county, water purveyor, and applicant; provided, if agreement cannot be reached the applicant shall select a consultant from a list of no less than three qualified consultants supplied by the county and water purveyor.
(3) Buffers are established of sufficient size and with sufficient vegetation or bermsing to ensure that noise, dust, noxious weeds and other impacts to surrounding property owners are within applicable regulations and performance standards. When completing a reclamation segment, buffer may be reduced for a three-month period to establish the final reclaimed topography.

(4) The applicant provides insurance policies or a similar type of protection as appropriate to cover potential liabilities associated with the proposed activity, renewals of bonds or insurance be submitted upon expiration of previous bonds or insurance. The bonding agent shall notify the county on any change of status in the bond.

(5) Application of additional site specific conditions may be required to mitigate potential impacts that are not otherwise regulated through WCC 20.73.650 and 20.73.700 or through federal, state, or local regulations.

(6) Notice of the decision shall be mailed to all property owners within 2,000 feet of the external boundaries of the subject property within two days of issuance of the decision. The applicant shall provide typed, self-adhering mailing labels with the names and addresses of all property owners within 2,000 feet of the subject property with the application to facilitate the notice.
Comprehensive Plan Amendments

MINERAL RESOURCES – ISSUES, GOALS, AND POLICIES

General Issues

GOAL 8K: Ensure that mineral extraction industries do not adversely affect the quality of life in Whatcom County, by establishing appropriate and beneficial designation and resource conservation policies, while recognizing the rights of all property owners.

Policy 8K-2: Consider the maintenance and upgrade of public roads before designating MRLs and approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

Policy 8K-3: Avoid adversely impacting water quality. The protection of aquifers and recharge zones should have precedence over surface mining in the event it is determined by the county that adverse impacts cannot be avoided through the standard use of best management practices. Avoid contamination of aquifers by using uncontaminated and inert materials for reclamation or onsite storage.

Policy 8K-7: Designate site-specific mineral resource lands only after mineral extraction impacts have been anticipated and evaluated, and potential adverse environmental impacts have been addressed through appropriate mitigation and/or reasonable alternatives.

Policy 8K-8: Expansion of existing MRL designations for a mine site will require that the existing mine is in full compliance with all permits and regulations.

Goal 8Q: Designate Mineral Resource Lands (MRLs) containing commercially significant deposits throughout the county in proximity to markets in order to avoid construction aggregate shortages, higher transport costs, future land use conflicts and environmental degradation. Balance MRL designations with other competing land uses and resources.

Policy 8Q-4: Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:
(1) on-site environmental review, with county as lead agency, and (2) application of appropriate site specific conditions, and (3) notification to neighboring property owners within 1,000 feet to ensure opportunity for written and oral input, and/or appeal, and (4) access to de novo review by the Hearing Examiner if administrative approval is denied is appealed.
MINERAL RESOURCE LANDS (MRL) – DESIGNATION
CRITERIA I. Non-Metallic Mineral Deposits

General Criteria
10. Site-specific MRL Designations shall only be approved after mineral extraction impacts have been anticipated and evaluated, and potential adverse environmental impacts have been addressed through appropriate mitigation and/or reasonable alternatives.

11. MRL Designations must be reviewed for internal consistency with other parts of the comprehensive plan so that the MRL designation does not preclude achievement of other parts of the comprehensive plan.

12. MRL expansions will not be considered if adjoining mine activities are not fully compliant with all permits and county and state regulations regarding mine operations and reclamation.

Additional Criteria for Designated Urban and Rural Areas
103. Abutting parcel size density must not exceed one unit per nominal five acres for more than 25% of the perimeter of the site unless project specific mitigation is created.

Additional Criteria for Designated Forestry Areas
114. Must demonstrate higher value as mineral resource than forestry resource based upon:
• soil conditions.
• accessibility to market.
• quality of mineral resource.
• sustainable productivity of forest resource.

15. MRL Designation in forestry zones can be no greater than 20 acres. Additional areas can be added only after previously mined areas are returned to sustainable productive forest resource condition and the total MRL Designation remains no more than 20 acres.

Additional Criteria for Designated Agricultural Areas

River and Stream Gravel
137. MRL Designation status applies to river gravel bars possessing necessary permits and containing significant quality reserves.

148. MRL Designation status may apply to those upland sites located in proximity to river gravel sources and used primarily for handling and processing significant amounts of river gravel.

Metallic and Industrial Mineral Deposits
159. For metallic and rare minerals, mineral designation status extends to all patented mining claims.


1721. All other non patented mineral deposits must meet the non-metallic MRL Designation criteria, numbers 6 through 12 15, as applicable.
Option 2

Title 20 Zoning Amendments

Chapter 20.36
RURAL (R) DISTRICT

20.36.130 Administrative approval uses
.133 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

20.36.150 Conditional uses.
.197 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

Chapter 20.40
AGRICULTURE (AG) DISTRICT

20.40.130 Administrative approval uses
.136 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations. Site reclamation must be to agricultural use within any MRLs adopted after May 1, 2001. No off-site dust shall be generated from the operation.

20.40.150 Conditional uses.
.197 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations. Site reclamation must be to agricultural use within any MRLs adopted after May 1, 2001. No off-site dust shall be generated from the operation.

Chapter 20.42
RURAL FORESTRY (RF) DISTRICT
20.42.050 Permitted uses.
.058 Surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW); provided, that administrative approval a conditional use permit is required for accessory rock crushing activities located within 1,000 feet from a rural or residential district.

20.42.130 Administrative approval uses.
.133 Surface mining subject to Washington State's Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

20.42.150 Conditional uses.
.197 Surface mining subject to Washington State's Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

Chapter 20.43
COMMERCIAL FORESTRY (CF) DISTRICT

20.43.050 Permitted uses.
.055 Surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW); provided, that administrative approval a conditional use permit is required for accessory rock crushing activities located within 1,000 feet from a rural or residential district.

20.43.130 Administrative approval uses.
.133 Surface mining subject to Washington State's Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

20.43.150 Conditional uses.
.189 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

Chapter 20.73
MINERAL RESOURCE LANDS SPECIAL DISTRICT (MRL)
20.73.130 Administrative approval uses.
The following uses are permitted subject to administrative approval pursuant to WCC 20.84.235.

Surface mining subject to Washington State’s Surface-Mining Act (Chapter 78.44 RCW) and accessory washing and sorting; provided that:

1. The notification requirements of WCC 20.84.235 shall be expanded to all property owners within 1,000 feet of the external boundaries of the subject property.

2. At minimum, the activity adheres to the development and performance standards of WCC 20.73.650 and 20.73.700. In addition, no excavation shall occur within the five-year zone of contribution for designated well head protection areas. Excavations may occur within the 10-year zone of contribution outside of the five-year zone of contribution if they are not within 10 vertical feet of the seasonal high water table. If a fixed radii method is used to delineate a well head protection area, the surface mining applicant may elect to more precisely delineate the well head protection boundary using an analytical model; provided, that the delineated boundary proposed by the surface mining applicant is prepared by a professional hydrogeologist; and further provided, that the delineated boundary has been reviewed and approved by the Washington State Department of Health. The hydrogeologist shall be selected by mutual agreement of the county, water purveyor, and applicant; provided, if agreement cannot be reached the applicant shall select a consultant from a list of no less than three qualified consultants supplied by the county and water purveyor.

3. Buffers are established of sufficient size and with sufficient vegetation or bermsing to ensure that noise, dust, and other impacts to surrounding property owners are within applicable regulations and performance standards. When completing a reclamation segment, buffer may be reduced for a three-month period to establish the final reclaimed topography.

4. The applicant provides insurance policies or a similar type of protection as appropriate to cover potential liabilities associated with the proposed activity; renewals of bonds or insurance be submitted upon expiration of previous bonds or insurance. The bonding agent shall notify the county on any change of status in the bond.
(5) Application of additional site-specific conditions may be required to mitigate potential impacts that are not otherwise regulated through WCC 20.73.650 and 20.73.700 or through federal, state, or local regulations.

(6) Notice of the decision shall be mailed to all property owners within 1,000 feet of the external boundaries of the subject property within two days of issuance of the decision. The applicant shall provide typed, self-adhering mailing labels with the names and addresses of all property owners within 1,000 feet of the subject property with the application to facilitate the notice.

(7) Appeal to the hearing examiner under WCC 20.84.235 of an administrative permit shall be made by de novo review.

.132 Rock crushing within Commercial and Rural Forestry Districts when located further than 1,000 feet from a rural or residential district.

20.73.150 Conditional uses.
.152 Mineral processing facilities including rock crushing, asphalt and concrete batch plants and accessory washing and sorting.

.153 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW); provided that:

(1) The notification requirements of WCC 2.33.060.D.2.b shall be expanded to all property owners within 1,000 feet of the external boundaries of the subject property.

(2) At minimum, the activity adheres to the development and performance standards of WCC 20.73.650 and 20.73.700. In addition, no excavation shall occur within the five-year zone of contribution for designated well head protection areas. Excavations may occur within the 10-year zone of contribution outside of the five-year zone of contribution if they are not within 10 vertical feet of the seasonal high water table. If a fixed radii method is used to delineate a well head protection area, the surface mining applicant may elect to more precisely delineate the well head protection boundary using an analytical model; provided, that the delineated boundary proposed by the surface mining applicant is prepared by a professional hydrogeologist; and further provided, that the delineated boundary has been reviewed and approved by the Washington State Department of Health. The hydrogeologist shall be selected by mutual agreement of the county, water purveyor, and applicant; provided, if agreement cannot be reached the applicant shall select a consultant from a list of no less than three qualified consultants supplied by the county and water purveyor.
(3) Buffers are established of sufficient size and with sufficient vegetation or berming to ensure that noise, dust, noxious weeds and other impacts to surrounding property owners are within applicable regulations and performance standards. When completing a reclamation segment, buffer may be reduced for a three-month period to establish the final reclaimed topography.

(4) The applicant provides insurance policies or a similar type of protection as appropriate to cover potential liabilities associated with the proposed activity, renewals of bonds or insurance be submitted upon expiration of previous bonds or insurance. The bonding agent shall notify the county on any change of status in the bond.

(5) Application of additional site specific conditions may be required to mitigate potential impacts that are not otherwise regulated through WCC 20.73.650 and 20.73.700 or through federal, state, or local regulations.

(6) Notice of the decision shall be mailed to all property owners within 1,000 feet of the external boundaries of the subject property within two days of issuance of the decision. The applicant shall provide typed, self-adhering mailing labels with the names and addresses of all property owners within 1,000 feet of the subject property with the application to facilitate the notice.

(7) Where the underlying zoning is Rural Forestry or Commercial Forestry, prior to moving on to a new phase, previously mined areas shall meet reclamation criteria as identified on an approved Department of Natural Resources Surface Mining Reclamation Permit.
Comprehensive Plan Amendments

MINERAL RESOURCES – ISSUES, GOALS, AND POLICIES

General Issues

GOAL 8K: Ensure that mineral extraction industries do not adversely affect the quality of life in Whatcom County, by establishing appropriate and beneficial designation and resource conservation policies, while recognizing the rights of all property owners.

Policy 8K-2: Consider the maintenance and upgrade of public roads before approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

Policy 8K-3: Avoid adversely impacting water quality. The protection of aquifers and recharge zones should have precedence over surface mining in the event it is determined by the county that adverse impacts cannot be avoided through the standard use of best management practices. Avoid contamination of aquifers by using uncontaminated and inert materials for reclamation or onsite storage.

Policy 8K-7 Expansion of MRL designations to parcels contiguous to, and in common ownership with, an existing mine, may require that the existing mine is in compliance with all operating permits and regulations.

Goal 8Q: Designate Mineral Resource Lands (MRLs) containing commercially significant deposits throughout the county in proximity to markets in order to minimize avoid construction aggregate shortages, higher transport costs, future land use conflicts and environmental degradation. Balance MRL designations with other competing land uses and resources.

Policy 8Q-4: Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:
(1) on-site environmental review, with county as lead agency, and
(2) application of appropriate site specific conditions, and
(3) notification to neighboring property owners within 1,000 feet to insure opportunity for written and oral input, and/or appeal, and
(4) access to de novo review by the Hearing Examiner if administrative approval is denial is appealed.

MINERAL RESOURCE LANDS (MRL) – DESIGNATION CRITERIA I. Non-Metallic Mineral Deposits

General Criteria
10. MRL Designations must be reviewed for internal consistency with other parts of the comprehensive plan so that the MRL designation does not preclude achievement of other parts of the comprehensive plan.

11. Expansion of MRL designations to parcels contiguous to, and in common ownership with, an existing mine, may require that the existing mine is in compliance with all operating permits and regulations.

Additional Criteria for Designated Urban and Rural Areas
1210. Abutting parcel size density must not exceed one unit per nominal five acres for more than 25% of the perimeter of the site unless project specific mitigation is created.

Additional Criteria for Designated Forestry Areas
1311. Must demonstrate higher value as mineral resource than forestry resource based upon:
- soil conditions.
- accessibility to market.
- quality of mineral resource.
- sustainable productivity of forest resource.

Additional Criteria for Designated Agricultural Areas

River and Stream Gravel
1513. MRL Designation status applies to river gravel bards possessing necessary permits and containing significant quality reserves.
1614. MRL Designation status may apply to those upland sites located in proximity to river gravel sources and used primarily for handling and processing significant amounts of river gravel.

Metallic and Industrial Mineral Deposits
1715. For metallic and rare minerals, mineral designation status extends to all patented mining claims.
1917. All other non-patented mineral deposits must meet the non-metallic MRL Designation criteria, numbers 6 through 12 14, as applicable.
WHATCOM COUNTY
PLANNING & DEVELOPMENT SERVICES
STAFF REPORT

I. OVERVIEW

File # PLN2013-00008

File Name: MRL – Application Process

Applicant: Barbara Brenner and Carl Weimer

Summary of Request: In December 2012, an application was submitted proposing changes to the comprehensive plan and zoning code regarding mineral resource land.

There are 2 exhibits associated with this staff report. Exhibit A represents the proposed changes as provided in the application, while Exhibit B represents the proposed changes as recommended by the Surface Mining Advisory Committee (SMAC)

The proposed Comprehensive Plan amendments include changes to general mineral extraction policies that implement Goal 8K (adverse impacts), Goal 8Q (MRL designation), and MRL Designation Criteria.

Both exhibits propose designation criteria requiring internal consistency with other parts of the comprehensive plan. Both exhibits also include policies supporting their respective proposed MRL designation process, changing the permitting process from administrative approval use to conditional use and considering maintenance and upgrade of public roads before mineral extraction.

Exhibit A proposes new MRL designation criteria that provide the public and decision-makers with environmental information prior to MRL lands being designated, require that adjoining mine activities are compliant with permits and regulations prior to MRL expansion, and limit forestry zones within MRLs. Exhibit A also includes policies considering maintenance and upgrading roads prior to designation.

Exhibit B proposes new MRL designation criteria providing discretion whether existing mines must be compliant with permits and regulations prior to adjacent MRL expansion.
Both Exhibit A and Exhibit B propose amendments to the zoning code altering the permitting process from an administrative approval use (staff decision with no public hearing) to a conditional use permit (Hearing Examiner decision with a public hearing). Both exhibits also propose additional changes to include requiring noxious weeds to not be established in buffers of surface mining operations.

Exhibit A proposes changing the distance from rural or residential districts for rock crushing activities that would require a conditional use permit from 1,000 feet to 2,000 ft. Exhibit A proposes the notification requirements for surface mining be expanded to 2,000 from the external boundaries of the subject property and requires conditional use permits for mining and processing activities within forest resource zones when within 2,000 feet of a rural or Residential district.

Exhibit B proposes an additional review criterion that, within forestry zones, prior to moving on to a new phase of mining, previously mined areas shall meet reclamation criteria as approved by DNR.

The specific Comprehensive Plan and zoning code amendments are included with this report as exhibits A and B. Exhibit A shows the amendments as provided by the applicant. Exhibit B shows amendments proposed the SMAC.

**Location:** The proposed zoning text amendments affect portions of the Rural, Agriculture, Rural Forestry and Commercial Forestry zones, and the Mineral Resource Lands overlay.

## II. BACKGROUND

One of the goals of the Growth Management Act (GMA) is to maintain and enhance resource-based industries, including the aggregate and mineral resource industries, with the purpose of assuring the long-term conservation of resource lands for future use. In addition, the Act mandates that each county shall classify mineral resource lands and then designate and conserve appropriate areas that are not already characterized by urban growth and that have long-term commercial significance.

To address the mandates of the GMA, Whatcom County formed a Surface Mining Citizens’ Advisory Committee (SMAC) in the 1990s to produce the issues, goals, and policies found in the Whatcom County Comprehensive Plan. The County Council adopted the original mineral resource provisions in the 1997 Comprehensive Plan. These provisions were updated in 2004-2005 after reviewing the GMA, SMAC recommendations, and new information.

In 2004, there were 24 Mineral Resource Land (MRL) designations throughout the County, covering 4,204 acres. For planning purposes, the SMAC recommended using an annual demand for sand and gravel of 12.2 cubic yards per capita and annual demand for bedrock of 1.3 cubic yards per capita in the 2004-05 Comprehensive Plan update, consistent with the rates in the 1997 Comprehensive Plan.
While urbanization creates demand for sand and gravel resources, it may also encroach upon or build over those same resources, rendering them inaccessible. Strong community opposition to mining near residential, agricultural, or sensitive environmental areas may also limit extractive opportunities. Adequate resource protection could help to assure the long-term conservation of resource lands for future use. It may also help to ensure a competitive market and to guard against inflated land prices by allowing the supply of minerals to respond to the demand of a free market. Helping the aggregate industry and the associated businesses, trades and export markets create jobs and stimulate the economy, to the benefit of the county.

Potential conflicts with other land uses, however, may include increased noise, dust, visual blight, traffic, road wear, and neighboring property devaluation. Unreclaimed mines may affect property values while at the same time nearby residents may use the area for other activities. Controlling trespassing to surface mining may be a significant safety issue for mine operators. Property rights issues range from the right to mine and use the value of mineral resource land to the right to live in an area with a high quality of life and retain home values. Citizens may be generally unaware of the county zoning of surrounding property and the mining uses that area allowed. These and other factors may contribute to a climate of distrust and hostility between aggregate industry and adjacent property owners.

Environmental issues associated with surface mining may include groundwater contamination and disruption of fish and wildlife habitat. Surface mines may have the potential, however, to create wetlands and fish and wildlife habitat, possible productive agricultural land for a limited number of crops, and provide land for parks, housing, industrial and other uses, through mine reclamation.

Associated mining activities such as rock crushing on-site may increase the "industrial atmosphere” experience by nearby property owners. This activity, however, helps to keep material transportation costs down. In addition, accessory uses are a necessary part of most operations, and to carry them out on site is cost-effective.

In October 2006, PDS staff provided a staff report to the Planning Commission for a proposed MRL designation expansion east of the City of Nooksack, off of Breckenridge Road. The staff report recommended approval, subject to conditions, based on designation criteria within the Comprehensive Plan and review criteria within Whatcom County Code. The Planning Commission forwarded their findings for approval to the County Council. The Council Natural Resource committee recommended approval of the proposal to the County Council. At the County Council meeting, partially due to public opposition, the proposal was not adopted.

In December 2008, an application was filed to amend the Comprehensive Plan map and zoning map to expand an MRL designation off of Bowman and Doran roads, south of Acme. The SEPA threshold determination of Mitigated Determination of Non-Significance was appealed by some of the local community and the applicant.
The Hearing Examiner upheld the applicant appeal. The Hearing Examiner decision was appealed to the County Council, which upheld the Hearing Examiner’s decision. In May 2011, PDS staff provided a staff report to the Planning Commission for the proposed MRL designation amendment. The staff report recommended approval based on the designation criteria within the Comprehensive Plan and review criteria within Whatcom County Code. The Planning Commission forwarded their findings for approval to the County Council. On July 26, 2011, the County Council moved to refer the proposal to committee for a work session. At the August 9, 2011 Planning and Development Committee meeting, the Committee was unable to recommend approval for the proposal. That evening, the County Council forwarded the proposal to concurrent review. On February 14, 2012, the County Council motion to adopt the proposed ordinance failed, partially due to public concerns about potential environmental impacts of future mining.

The purpose of the present proposal is to address some of the concerns that have been raised in previous years. As stated in the application for this proposal:

- “The current MRL process fails to provide sufficient information to evaluate the potential impacts of MRL designation proposal. Recent decisions of the hearing Examiner have concluded that the current process limits the initial MRL designation mainly to the value and location of mineral deposits while leaving the determination of the impacts and approval of operations to the administrative approval process that requires appeals in order to gain a public hearing. As noted by the Hearing Examiner, Whatcom County could have chosen a different process with designation criteria that included environmental review of mining impacts at the beginning of the process.”

“This amendment does propose a different process – a process that provides the public and decision-makers with environmental information prior to MRL lands being designated, and then requires a public hearing on surface mining permit applications rather than having such decisions made by staff that must be appealed in order to gain a hearing.”

III. ANALYSIS OF THE PROPOSED AMENDMENT

The proposed amendments include both Comprehensive Plan text amendments, as well as zoning text amendments.

In order to approve the proposed Comprehensive Plan amendments, pursuant to Whatcom County Code (WCC) 2.160, the planning commission and county council must find:

- The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.
- Further studies made or accepted by the department of planning and development services indicate changed conditions that show need for the amendment.
- The public interest will be served by approving the amendment.
A. That the amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.

Growth Management Act

The Growth Management Act (GMA) includes multiple planning goals that are relevant to the proposed comprehensive plan amendments.

GMA planning goal #7 states: "Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability" (RCW 36.70A.020(7)).

Staff Comment: Through previous MRL designation proposals, it has been affirmed that MRL designation is not a "right-to-mine" (unlike agricultural and forest lands of long-term commercial significance), insomuch as upon receiving MRL designation, a permit is still required for the act of mineral extraction. Neither Exhibit A nor B proposes to change that.

However, Exhibit A would require that a site specific environmental analysis, as well as consideration of the maintenance and upgrade of public roads, be conducted on a site prior to MRL designation. If, in keeping with recent decisions, MRL designation does not include a "right-to-mine", subject to the results of the environmental analysis, then a mineral extraction permit applicant would have no assurances that the results of their site specific environmental analysis would result in an approved MRL designation or permit. Further, if designation is predicated on an operating plan, if a mineral extraction company goes out of business or is sold, or if the property is sold, it is unclear if the new owner would be bound to the operating plan, need to complete a new environmental analysis, or risk losing MRL designation based on the lack of an environmental analysis.

Exhibit B includes proposed amendments to Policy 8K-2 that clarify that maintenance and upgrade of public roads take place before approving mineral extraction. This would ensure that any necessary maintenance or upgrades are in direct relationship to an impact from a specific mineral extraction permit. This policy also clarifies that all traffic, not just truck traffic, on county roads is addressed in a fair and equitable fashion.

GMA planning goal #11 states: "Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts" (RCW 36.70A.020(11)).

Staff Comment: In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use
County-Wide Planning Policies

County-Wide Planning Policy A-3 states that:

Citizens shall be notified in a timely manner of opportunities to have input and key decision points in the planning process. This should include actions such as use of telephone hotlines, notification to interest groups, pre-development meetings, early incorporation of public comments and broader notification of property owners and residents during a planning process as well as working more extensively with community and neighborhood groups. The cities shall also develop a public participation process to solicit and incorporate comments from residents outside city limits but within proposed Urban Growth Areas.

Staff Comment: In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

Interlocal Agreement

Staff Comment: Staff is not aware of any interlocal agreements affecting the proposed amendments.

B. That further studies made or accepted by the department of planning and development services indicate changed conditions that show the need for the amendment.

There have been no studies made or accepted by the PDS that indicate changed conditions that show the need for the amendments. However, in recent history
there have been instances documented that may support some of the amendments.

- **Exhibit A – Proposed Policy 8K-2:** Consider the maintenance and upgrade of public roads before designating MRLs and approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

- **Exhibit B – Proposed Policy 8K-2:** Consider the maintenance and upgrade of public roads before approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

Staff Comment: The underline represents changed conditions from the present policy. Within the past few years, applications for MRL designation have resulted in a public process where citizens have requested that impacts from mineral extraction be considered as part of MRL designation. Proponents of MRL designation note that the purpose of designation is to protect the resource from incompatible uses, and that designation is not a right-to-mine. Twice since 2006, a Comprehensive Plan map and zoning map amendment application for the expansion of a MRL designation has reached the County Council, and both times the amendment was not approved by Council. Consideration of maintenance and upgrade of public roads may not be possible without a mineral extraction plan, which is not presently required as part of the MRL designation process. Mineral extraction permits are presently reviewed by Public Works – Engineering for potential impacts to public roads, and necessary maintenance and upgrading of the roads may be required for approval.

- **Exhibit A – Proposed Policy 8K-7:** Designate site-specific mineral resource lands only after mineral extraction impacts have been anticipated and evaluated, and potential adverse environmental impacts have been addressed through appropriate mitigation and/or reasonable alternatives.

- **Exhibit B – Proposed Policy 8K-7:**
  The surface Mining Advisory Committee did not recommend approval of this proposed policy.

Staff Comment: Within the past few years, applications for MRL designation have resulted in a public process where citizens have requested that impacts from mineral extraction be considered as part of MRL designation. Proponents of MRL designation note that the purpose of designation is to protect the resource from incompatible uses, and that designation is not a right-to-mine. Twice since 2006, a Comprehensive Plan map and zoning map amendment application for the expansion of a MRL designation has reached the County Council, and both times the amendment was not approved by Council. Anticipation and evaluation of potential adverse environmental impacts associated with mineral extraction, and mitigation and/or reasonable alternatives may not be possible without a mineral extraction plan, which is not presently required as part of the MRL designation process.
• **Exhibit A – Proposed Policy 8K-8:** Expansion of existing MRL designations for a mine site will require that the existing mine is in full compliance with all permits and regulations.

• **Exhibit B – Proposed Policy 8K-8:** Expansion of MRL designations to parcels contiguous to, and in common ownership with, an existing mine, may require that the existing mine is in compliance with all operating permits and regulations.

**Staff Comment:** In December 2010, Whatcom County PDS received an application for a Comprehensive Plan map and zoning map amendment to expand an existing MRL designation. The mine associated with the MRL designation has received stop work orders and been assessed penalties as part of a notice of violation. The operation within this MRL is now going through receivership. No work has been done on the Comprehensive Plan MRL expansion amendment for over 2 years, and there is presently no mining activity occurring. The proposed policy in Exhibit B attempts to clarify that non-compliance by a mineral extraction operator would not impact the ability of another landowner to expand an MRL designation.

• **Exhibit A and Exhibit B – Proposed Policy 8Q-4:** Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:
  1. on-site environmental review, with county as lead agency, and
  2. application of appropriate site specific conditions, and
  3. notification to neighboring property owners within 1,000 feet to insure opportunity for written and oral input and/or appeal, and
  4. access to de novo review by the Hearing Examiner if administrative approval is denied or appealed.

**Staff Comment:** The underlines and strikethroughs represent changed conditions from the present policy. In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. However, it is worth noting that, according to former PDS geologist, Doug Goldthorp:
“Since the inception of the surface mining administrative approval use permit requirement in 1997, 24 surface mining administrative approval use applications (ADMs), and the 3 amendment applications to those ADMs have been conditionally approved. There was either a DNS, MDNS, and one DS SEPA determination in each case. Of the 27 combined ADMs, ADM amendments and associated SEPA determinations, 3 appeals (11%) have been filed and adjudicated by the WC Hearing Examiner. In all 3 cases, the Hearing Examiner has upheld the staff determination. In a few cases, the Hearing Examiner determination has been upheld by the WC Council, and in one case, upheld by the WA Superior Court.”

This information indicates that, while the sample size is relatively small, the Technical Administrator’s determinations have been upheld as appropriate, when challenged. However, the purpose of the amendment is to ensure a public process that is presently absent, and this amendment would provide an avenue for a public process.

C. That the public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

1. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the Comprehensive Plan.

   **Staff Comment:** There is no anticipated effect upon the rate or distribution of population growth, employment growth or development of land as envisioned in the Comprehensive Plan, as a result of the proposed Comprehensive Plan amendments under Exhibit B. However, under Exhibit A, lands that have a proven resource may become converted to a use incompatible with surface mining if mineral resource extraction companies don’t pursue designation as a result of increased costs and lack certainty in the designation process.

2. The anticipated effect upon the ability of the County and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

   **Staff Comment:** Under Exhibit A, the proposed Comprehensive Plan amendments may affect the ability of the County and/or other service providers to provide adequate services and public facilities including transportation facilities, though not necessarily through an increased demand for services. Recent efforts to designate lands for mineral extraction have failed. Mining companies may be hesitant to apply for designation, due to the costs associated with studies to determine potential impacts/mitigation/alternatives, if there are no reassurances that they could recoup the costs through designation and subsequent mineral extraction.
Additionally, by limiting MRL designations in forest lands to 20 acres at a time, large areas of potential resources may not be efficiently extracted. This situation may result in increased costs for the resource. If mining companies decide to not apply for new designations in Whatcom County, the costs of mineral resources would likely climb as the local supply diminishes and more costly imports become a primary source of material. If the costs of capital facilities increase, there may be less money throughout the rest of the provider's budget.

Staff does not anticipate Exhibit B will affect the ability of the County or other service providers to provide adequate services and public facilities.

3. **Anticipated impact upon designated agricultural, forest and mineral resource lands.**

**Staff Comment:** Under Exhibit A, the proposed amendments may discourage mining companies from applying for designation, due to the costs associated with studies to determine potential impacts/mitigation/alternatives, if there are no reassurances that they could recoup the costs through designation and subsequent mineral extraction. If true, the rate of conversion to mineral resource lands from agriculture and forestry would likely slow, positively impacting the protection of agriculture and forestry lands. However, the proposed amendments would then, necessarily, negatively impact the availability of mineral resource lands.

Staff does not anticipate Exhibit B will impact designated agricultural, forest or mineral resource lands.

**D. That the amendment does not include nor facilitate illegal spot zoning.**

According to the Official Whatcom County Zoning Ordinance:

"Illegal spot zoning" means a zoning action by which a smaller area is singled out of a larger area or district and specially zoned for a use classification totally different from, and inconsistent with, the classification of surrounding land and not in accordance with the Comprehensive Plan. Spot zoning is zoning for private gain designed to favor or benefit a particular individual or group and not the welfare of the community as a whole (WCC 20.97.186).

**Staff Comment:** The proposed amendments within Exhibit A and Exhibit B do not change the zoning of any area; therefore the amendment does not include nor facilitate illegal spot zoning.

For zoning text amendments, Planning and Development Services shall conduct environmental review under SEPA and prepare a staff report including recommendations and/or options for the initiated amendment. The report and
result of environmental review to the appropriate hearing body, in this case the Planning Commission. The Planning Commission shall evaluate the merits of each amendment in relationship to the goals, policies and objectives of the Comprehensive Plan and make a recommendation as to whether the amendment should be approved, approved with modifications or denied. The following goals and policies of the Comprehensive Plan apply to the subject zoning text amendments.

**Goal 2G:** Encourage citizen participation in the decision-making process

**Staff Comment:** In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

**Policy 2D-3:** Streamline development regulations to eliminate unnecessary time delays.

**Staff Comment:** Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. In both Exhibit A and Exhibit B, by changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

**Policy 7D-7:** Streamline and coordinate the permit process and sustain a supportive customer service approach towards permitting.

**Staff Comment:** Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. In both Exhibit A and Exhibit B, by changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

**Policy 8K-1:** Avoid significant mineral extraction impacts on adjacent or nearby land uses, public health and safety, or natural resources.

**Staff Comment:** In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case
of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

**Exhibit A – Proposed Policy 8K-2:** Consider the maintenance and upgrade of public roads before designating MRLs and approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

**Exhibit B – Proposed Policy 8K-2:** Consider the maintenance and upgrade of public roads before approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

**Staff Comment:** In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the SEPA process, impacts to public roads are considered through Checklist Item #14 – Transportation as part of the permitting process. Exhibit B proposes that all traffic, not just truck traffic, on county roads be addressed in a fair and equitable fashion.

**Policy 8N-2:** Allow rock crushing, washing and sorting in the forest zones when appropriate as long as conflicts with other land uses can be mitigated.

**Staff Comment:** Rock crushing, washing and sorting are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Both exhibits propose amendments to Policy 8Q-4 that alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.
Policy 8N-3: Allow commercial surface mining operations in the forest zones when appropriate as long as conflicts with other land use zones can be mitigated.

Staff Comment: Commercial surface mining operations are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Both exhibits propose amendments to Policy 8Q-4 that alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

Policy 8Q-4: Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:

1. on-site environmental review, with county as lead agency, and
2. application of appropriate site specific conditions, and
3. notification to neighboring property owners within 1,000 feet to insure opportunity for written and oral input and/or appeal, and
4. access to de novo review by the Hearing Examiner if administrative approval or denial is appealed.

Staff Comment: In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Criterion #4 of Policy 8Q-4 would be unnecessary through the conditional use process, since conditional use approval is made by the Hearing Examiner. Since conditional use permits undergo a public hearing before the Hearing Examiner, the conditional use permitting process allows for oral input, as opposed to the administrative approval process which has no associated public hearing.

Goal 10J: Minimize conflicts between different land uses.

Staff Comment: In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing
before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

**Policy 118-5:** Process the environmental review of building and development applications within an established time-frame that is predictable and expeditious.

**Staff Comment:** In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Whatcom County Code (WCC) 2.33 – Permit Review Procedures states that unless otherwise exempted in WCC 2.33.020 or 2.33.090(C), the county shall issue a notice of final decision on an administrative approval use or conditional use within 90 days of the date of completeness if the project is exempt from SEPA review. If the project is subject to SEPA review, the county shall issue a notice of final decision within 120 days.

**Lack of Goals or Policy:** The following are proposed amendments to the zoning code that are neither supported, nor opposed, by the goals and policies within the comprehensive plan. The present zoning code language is presented first, followed by the proposed amendments within Exhibits A and B.

**WCC 20.42.058 and 20.43.055 – Permitted uses within Rural and Commercial Forestry:** Surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW); provided that administrative approval is required for accessory rock crushing activities located within 1,000 feet from a rural or residential district.

- **Exhibit A:** Proposes changing the permitting process from administrative approval use to conditional use and extending the locational criteria to 2,000 ft.
- **Exhibit B:** Proposes changing the permitting process from administrative approval use to conditional use, but leaving the locational criteria at 1,000 ft.

**WCC 20.73.132 – Administrative Approval uses in the Mineral Resource Lands overlay:** Rock crushing within Commercial and Rural Forestry Districts.

- **Exhibit A:** Proposes adding the following language to the end of the code: “when located further than 2,000 feet from a rural or residential district.”
- **Exhibit B:** Proposes adding the following language to the end of the code: “when located further than 1,000 feet from a rural or residential district.”

**Proposed WCC 20.73.153(1) – Conditional uses in the Mineral Resource Lands Overlay (note: this language would replace administrative approval use language, if the permitting process is changed from administrative approval use to conditional use):** The notification requirements of WCC
2.33.060.D.2.b shall be expanded to all property owners within 1,000 ft. of the external boundaries of the subject property.

- **Exhibit A**: Proposes expanding the notification area to 2,000 ft.
- **Exhibit B**: Proposes leaving the notification area at 1,000 ft.

**Proposed WCC 20.73.153(6) – Conditional uses in the Mineral Resource Lands overlay** (note: this language would replace administrative approval use language, if the permitting process is changed from administrative approval use to conditional use): Notice of the decision shall be mailed to all property owners within 1,000 feet of the external boundaries of the subject property within two days of issuance of the decision. The applicant shall provide typed, self-adhering mailing labels with the names and addresses of all property owners within 1,000 feet of the subject property with the application to facilitate the notice.

- **Exhibit A**: Proposes expanding the notification area to 2,000 ft.
- **Exhibit B**: Proposes leaving the notification area at 1,000 ft.

**Exhibit B - Proposed WCC 20.73.153(7) – Conditional uses in the Mineral Resources Lands overlay** (note: this language is new and is not proposed in Exhibit A): Where the underlying zoning is Rural Forestry or Commercial Forestry, prior to moving on to a new phase, previously mined areas shall meet reclamation criteria as identified on an approved Department of Natural Resources Surface Mining Reclamation Permit.

**State Environmental Policy Act**

**Staff Comment**: A SEPA Determination of Nonsignificance was issued on July 5, 2013. The associated comment period ended on July 19th, 2013 and the appeal period concluded July 29th, 2013.

**IV. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION**

1. An application for Comprehensive Plan and related zoning amendments was received by Whatcom County on December 21, 2012.

2. A revised application for Comprehensive Plan and related zoning amendments was received by Whatcom County on January 23, 2013.

3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on July 5, 2013. The associated comment period ended July 19, 2013 and the appeal period concluded July 29, 2013.

4. The Surface Mining Advisory Committee held work sessions with Whatcom County PDS Staff on March 26, 2014; April 23, 2014; May 28, 2014, June 25, 2014; and July 23, 2014.

5. A press release of the Planning Commission briefing was published in the Bellingham Herald on 09/08/2014.
6. The Planning Commission held a work session on September 11, 2014.

7. The Planning Commission held a public hearing on October 23, 2014.

8. Notice of the proposed amendment was sent to the Department of Commerce on 8/15/2014.

9. On 08/20/2014 the Department of Commerce acknowledged receipt of the notice, and that a copy of the notice had been forwarded to other state agencies.

10. The Growth Management Act (GMA) includes multiple planning goals that are relevant to the proposed comprehensive plan amendments.

11. GMA Planning Goal #7: Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

Through previous MRL designation proposals, it has been affirmed that MRL designation is not a “right-to-mine”, insomuch as upon receiving MRL designation, a permit is still required for the act of mineral extraction.

Exhibit B includes proposed amendments to Policy 8K-2 that clarify that maintenance and upgrade of public roads take place before approving mineral extraction. This would ensure that any necessary maintenance or upgrades are in direct relationship to an impact from a specific mineral extraction permit. This policy also clarifies that all traffic, not just truck traffic, on county roads is addressed in a fair and equitable fashion.

12. GMA Planning Goal #11: Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts

Exhibit B proposes amendments to Policy 8Q-4 altering the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.
13. Whatcom County's County-Wide Planning Policy A-3 states: Policy 7D-7: Citizens shall be notified in a timely manner of opportunities to have input and key decision points in the planning process. This should include actions such as use of telephone hotlines, notification to interest groups, pre-development meetings, early incorporation of public comments and broader notification of property owners and residents during a planning process as well as working more extensively with community and neighborhood groups. The cities shall also develop a public participation process to solicit and incorporate comments from residents outside city limits but within proposed Urban Growth Areas.

Exhibit B proposes amendments to Policy 8Q-4 altering the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

14. There are no interlocal agreements affecting the proposed amendments.

15. Whatcom County Comprehensive Plan contains goals and policies that are applicable to the proposal.

16. Proposed Policy 8K-2: Consider the maintenance and upgrade of public roads before approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

The underline represents changed conditions from the present policy. Within the past few years, applications for MRL designation have resulted in a public process where citizens have requested that impacts from mineral extraction be considered as part of MRL designation. Proponents of MRL designation note that the purpose of designation is to protect the resource from incompatible uses, and that designation is not a right-to-mine. Twice since 2006, a Comprehensive Plan map and zoning map amendment application for the expansion of a MRL designation has reached the County Council, and both times the amendment was not approved by Council. Consideration of maintenance and upgrade of public roads may not be possible without a mineral extraction plan, which is not presently required as part of the MRL designation process. Mineral extraction permits are presently reviewed by Public Works – Engineering for potential impacts to public roads, and necessary maintenance and upgrading of the roads may be required for approval.
Exhibit B proposes amendments altering the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the SEPA process, impacts to public roads are considered through Checklist Item #14 – Transportation as part of the permitting process. Exhibit B proposes that all traffic, not just truck traffic, on county roads be addressed in a fair and equitable fashion.

17. Proposed Policy 8K-8: Expansion of MRL designations to parcels contiguous to, and in common ownership with, an existing mine, may require that the existing mine is in compliance with all operating permits and regulations.

In December 2010, Whatcom County PDS received an application for a Comprehensive Plan map and zoning map amendment to expand an existing MRL designation. The mine associated with the MRL designation has received stop work orders and been assessed penalties as part of a notice of violation. The operation within this MRL is now going through receivership. No work has been done on the Comprehensive Plan MRL expansion amendment for over 2 years, and there is presently no mining activity occurring. The proposed policy in Exhibit B attempts to clarify that non-compliance by a mineral extraction operator would not impact the ability of another landowner to expand an MRL designation.

18. Proposed Policy 8Q-4: Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:
   (1) On-site environmental review, with county as lead agency, and
   (2) application of appropriate site specific conditions, and
   (3) notification to neighboring property owners within 1,000 feet to insure opportunity for written and oral input and/or appeal, and
   (4) access to de novo review by the Hearing Examiner if administrative approval is denied or appealed.

The underlines and strikethroughs represent changed conditions from the present policy. The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Criterion #4 of Policy 8Q-4 would be unnecessary through the conditional use process, since conditional use approval is made by the Hearing Examiner. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed
amendment would result in a public hearing process that is presently absent without the need for an appeal. However, it is worth noting that, according to former PDS geologist, Doug Goldthorp:

"Since the inception of the surface mining administrative approval use permit requirement in 1997, 24 surface mining administrative approval use applications (ADMs), and the 3 amendment applications to those ADMs have been conditionally approved. There was either a DNS, MDNS, and one DS SEPA determination in each case. Of the 27 combined ADMs, ADM amendments and associated SEPA determinations, 3 appeals (11%) have been filed and adjudicated by the WC Hearing Examiner. In all 3 cases, the Hearing Examiner has upheld the staff determination. In a few cases, the Hearing Examiner determination has been upheld by the WC Council, and in one case, upheld by the WA Superior Court."

This information indicates that, while the sample size is relatively small, the Technical Administrator's determinations have been upheld as appropriate, when challenged. However, the purpose of the amendment is to ensure a public process that is presently absent, and this amendment would provide an avenue for a public process.

19. There is no anticipated effect upon the rate or distribution of population growth, employment growth or development of land as envisioned in the Comprehensive Plan, as a result of the proposed Comprehensive Plan amendments under Exhibit B.

20. Staff does not anticipate Exhibit B will affect the ability of the County or other service providers to provide adequate services and public facilities.

21. Staff does not anticipate Exhibit B will impact designated agricultural, forest or mineral resource lands.

22. Goal 2G: Encourage citizen participation in the decision-making process

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.
23. Policy 2D-3: Streamline development regulations to eliminate unnecessary time delays.

Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. By changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

24. Policy 7D-7: Streamline and coordinate the permit process and sustain a supportive customer service approach towards permitting.

Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. By changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

25. Policy 8K-1: Avoid significant mineral extraction impacts on adjacent or nearby land uses, public health and safety, or natural resources.

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

26. Policy 8N-2: Allow rock crushing, washing and sorting in the forest zones when appropriate as long as conflicts with other land uses can be mitigated.

Rock crushing, washing and sorting are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be).
Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

27. Policy 8N-3: Allow commercial surface mining operations in the forest zones when appropriate as long as conflicts with other land use zones can be mitigated.

Commercial surface mining operations are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

28. Goal 10J: Minimize conflicts between different land uses.

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

29. Policy 11B-5: Process the environmental review of building and development applications within an established time-frame that is predictable and expeditious.

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if
certain thresholds are met (which in the case of commercial mineral extraction they would be). Whatcom County Code (WCC) 2.33 – Permit Review Procedures states that unless otherwise exempted in WCC 2.33.020 or 2.33.090(C), the county shall issue a notice of final decision on an administrative approval use or conditional use within 90 days of the date of completeness if the project is exempt from SEPA review. If the project is subject to SEPA review, the county shall issue a notice of final decision within 120 days.

30. The Washington State Department of Natural Resources completed a study entitled *Reconnaissance Investigation of Sand, Gravel, and Quarried Bedrock Resources in the Bellingham 1:100,000 Quadrangle, Washington* (Jan. 2001). This study indicates that the working lifetime of most of the significant pits in the county is 10 to 20 years (p. 5).

31. The *Whatcom County Surface Mining Advisory Committee Final Report and Recommendations* (October 20, 2004) states:

... Theoretically, there is enough total supply in existing MRLs to satisfy demand over the first 20 years of the planning period. However, there is an imbalance in the demand and supply of sand and gravel. There is a greater need for gravel resources than sand and, as we approach the end of the 20-year planning period, we can anticipate a shortage of gravel. Additionally, shortly after the 20-year planning period, we will run out of sand and gravel resources if existing MRLs are not expanded... (p. 7).

V. PROPOSED CONCLUSION

The subject Comprehensive Plan amendments are consistent with the approval criteria of WCC 2.160.080. The subject zoning text amendments were processed in accordance with WCC 20.90.050.

VI. RECOMMENDATION

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends approval of the proposed amendments as shown in Exhibit B. The Whatcom County Planning Commission also strongly recommends that Whatcom County take a lead role in designating mineral resource lands of long-term commercial significance in order to protect the resource from incompatible uses, as opposed to the present process of landowner initiated amendments.
PROPOSAL BY THE WHATCOM COUNTY SURFACE MINING COMMITTEE TO USE CONDITIONAL USE RATHER THAN ADMINISTRATIVE REVIEW AS THE PROCESS FOR MINE PERMITTING

Proposal

The Whatcom County Surface Mining Advisory Committee (SMAC) is proposing use of the conditional use rather than the administrative approval review process for mine permitting. The Committee is making this recommendation because the majority of Committee members believe that this will result in a more open, efficient and timely process.

Introduction

The Whatcom County Planning Commission questioned the Whatcom County Surface Mining Advisory Committee’s recommendation for using conditional use permits. Administrative review based on a staff decision without a public hearing is the current procedure for mine permitting in Whatcom County. The SMAC decision is based on a review of Comprehensive Plan amendments proposed by Whatcom County Councilman Carl Weimer and Councilwoman Barbara Brenner, and Whatcom County Planning and Development Services staff recommendations. Both sets of recommendations are intended to, “ensure that mineral extraction industries do not adversely affect the quality of life in Whatcom County...” ¹ address the Mineral Resource Land (MRL) approval process² and identify criteria for designating MRLs³. Membership of the SMAC includes a citizen who lives close to an existing mine, two representatives from the mining industry, two geologists, a geotechnical engineer, an ecologist, a forester, and a representative from the Whatcom Conservation District.

Discussion

A majority of the SMAC believe, as is the current practice, that public hearings should occur before an MRL designation is made by the County Council, with the understanding that an MRL designation does not constitute a right to mine nor should the impact of mining be addressed prior to an MRL designation. Because of the cost, as well as uncertainty in designation, mining impacts should be addressed in the State Environmental Policy Act (SEPA) review for a site-specific mining permit. The estimated costs for an Environmental Impact Statement through SEPA review range from $50K to $200K. In addition to the SEPA review, site-specific comments by affected citizens and any site-specific conditions should be considered by a Hearing Examiner before a decision is made to permit mining.

¹ Whatcom County Comprehensive Plan, Chapter 8 Resource Lands, Section 8K Adverse Impacts
² Whatcom County Comprehensive Plan, Chapter 8 Resource Lands, Section 8P MRL Approval Process
The rationale for changing from an administrative review to a conditional use mine permitting process includes the following:

- Uncertainties and inconsistencies in the approach the Whatcom County Planning and Development Services staff may take when reviewing permit applications,
- Citizens should be encouraged to engage early in the decision making process,
- Citizen participation will provide applicants for mining permits with early identification of perceived as well as real pitfalls, safety concerns and impacts of mining thus enabling applicants to address mitigation before concerns spiral out of control,
- Citizen involvement will result in recognition of conflicts between competing land uses, and
- Early citizen participation in the decision making process may reduce the number of challenges through appeals, thus minimizing time delays during the mine permitting process.

Conclusion

The Whatcom County Surface Mining Advisory Committee recommends the conditional use rather than the administrative approval review process because the Committee believes the conditional use process promotes open decision making, allows citizens to consider and understand alternatives and voice their concerns before any decision is made. Open decision making and early discussion may also shorten the time between application and issuance of a permit to mine. Criteria to be used by a Hearing Officer should be clearly identified when deciding whether a mine should be permitted during the conditional use review process. It is essential that all interested parties have an early understanding of issues influencing a decision so that these can be discussed and understood before a decision is made to assure maximum efficiency.
Comprehensive Plan Map and Zoning Map Amendment - MRL Designation process

**Present/SMAC Recommendation**

- MRL Comprehensive Plan Map and Zoning Map amendment application
- SEPA (Non-Project Action, historically DNS)
  - Legal notice published in newspaper
- Staff Report
  - Zoning Review
  - Comp Plan Review
  - GMA Review
- Planning Commission (Public Hearing)
  - At least 10 days prior to hearing: Legal notice published in newspaper; notification to neighbors within 1,000 ft; Notice posted on-site
- County Council (Public Hearing)**
  - Notification in Herald 10-days prior to hearing
- County Council - Concurrent Review (Public Hearing)**
  - Decision
  - Notification in Herald 10-days prior to hearing

**Applicant Proposal**

- MRL Comprehensive Plan Map and Zoning Map amendment application
- SEPA (Project-Specific Action; may require EIS if NEPA is issued)
  - Legal notice published in newspaper
  - Review extraction impacts and address potential adverse
- Staff Report
  - Zoning Review
  - Comp Plan Review
  - GMA Review
- Planning Commission (Public Hearing)
  - At least 10 days prior to hearing: Legal notice published in newspaper; notification to neighbors within 1,000 ft; Notice posted on-site
- County Council (Public Hearing)**
  - Notification in Herald 10-days
- County Council - Concurrent Review (Public Hearing)**
  - Decision
  - Notification in Herald 10-days prior to hearing

**County Council may deny amendment regardless of whether the application meets designation criteria**
Permitting process for mineral extraction

**PRESENT**
- Administrative Approval Use
  - Notification to neighbors within 1,000 ft.
  - SEPA (project specific action) if over 500 cu yds
  - Staff Decision
  - Notice posted on-site

**SMAC RECOMMENDATION**
- Conditional Use
  - Notification to neighbors within 1,000 ft
  - SEPA (project specific action) if over 500 cu yds
  - Staff Recommendation
  - Public Hearing
  - Hearing Examiner Decision

**APPLICATION**
- Conditional Use
  - Notification to neighbors within 2,000 ft
  - SEPA (project specific action) if over 500 cu yds (completed as part of designation)
  - Staff Recommendation
  - Public Hearing
  - Hearing Examiner Decision
WHATCOM COUNTY
PLANNING COMMISSION

Designated Mineral Resources Lands Comprehensive Plan and Zoning Code Amendments

FINDINGS OF FACT AND REASONS FOR ACTION

1. An application for Comprehensive Plan and related zoning amendments was received by Whatcom County on December 21, 2012.

2. A revised application for Comprehensive Plan and related zoning amendments was received by Whatcom County on January 23, 2013.

3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on July 5, 2013. The associated comment period ended July 19, 2013 and the appeal period concluded July 29, 2013.

4. The Surface Mining Advisory Committee held work sessions with Whatcom County PDS Staff on March 26, 2014; April 23, 2014; May 28, 2014, June 25, 2014; and July 23, 2014.

5. A press release of the Planning Commission briefing was published in the Bellingham Herald on 09/08/2014.

6. The Planning Commission held a work session on September 11, 2014.

7. The Planning Commission held a public hearing on October 23, 2014.

8. Notice of the proposed amendment was sent to the Department of Commerce on 8/15/2014.

9. On 08/20/2014 the Department of Commerce acknowledged receipt of the notice, and that a copy of the notice had been forwarded to other state agencies.

10. The Growth Management Act (GMA) includes multiple planning goals that are relevant to the proposed comprehensive plan amendments.

11. GMA Planning Goal #7: Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

Through previous MRL designation proposals, it has been affirmed that MRL designation is not a “right-to-mine”, insomuch as upon receiving MRL
designation, a permit is still required for the act of mineral extraction.

Exhibit B includes proposed amendments to Policy 8K-2 that clarify that maintenance and upgrade of public roads take place before approving mineral extraction. This would ensure that any necessary maintenance or upgrades are in direct relationship to an impact from a specific mineral extraction permit. This policy also clarifies that all traffic, not just truck traffic, on county roads is addressed in a fair and equitable fashion.

12. GMA Planning Goal #11: Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts

Exhibit B proposes amendments to Policy 8Q-4 altering the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

13. Whatcom County’s County-Wide Planning Policy A-3 states: Policy 7D-7: Citizens shall be notified in a timely manner of opportunities to have input and key decision points in the planning process. This should include actions such as use of telephone hotlines, notification to interest groups, pre-development meetings, early incorporation of public comments and broader notification of property owners and residents during a planning process as well as working more extensively with community and neighborhood groups. The cities shall also develop a public participation process to solicit and incorporate comments from residents outside city limits but within proposed Urban Growth Areas

Exhibit B proposes amendments to Policy 8Q-4 altering the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.
14. There are no interlocal agreements affecting the proposed amendments.

15. Whatcom County Comprehensive Plan contains goals and policies that are applicable to the proposal.

16. Proposed Policy 8K-2: Consider the maintenance and upgrade of public roads before approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

The underline represents changed conditions from the present policy. Within the past few years, applications for MRL designation have resulted in a public process where citizens have requested that impacts from mineral extraction be considered as part of MRL designation. Proponents of MRL designation note that the purpose of designation is to protect the resource from incompatible uses, and that designation is not a right-to-mine. Twice since 2006, a Comprehensive Plan map and zoning map amendment application for the expansion of a MRL designation has reached the County Council, and both times the amendment was not approved by Council. Consideration of maintenance and upgrade of public roads may not be possible without a mineral extraction plan, which is not presently required as part of the MRL designation process. Mineral extraction permits are presently reviewed by Public Works – Engineering for potential impacts to public roads, and necessary maintenance and upgrading of the roads may be required for approval.

Exhibit B proposes amendments altering the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the SEPA process, impacts to public roads are considered through Checklist Item #14 – Transportation as part of the permitting process. Exhibit B proposes that all traffic, not just truck traffic, on county roads be addressed in a fair and equitable fashion.

17. Proposed Policy 8K-8: Expansion of MRL designations to parcels contiguous to, and in common ownership with, an existing mine, may require that the existing mine is in compliance with all operating permits and regulations.

In December 2010, Whatcom County PDS received an application for a Comprehensive Plan map and zoning map amendment to expand an existing MRL designation. The mine associated with the MRL designation has received stop work orders and been assessed penalties as part of a notice of violation. The operation within this MRL is now going through receivership. No work has been done on the Comprehensive Plan MRL expansion amendment for over 2 years, and there is presently no mining activity occurring. The proposed policy in Exhibit B attempts to clarify that non-compliance by a mineral extraction operator would not impact the ability of
another landowner to expand an MRL designation.

18. Proposed Policy 8Q-4: Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:

(1) On-site environmental review, with county as lead agency, and
(2) application of appropriate site specific conditions, and
(3) notification to neighboring property owners within 1,000 feet to insure opportunity for written and oral input and/or appeal, and
(4) access to de novo review by the Hearing Examiner if administrative approval is denied or appealed.

The underlines and strikethroughs represent changed conditions from the present policy. The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Criterion #4 of Policy 8Q-4 would be unnecessary through the conditional use process, since conditional use approval is made by the Hearing Examiner. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. However, it is worth noting that, according to former PDS geologist, Doug Goldthorp:

"Since the inception of the surface mining administrative approval use permit requirement in 1997, 24 surface mining administrative approval use applications (ADMs), and the 3 amendment applications to those ADMs have been conditionally approved. There was either a DNS, MDNS, and one DS SEPA determination in each case. Of the 27 combined ADMs, ADM amendments and associated SEPA determinations, 3 appeals (11%) have been filed and adjudicated by the WC Hearing Examiner. In all 3 cases, the Hearing Examiner has upheld the staff determination. In a few cases, the Hearing Examiner determination has been upheld by the WC Council, and in one case, upheld by the WA Superior Court."

This information indicates that, while the sample size is relatively small, the Technical Administrator’s determinations have been upheld as appropriate, when challenged. However, the purpose of the amendment is to ensure a public process that is presently absent, and this amendment would provide an avenue for a public process.

19. There is no anticipated effect upon the rate or distribution of population growth, employment growth or development of land as envisioned in the
Comprehensive Plan, as a result of the proposed Comprehensive Plan amendments under Exhibit B.

20. Staff does not anticipate Exhibit B will affect the ability of the County or other service providers to provide adequate services and public facilities.

21. Staff does not anticipate Exhibit B will impact designated agricultural, forest or mineral resource lands.

22. Goal 2G: Encourage citizen participation in the decision-making process

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

23. Policy 2D-3: Streamline development regulations to eliminate unnecessary time delays.

Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. By changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

24. Policy 7D-7: Streamline and coordinate the permit process and sustain a supportive customer service approach towards permitting.

Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. By changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

25. Policy 8K-1: Avoid significant mineral extraction impacts on adjacent or nearby land uses, public health and safety, or natural resources.
The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

26. Policy 8N-2: Allow rock crushing, washing and sorting in the forest zones when appropriate as long as conflicts with other land uses can be mitigated.

Rock crushing, washing and sorting are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

27. Policy 8N-3: Allow commercial surface mining operations in the forest zones when appropriate as long as conflicts with other land use zones can be mitigated.

Commercial surface mining operations are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.
28. Goal 10J: Minimize conflicts between different land uses.

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

29. Policy 11B-5: Process the environmental review of building and development applications within an established time-frame that is predictable and expeditious.

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Whatcom County Code (WCC) 2.33 – Permit Review Procedures states that unless otherwise exempted in WCC 2.33.020 or 2.33.090(C), the county shall issue a notice of final decision on an administrative approval use or conditional use within 90 days of the date of completeness if the project is exempt from SEPA review. If the project is subject to SEPA review, the county shall issue a notice of final decision within 120 days.

30. The Washington State Department of Natural Resources completed a study entitled Reconnaissance Investigation of Sand, Gravel, and Quarried Bedrock Resources in the Bellingham 1:100,000 Quadrangle, Washington (Jan. 2001). This study indicates that the working lifetime of most of the significant pits in the county is 10 to 20 years (p. 5).

31. The Whatcom County Surface Mining Advisory Committee Final Report and Recommendations (October 20, 2004) states:

... Theoretically, there is enough total supply in existing MRLs to satisfy demand over the first 20 years of the planning period. However, there is an imbalance in the demand and supply of sand and gravel. There is a greater need for gravel resources than sand and, as we approach the end of the 20-year planning period, we can anticipate
a shortage of gravel. Additionally, shortly after the 20-year planning period, we will run out of sand and gravel resources if existing MRLs are not expanded. . . (p. 7).

V. PROPOSED CONCLUSION

The subject Comprehensive Plan amendments are consistent with the approval criteria of WCC 2.160.080. The subject zoning text amendments were processed in accordance with WCC 20.90.050.

VI. RECOMMENDATION

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends approval of the proposed amendments as shown in Exhibit B. The Whatcom County Planning Commission also strongly recommends that Whatcom County take a lead role in designating mineral resource lands of long-term commercial significance in order to protect the resource from incompatible uses, as opposed to the present process of landowner initiated amendments.

WHATCOM COUNTY PLANNING COMMISSION

Mary Beth Teigrob, Vice - Chair

Becky Boxx, Secretary

Date 10/29/14

Commissioners present at the October 23, 2014 meeting when the vote was taken: Gary Honcoop, Ben Elenbaas, Mary Beth Teigrob, Natalie McClendon, Ken Bell.

Vote: Ayes: 5, Nays: 0, Abstain: 0, Absent: 0. Motion carried to recommend approval of Exhibit B.
Regular Meeting

Call To Order: The meeting was called to order, by Whatcom County Planning Commission Chair, David Onkels, in the Northwest Annex Conference Room at 6:30 p.m.

Roll Call
Present: Ben Elenbaas, Jerry Vekved, Gary Honcoop, David Onkels, Mary Beth Teigrob, Ken Bell, Natalie McClendon, David Hunter
Absent: Walter Haugen

Staff Present: Sam Ryan, Erin Osborn, Joshua Fleischmann, Becky Boxx

Department Update
Sam updated the on the following:
- Upcoming commission schedule.
- PDS updates.

Open Session for Public Comment
Clayton Petree, Whatcom County: Stated he was at the Growth Management Coordinating Council meeting earlier in the week. The presentation given addressed the new white paper that is going to be released soon by PDS. Part of the paper addresses growth management tools. He felt the commission would be interested in the rural protection measures. The paper discusses decreased rural densities, rural lot consolidation, a Transfer of Development Rights (TDR) update, Purchase of Development Rights (PDR), rezone of the rural study areas, require agriculture (ag) as a primary use on ag land, ag mitigation, clustering, lot reconfiguration changes, potential permit metering, moratoriums and well limitations. The council mentioned rezoning of 6,000 acres to rural zoning, adding 900 acres to ag and subtracted 3,000 potential units. The rezone rural study areas to ag is a big deal because if you look at the study done there was a lot of acreage involved. A lot of farmers are farming on rural land rather than ag because it is more affordable and easier to finance. Requiring ag as a primary use in the ag zone changes whether or not a farmer can live on his own farm. It seems weird that a farmer can’t live on his farm. There was discussion of ag mitigation which is nebulous now but should be watched at it evolves.

Commissioner Comments
Commissioner Elenbaas stated he spent some time in Okanogan and Douglas Counties last week and met an Okanogan County Planning Commissioner. They recently reviewed their wedding and special events ordinances.

Commissioner Bell let Sam Ryan know what a great staff she has.

Approval of Minutes
July 24, 2014: Commissioner Teigrob moved to approve as written. The motion failed for lack of a second. Commissioner Bell stated he wanted the minutes, regarding attendance at the meetings, to be rewritten to better reflect the discussion.
August 14, 2014: Commissioner Honcoop changed page 7, lines 13-14 to read: Vote on the motion to table the proposal until it addresses the 10 percent worst offenders, not the 90 percent best. The motion carried 8-0-1. Commissioner Bell moved to approve as amended. Commissioner McClendon seconded. The motion carried.

File #PLN2014-00016: An amendment to the Official Whatcom County Zoning Ordinance (Title 20), to add new specific provisions for permanent and temporary commercial "event type" uses on private property, such as weddings, receptions, recitals, business or social retreats, fund raisers, wine/food tasting, art exhibits, and festivals. New language is added to WCC 20.80 – Supplemental Requirements to provide for temporary event or permanent event facility parking requirements; new definitions associated with "Temporary Event Facility" and "Permanent Event Facility" are proposed in WCC 20.97 – Definitions. Minor changes to Chapter 20.36 – Rural District and Chapter 20.42 – Rural Forestry District are proposed to clarify intent in regards to occupancy of a recreational vehicle during a "temporary special event or occasion"; and amendments to WCC 20.84.235 to update new procedures, and establish provisions for administrative approval use permit extensions, renewal, and expiration.

Erin Osborn gave an overview of the process to date. The proposal is to amend the text of the zoning code to create new provisions to provide a permit path to obtain approval for commercial event and assembly type uses on private property in the Residential/Rural, Rural/Residential Island, Rural, Agricultural and Rural Forestry districts. These types of uses have typically been permitted as a cottage industry or part of a bed and breakfast operation under the conditional use permit path. The uses typically approved are weddings, receptions, fund raisers, social/business retreats, wine/food tasting, art exhibits, farm/forestry festivals, etc. People don’t think of the cottage industry path when they want to have an event. The process is not very transparent.

Staff has presented two versions. Exhibit C is the more streamlined version. Exhibit F is the more prescriptive version. Exhibit D is the definitions. Exhibit E outlines Rural Forestry and Rural district code. Staff is recommending amendments to provide clarity; amend the administrative approval procedures and add provisions to renew a permit, extend a permit and permit expiration.

Staff stated that zoning text amendments process requires environmental review under the State Environmental Policy Act (SEPA) which has been done. It, and also, requires a review and analysis for consistency with the Whatcom County Comprehensive Plan goals and policies. This has also been done and addressed in the staff report. The goals support this type of permit path and uses.

There are two uses being proposed. One is a temporary event facility. The other is a permanent event facility. The differences are the temporary one is renewable on an annual basis, subject to review, public comment, public review and conditions. The permanent facility is permitted through the conditional use permit process which is heard and approved by the Hearing Examiner. Regarding the permanent facility there is a requirement that the owner of the property live on site. The streamlined version of the proposal states the applicant must outline the type of use they want and number of events. The more prescriptive version states the applicant must submit a proposal that
outlines the traffic, buildings, sanitation, etc. Exhibit F limits the temporary events event
facility events to 250 people and 5 times per year and when camping is proposed requires
it to be established on a minimum parcel size of 10 gross acres. Camping would then be
allowed with 7 campsites allowed per acre. Both processes require a pre-application
meeting. This is very important because there are so many things the applicant may not
think of. The noise provisions have been removed from the current versions. This
Provisions for noise are is addressed in other areas of the zoning code and the state code.

Regarding exemptions, through conversations and input from the public, staff found
exemption Exhibit C and Exhibit F. A exemptions, which stated: Private gatherings held at
federal, state, or county parks, or on the grounds of legally established commercial or
civic facilities did not address things such as garage sales which do not apply to the
proposed code needed further clarification. Staff handed out a draft Exhibit C-1 and draft
Exhibit F-2 with modifications to the exemption language to clarify when private or public
gatherings would be exempt.

The hearing was opened to the public.

Clayton Petree, Whatcom County: Read from the rural lands findings: "The legislature
finds that to retain and enhance the job base in rural areas rural counties must have
flexibility to create opportunities for business development. Further the legislature finds
that rural counties must have the flexibility to retain existing businesses and allow them
to expand. The legislature recognizes that not all business development in rural an urban
level of service and that many businesses in rural areas fit within the definition of rural
character." This is part of how you identify your rural character and what type of
businesses you can have. The proposals are pretty restrictive. Unless the county is able to
fund some sort of enforcement there will be problems. The county is not able to enforce
the rules they have now so it does not make sense to add more rules. One of the most
restrictive requirements is the provisions of owner/operator living on the site. It will be
very harmful to eco-tourism and lower the well-being of Whatcom County citizens. For
example, a growing eco-tourism industry is the farm to table events. It is often done on a
farm setting and if successful would likely be in a permanent facility. These events are a
good thing. Why would the county restrict this kind of event? Nothing should be adopted
that requires the owner/operator to live on the parcel. For larger events, with an
unpredictable number of attendees on parking space per three attendees is not only
difficult to predict but it is difficult to accommodate. Some events have people stay the
entire time while other events have people coming and going. A suggestion would be to
exempt any single day events from all of this. Vacation rental units should also be looked
at separately. Much more work needs to be done on the proposals. Talk with the Chamber
of Commerce, Tourism Bureau, realtors, etc. and form a group of stakeholders.

Mike McKenzie, Whatcom County: He has participated in various fundraising efforts on
Lummi Island which were in the form of events on private property. On August 9, 2014 he
and a group of stakeholders staged the Lummi Island Reef Net Festival. This has been
held for numerous years and is one of the largest events on the island. They spend over
$30,000 and meet people from all over the country. The island supports this event 100%.
The group met with the County Sheriff, fire department, Coast Guard, etc. Two weeks
before the event occurred the group received a phone call from the county stating the

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event could not be held because the zoning did not allow it. The concern was the building
event was to take place in was not permitted and over 1,000 people were expected.
He clarified the event was not taking place in the building but outside and they only
expected 600-700 people. They did get 900 people. In his conversations with the county
he could not understand what was going on. What had happened was there had been a
phone call, from a citizen on the island, complaining about the event. This was not a
formal complaint. He asked who it was but was told that information could not be given
out. A few days before the event a neighbor complained about the amount of people
expected. The issues were mitigated and the event was held but he is concerned about
being able to have the event in the future.

Eric Sundstrom, Whatcom County: He is a farmer who owns land next to Bellewood Acres.
They obtained a conditional use permit in 2011 to operate a farm store. It has morphed
into a lot of other things that has nothing to do with the farm. His main concern is the
noise.

Dick Bosch, Whatcom County: He and his wife operate Glen Echo Gardens on the Y Road.
Eight years ago they developed a seven acre botanical garden which is now considered
the most beautiful tourist attraction north of Seattle and known as Whatcom County’s
hidden secret. It was planned for the purpose of tours, family gatherings, music concerts
and church functions. All of the permits were obtained. A kitchen and restrooms were
built. There is potable water. Four years ago they decided to make the site a wedding
venue as well. They were told they needed a conditional use permit so they applied for it
and started the process. Part of the process was letting the neighbors know the intent of
the business. A good number of the neighbors wrote letters of support. A lot of the
neighbors were very unreasonable and started to complain about everything they were
doing, in particular the amplified music. The neighbor is approximately 1,000 feet away
with a solid buffer of trees to soften the sound. They also complained about the light
coming from their greenhouse. They have grown begonias in their greenhouse for the last
20 years. Every year, for about six or seven weeks they need additional light in order to
get them to bloom. One of the staff in the Planning Department really sided with that
neighbor and wrote the most negative staff report to the Hearing Examiner. As a result
they were slaughtered. First of all the amplified sound was completely banned. They chose
to appeal that restriction and got it back for one hour of amplified music per wedding.
That has cost them $10,000. They have lost a considerable amount of business for
weddings. Three or four years ago they had six or seven weddings per summer. This year
they had only one. They were categorized into three different parts of business. Tours, small events and weddings. For small events they are only allowed 20 people in the
garden at a time. Therefore they can’t have a bus come for a tour and luncheon. They
were cut back on the hours of business. They have always been open 10 to 6 Monday
through Saturday. The Hearing Examiner cut that back to 10 to 5. This is blatant
discrimination. There is not a single botanical garden, public park or ball field in the United
States with such restrictions. They are also restricted in their religious functions by being
banned from speaking with amplified sound. They have many church functions in the
gardens with elderly people many of who have hearing disabilities. Back to back events
are not allowed. The conditional use permit allows them to expand three more acres of
garden but they are not allowed to employ more than four people. This whole picture is
designed to destroy a most beautiful endeavor. He invited the commission to a free tour of his property.

Pat Hammell, Whatcom County: Both of the proposals sound terribly restrictive. Do these add rules because a few people violated the rules that are already in place? She asked if she had a garage sale, with up to 400 people, on her 20 acre property, does she have to get a permit? (Ms. Osborn asked Ms. Hammell a number of questions including, how often does she have these garage sales, and after considering Ms. Hammell’s response she stated no. That that garage sales would be considered an Accessory use, as it is a use customarily incidental to the residences/residential use of the property.)

Jeremy Spidle, Whatcom County: He has been involved in promoting outdoor music events in the county for 10 years. In the past those uses have been allowed. In the last couple of years the tolerance for these events has really diminished. Do we want to stifle the growth of tourism here? There are too many restrictions. We need to look in the other direction of how to expand outdoor gatherings and attract tourism.

Ms. Osborn clarified that there are other specific provisions in the zoning code that provide an approval process for outdoor music festivals, and she pointed to a large map on the wall, prepared by PDS GIS staff, to show where such uses could be permitted in the Rural District on 10 acre parcels in the R10A zone as a conditional use permit. She passed around a map and the specific code and conditional use permit approval criteria that would apply to gain approval of outdoor music festivals. Staff noted that these uses may also need to be revisited along with WCC 5.40, because WCC 5.40 also has provisions that apply to music festivals, but is silent on the authority of Title 20 as it applies to land use, and so project proponents often don’t understand that if the use is not allowed per zoning, then WCC 5.40 is not going to apply.

Simi Jain, Whatcom County: Representing Triple L, LLC and Linda Haines. They own property at 5129 and 5165 Sand Road. Her client would like to hold medieval pursuit events on their property. They have had these events the last several years but were contacted by the county and told they could no longer have them. Her clients were specifically informed that her client’s medieval pursuit events would not qualify under the cottage industry criteria. There are no provisions currently in the code that would allow these events. The county should specifically allow for these events in the zoning code. It is not necessary to create an entirely new regime to do this. There does not seem to be a lot of difference between the two proposals. Is it necessary to have a permanent and temporary use? Regarding temporary camping her client would like to commission to consider it being exempt, under the Critical Areas Ordinance, as a passive recreational use that is allowed. There is a provision that allows the county to deny almost any application if the applicant continues to create any adverse effects. The criteria is pretty vague. Any event will have noise, traffic, glare, etc. Perhaps qualify it as significant adverse effects.

Gradon Barstad, Whatcom County: Owns Good Times for Good People Productions. He has hosted a music festival titled Worthystoffest for the six years. Before this year’s festival they got a call regarding a permit which they knew nothing about. They have never needed a permit before. They were then shut down. They had already spent money and time on the
event which is now wasted. He wants to work with the county but they need to have their voices heard. They plan to rally all those who may be affected by this issue.

Derek Gavette, Whatcom County: One of the owners of Stoney Ridge Farm. He stated he was very confused by the rules. Do they apply to him? They sell apples and pumpkins on their farm about one month out of the year. They never know how many people they will get. The fees for the permitting process seem to be pretty astounding. Is the county going to help him get the permit at their expense or does he have to hire an attorney to try to get through the process?

Tim Herron, Whatcom County: There are times the events he organizes have music involved. What has not been discussed is the art vendors, the miscellaneous inventors, food vendors, educational setups, demonstrations, etc. What draws the line between what is a music festival and what is not? The goal of their events are to get exposure for the artists. Limiting the number of attendees to 250 is very restrictive. The events aren’t about making money, it’s about the exposure. One way to find venues is to simply drive through the rural areas to find good spots and do an impact analysis to make sure it’s possible. This proposal discourages bringing arts to the community.

Anitra Aceturo, Whatcom County: Noted the staff is trying to balance the county comprehensive plan goals, rural and agricultural land protection, private property rights, business opportunities and public safety. That is getting lost in the discussion. It is not about wanting to restrict business opportunities or expression. The restrictive elements can be both a blessing and a curse. She is wanting to start some sort of events center and the rules give her some security knowing that the investment she is making is not going to be shut down. The tricky part is not making it too restrictive. She questioned where the proposal of 7 campsites per acre came from and why the requirement for the property owner/operator. She understands neighbors concern regarding noise, etc. and it should be clear they receive notification of what is going on.

Elizabeth Gavette, Whatcom County: She was interested in the long term effects of the proposal. She and her family operate Stoney Ridge Farm. It seems the way the proposal is currently written it is not clear if the use permit will be transferred when she takes ownership. There is no stability. She does not see the financial aspect of the proposal working out for her.

Mike Boxx, Whatcom County: Has a berry farm in the area. The special events on the farms have evolved over time. They try to do what makes them some money. In the last three years he has worked with staff to get a conditional use permit for his farm to hold weddings. They already have a u-pick business so they have a lot of traffic going in and out of their farm all summer. They are set up for parking, dust, signage, etc. The largest issue he faced was the requirement that he could not have amplified music. He has 100 acres with 16 adjacent property owners. At the weddings held on the property there have usually been about 200 people and they all want to have a band. He is allowed 12 events per summer and only 3 per month. However, he does not have that many because with no amplified music no one wants to have an event there. Farm noise during the day time no one pays attention to but music at night travels far and annoys people. Regarding the farming businesses, such as Bellewood Acres, he understands the neighbors’ concerns.
regarding noise. He understands the parking concerns because of emergency/aid issues that may arise.

Staff clarification: Mr. Boxx’s conditional use permit application narrative (CUP2011-00007) contains a specific request for approval to hold 12 wedding events per year. Conditions of approval allow amplified music, voice, and instrumentation for a period of one hour during the wedding ceremony.

The hearing was closed to the public.

Commissioner Honcoop stated he was surprised this issue was back on the agenda because he thought it was made clear at the previous meeting that the commission wanted this tabled until the proposal addressed the 10 percent worst offenders, not the 90 percent best. It was stated at the meeting the focus should be on the bigger events. What they got back was two more proposals with only the sound issue removed. There is no clarity of the impact this will have to the public. Regarding parking it makes no sense. What is classified as an event? What about farm to market sales? When does that become an event? There is no clarity. Does someone selling Christmas trees need to get a permit?

Ms. Osborn clarified that farm to market and Christmas tree sales are allowed as an accessory use to the property and have nothing to do with the proposal.

Commissioner Honcoop stated there is no clear division.

Ms. Osborn pointed out provisions in the code that address the issue.

Commissioner Bell found it very concerning that events that were already planned were shut down. Because the county did not have its act together they stopped others acts. That is troubling. If we don’t have regulations why are we stopping these things? We need to develop rules before stopping them. Especially those events that have taken place over the last several years and have not affected anyone. He does not see the distinction between commercial and non-commercial events. An impact is an impact. Also it makes no difference who owns or is living on the property. It does not have an impact. What matters is what happens on the day of the event, not who owns it or is making money on it. None of that is relevant yet it is still in the proposal, which is troubling. Acreage size has no relevance to the impact of the event. What is relevant is noise. He is troubled that the Hearing Examiner can tell private business what the hours of operation will be. He thinks they are starting to see a backlash of the restrictions by the Hearing Examiner and
the county. Why the limitation on the number of events? If there is no impact there
should not be a limit. Let's address what the problems really are.

Commissioner Hunter is troubled by the Planning Commission knee-jerk reaction. What
the commission was told was the same rules are going to apply that already apply. The
function of the proposal is to try and create some clarity. Whether or not that has been
successful is a different question. What happened to the people in the county is not
because of the current regulations. It happened in a system which seems to have too
much whimsy and the ability to react to one complainer. It seems a system of regulations
could be set up to prevent that from happening again. One of the possible benefits of the
proposal is predictability. Once they have gone through the process no one can complain
when the event takes place. He stated it is not clear why some events, which have taken
place in the past, were shut down this time. Maybe people raised questions that hadn't
been raised before and the Planning Department wasn't ready to deal with it. This won't
happen if the regulations are clear. He gets the sense that members of the public would
like that clarity. He has some concern about this creating more problems in enforcement
but there still needs to be clarity. He is curious why the permits don’t go with the land
rather that with the person, so if the land remains unchanged the permit continues. He
would like to know the reasoning for this. He does see a benefit to the regulations even
though they need more clarity. He is inclined to approval of Exhibit F with some changes.

Commissioner Elenbaas stated that to a lawyer or planner the regulations may make
sense but they don’t to him. He was taught that in America there is private property. He is
realizing that isn’t really true. He is baffled by the proposal. All of the different proposals
seem like false choices with a pre-determined middle ground. He does hear people asking
for a clear pathway but this does not seem clear. Anything to do with agriculture should
be taken out. Accessory uses to agriculture are stated as any use on the farm which are
ancillary to the normal primary permitted uses. It seems like it is already covered under
the code. He has a hard time planning away what his neighbor should have a right to do
on their private property.

Commissioner McClendon asked staff some clarifying questions. Were the people shut
down because they did not get the needed permits?

Ms. Osborn stated the event that got shut down on Sand Road, the medieval event, was
because they were about to do a music festival with camping. All land use in the county is
regulated. If it is not a permitted use or an accessory use or cannot be inferred to be
an accessory use, and it is not provided for as an administrative approval use or a
conditional use to the property then all other uses are prohibited. That is why the
proposal specifically includes the rural, agricultural, etc. zones so they aren't left with
uncertainty to what the rules are. The proposal might not be the best one since all fix all
and other jurisdictions have created an agricultural overlay district where they allow in
specific areas agricultural value added uses but it is this would certainly be one step in
the-righta direction forward, but again, zoning can change, zoning regulations have the
means for amendment built right into it. Uses such as U-pick and pumpkin patches and
road side stands are a different kind of use than uses that are public gatherings where the
public congregates, celebrates, educates, in typically large numbers, and where there is
live music.
Commissioner McClendon asked on the issue of amplified sound, the reason she brought it up is because the state law is very restrictive, and she asked if the sound issue is in the state law?

Ms. Osborn said "yes" stated amplified noise has been allowed, but usually only for an hour in most cases. The state law is very restrictive and the Hearing Examiner has to follow that law. It's a tough law to comply with.

Commissioner McClendon stated she had the idea to create thresholds that would trigger needing a permit. They included amplified sound within a certain number of feet of a neighbor's residence; having an event more than three times a year, except for farm value added sales; more than 100 cars in a three hour period and past complaints. This looks at the impacts.

Ms. Osborn stated she drafted an Exhibit "XYZ" to outline Commissioner McClendon's suggestions, and she discussed the options with management Long Range Planning Manager, Mark Personius. He-Ms. Osborn noted she didn't want to speak for Mark because he wasn't in the meeting, that Mark had raised the question of where do the numbers or limits come from? What are the thresholds or triggers?

Ms. Osborn stated, tThis is not a one size fits all thing. Applications are reviewed through a process, and public input is considered. And Exhibit C allows a process for this application proposal to be reviewed. Going through the administrative review or to the Hearing Examiner may not be transparent enough. Exhibit C puts the use reviews all the various impacts and applies conditions for approval. Management In short I was told told her to stick with the proposal as modified in Exhibit C and Exhibit F and to only modify it so the exemptions were clearer.

Commissioner McClendon stated-stated what she is looking for is a reason that doesn't include "because "I said so" or "we have never done it before," or that's how we've always done it".

Commissioner Onkels stated it doesn't seem like they have successfully escaped the one complaining neighbor problem. He doesn't know how to do that. The threshold should be higher.

Sam Ryan stated it's usually not just one person calling--Lummi Island is one of the worst examples of-a lot of somebody calling, then somebody else people calling. Often times one county agency says the event can be held and another county agency says no. People start complaining, the Sheriff gets involved. The fear mongering can grow until it gets out of control. And then by the time PDS gets it we are looking at the regulations, there is a realization that we don't have a means to deal with this. So, that's really what we are here about, is trying to find some means to provide a clear path way. Looking at the regulations there is no way to deal with what is going on which is why staff is here.

Commissioner Onkels asked Mr. Boxx how expensive the permitting process was for him.
Mr. Boxx stated he hired a consultant. The process took about three years and cost about $15,000. After a revision, and an extension, he clarified that parking was allowed on grass in his field.

Commissioner Onkels asked where the provision of three events per month came from.

Mr. Boxx stated he did not know.

Commissioner Onkels asked if that amount seemed arbitrary.

Mr. Boxx stated it did not seem to make sense. There were several people at his hearing that complained about the noise issue. Those people would have no idea if they were holding weddings or doing u-pick because they have cars coming and going all day long. The extra impact from a wedding they would never know about. He does understand the noise concerns.

Commissioner Onkels stated perhaps large events should not be held in rural areas.

Mr. Boxx stated maybe if the neighbors knew it was going to be only an occasional event they would be more accepting.

Commissioner Onkels asked Mr. Boxx if he had considered a building to reduce the noise impact.

Mr. Boxx stated he is prohibited by the Hearing Examiner from doing that now. He may be able to at some point in the future but he can’t justify it. Also when doing a commercial building there are fire flow issues which can be very expensive.

Staff clarification of the record: Mr. Boxx has approval under CUP2011-00007 to construct a Phase 2 permanent structure as part of his cottage industry.

Commissioner Bell stated he was floored by the revelation that that the code states a use is prohibited if it is not specifically specified. This means that any new idea that someone comes up with is automatically prohibited. He has a problem with the reasons for shutting something down. He understands it’s not always just one complaint. With the windmill and slaughterhouse ordinances they have been regulated to the point where there will be none of those applied for. We can shut down whatever industry we are trying to help. Our goal is to allow these things because they are a benefit to the county. He keeps hearing these regulations are overkill. Part of the commission’s job is to let staff know they are in a bubble. They keep getting the same thing from staff. He does not support the proposal.

The public wants predictability. He likes Commissioner McClendon’s ideas of setting thresholds. 3 years and 15K should never happen if you want to do business in this county, and I think that is one of the biggest complaints I have about the process.

Commissioner Hunter stated setting thresholds is the whole problem. Where do they come from? If you don’t like arbitrariness then you can’t set thresholds. He stated he is tired of hearing about American exceptionalism. There are rules regarding what he can say and
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how he manages his property which may impact other people. We can’t imagine that we get to do whatever we want no matter how it affects other people. So that’s why we have rules. The rules of the proposal might not be as easy to understand as they might be but with some changes the public will feel safe. The only significance about the complaints are that a system was set up and the rules weren’t followed. There is no reason for the system to be complaint driven. Complaints should be thrown out the window, and should not be part of the permitting process. Have they followed the rules? That is what is important. Complaints are valid when the event is approved for 500 but the permittee holds an event that serves 5000. There is no reason for our regulatory system to be complaint driven. Commissioner Hunter indicated support for Exhibit “C” with some changes. We need to figure out a way in “C” so that there is a way to figure which events get to be approved. Why is the commission even discussing amplified music? That is a state law that staff has been taken out of the proposal. He sees a reason for attaching the permit to the property, being inclusive about the types kinds of programs that can be run under this system so that people aren’t arbitrarily left out of it and complaints need be taken out of the system entirely. With that done he would be comfortable voting for Exhibit C, and would be happy to talk to the County Council about it.

Commissioner Vekved stated what a commercial enterprise is is not well defined. Perhaps a code definition would be helpful. Regarding stating the number of events a person can have, how enforceable is that? Who is out there to check other than the neighbors? When limiting the number of cars, campsites, etc. the site needs to be taken into consideration and how it would affect others. In Exhibit F reasonable conditions are not defined. There is a lot of risk with that.

Commissioner Onkels stated that in Exhibit C adverse impacts is not well defined. The problem with these events is that they have the potential to become nuisances. The problem is that the Hearing Examiner is sort of incentivized to impose such onerous conditions that the business evaporates. He does not know a way around that.

Ms. Ryan suggested the commission form a subcommittee or appoint a member to work with staff to work through the issues. She asked what the statement “Table the proposal until it addresses the 10 percent worst offenders, not the 90 percent best.” meant.

Commissioner Elenbaas stated it means the commission is not comfortable making a proposal that will make their neighbors criminals. What they have asked for, at all three meetings, were stakeholders to be involved in the decision making in order to come up with something that will work. None of them have all the answers. It is not something that should be rushed through.

Commissioner Honcoop stated the priorities need to be identified instead of throwing everything together. Start with the definitions. The 10 percent means the biggest offenders. Deal with them. Maybe the commissioners can bring their thoughts and ideas back to a future work session. Going through the conditional use process is expensive and extremely unpredictable and in the end most likely won’t be financially viable.

Commissioner Teigrob moved to send the proposal back to staff for another proposal. Commissioner Bell seconded.
Commissioner Honcoop proposed an amendment to the motion to compile staff recommendations and commission recommendations and hold a work session at a later date. The vote on the amendment carried.

The vote on the main motion, as amended, carried 8-0-1.

File #PLN2013-00008: A proposed amendment to the Official Whatcom County Zoning Ordinance (Title 20) and the Whatcom County Comprehensive Plan regarding surface mining permitting processes and mineral resource land (MRL) designation criteria and processes.

Joshua Fleischmann presented the staff report and exhibits. Exhibit A is the proposal as submitted by councilmembers Barbara Brenner and Carl Weimer. Exhibit B is the Surface Mining Advisory Committee (SMAC) recommendation. Commissioner Bell asked if Exhibit A was written by Brenner and Weimer.

Mr. Fleischmann stated yes and no. The language was drafted by them then staff corrected any inconsistencies.

Commissioner Honcoop asked why this issue is being brought forward to the commission.

Mr. Fleischmann stated the council members did not state what prompted it, but his assumption is that recent MRL projects and proposals prompted the application.

Mr. Fleischmann continued the presentation by stating the proposal addresses three major topics. One is surface mining permitting, one is the designation process and the other is the designation criteria. When it comes to surface mining permitting both Exhibits A and B propose changing the permitting process from administrative approval to a conditional use permit. Exhibit A proposes expanding the distance from rural or residential districts, where a proposed conditional use permit would be required, from 1,000 feet to 2,000 feet when it exists within a Rural or Commercial Forestry zone and is subject to the Forest Practices Act. Exhibit B includes an additional conditional use approval criteria requirement that if the proposed surface mining activity is phased and within one of the forestry zones that prior to moving into the next phase of mineral extraction any reclamation criteria is identified by the Department of Natural Resources reclamation permit.

Commissioner Honcoop asked if that requires them to completely quit mining in an area and reclaim it before they move onto the next area.

Mr. Fleischmann stated the reason the language was crafted this way is so that reclamation does not need to be complete but it has to be shown to be consistent with the reclamation plan.

Commissioner Honcoop stated the most obvious thing to him is in Exhibit A there is a proposed change in distance from rural or residential districts for the rock crushing activities that would require a conditional use permit from 1,000 feet to 2,000 feet. It also
proposes the notification requirements for surface mining be expanded to 2,000 from
external boundaries of the subject property. Not from where the activity is, but from the
external boundaries and requires a conditional use permit for mining and processing
activities within forest resource zones when within 2,000 feet of a rural or residential
district. An example would be the Pole Road area which has active and reclaimed pits. If,
for example, the pit is 1,280 and you add 2,000 feet to each side that is an impact of one
mile. Nobody would be able to mine. Is it correct that the conditional use permit is at the
county level and the mining permits are at the state level?

Mr. Fleischmann referred to a letter that the County Prosecutor sent to him. All surface
mining, that is subject to the Surface Mining Act, or in this case, the Forest Practices Act
is proposed in both Exhibits to go from administrative approval to a conditional use.
When you get into within 2,000 feet of a rural or residential district that is within the
forestry zone. In the Pole Road area it would not be applicable. There are no forestry
zones nearby.

Commissioner Bell moved to only review Exhibit B and only bring in relevant
issues from Exhibit A. Commissioner Teigrob seconded.

Commissioner Vekved stated he was not in favor of the motion.

Commissioner Elenbaas stated he was in favor of the motion.

Commissioner Honcoop stated he would like to look at both exhibits.

The motion failed.

Mr. Fleischmann stated the MRL designation is a comprehensive plan designation the
purpose of which is to designate areas of long term commercial significance with the
concept that it would protect from incompatible uses. An example, commonly cited is if a
development went on top of a valuable resource then the resource would not be
accessible. Unlike agriculture or forestry it is not a renewable resource. The process for
designating MRLs involves certain criteria the land must meet. In 1993 there was a draft
comprehensive plan with the idea of meeting the requirements of the Growth
Management Act. In 1997 the plan was officially adopted with approximately 4,000 acres
identified as mineral resource lands. That number has not significantly changed in the last
17 years. In order to commercially mine it must be located within one of the designated
MRLs. Presently that requires an administrative approval permit. This proposal changes
that to a conditional use permit.

Commissioner Bell asked what needs fixed. Why is this being done?

Mr. Fleischmann stated his assumption was because of a previous proposal to expand a
MRL designation in the South Fork Valley area. The proposal met the required criteria and
approval was recommended by staff. The Planning Commission recommended approval.
The County Council did not approve the proposal. There were a number of people opposed
to it for fear of how it would impact their drinking water, quality of life, etc. People want to
know the impacts prior to designation.
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Commissioner Hunter stated those were the concerns of the public which was probably a misunderstanding. Is it staff’s impression that the council members were expressing some unease about the process?

Mr. Fleischmann stated he thought so. They understand that there are two steps, designation then mining. The proposal is their attempt to address the concerns of the public.

Commissioner Honcoop asked if the difference between Exhibit A and B is related to the designation, not permitting.

Mr. Fleischmann stated yes. There are other differences but the main difference is requiring the environmental analysis at the time of designation.

Commissioner Bell asked if that would be at the company’s expense.

Mr. Fleischmann stated yes.

Commissioner Honcoop stated there is no guarantee they would be able to mine.

Commissioner Bell asked why you would do that. It will shut down the industry.

Mr. Fleischmann stated that concern is expressed in the staff report.

Lesa Starkenburg-Kroonjte stated the commission is speaking as if it’s industry’s responsibility to designate MRLs. That is Whatcom County’s responsibility. In Whatcom County it hasn’t been that way. In the last 17 years very few acres have been added. Those few additions have been because of private applications. If the county is going to make an applicant go through all this work just for a designation it should essentially be a contract permit.

Commissioner McClendon asked for clarification on MRLs. Why is the mineral protection needed? Anyone who owns mineral land won’t be putting a house on it.

Mr. Fleischmann stated that is discussions that will be held with the SMAC. Skagit County has 160,000 designated MRL. Snohomish County has 80,000 designated. Whatcom County has 4,000.

Commissioner Vekved asked when an applicant applies for a MRL designation does it only apply to their land or does it overlap surrounding land.

Mr. Fleishmann stated it would only apply to the applicants’ property.

Commissioner Bell stated is it not the county’s job to protect minerals so there is resources to draw on for future generations? This proposal solidifies that it will be on a case by case basis when a company comes in and proves to the county that they can do it
without an environmental impact and allow them to do what the county should be doing.  
They are deeming where it’s appropriate rather than the county.

Mr. Fleischmann stated the county came up with their acreage in 1997. Snohomish  
County just finished theirs. It was a 12 year process. When they county designated theirs  
they looked at where the DNR permits were in 1993. Other counties have looked at where  
the resources are. We haven’t started that process yet.

Commissioner Elenbaas asked why this is not deemed spot zoning when it is happening on  
a parcel by parcel basis.

Mr. Fleischmann said it does not fit the definition of spot zoning.

Commissioner Honcoop stated the GMA requires the county to designate land. Doesn’t  
that need to be taken into consideration regarding the impacts it could have?

Mr. Fleischmann stated the GMA policy states the county’s will “seek” to designate.

Ms. Starkenburg-Kroonjte stated the GMA states county’s shall classify, designate and  
protect commercially significant resources. It doesn’t say anything about how much it  
should be. County’s should aim for a minimum of 20 years and at least 50 years.  
Whatcom County then placed 50 years as a goal in the Comprehensive Plan. After a study  
was done and it was determined there is a shortage the county then changed the goal to  
state “seek to designate a 50 year supply”. Nowhere in state law does it say 50 years.

Commissioner Teigrob stated she would not be surprised if the county was sued over this  
issue because the county is abdicating their role to protect and designate mineral lands.

Commissioner McClendon asked staff for designation criteria in adjoining counties.

Mr. Fleischmann addressed GMA planning goal #7 which states: “Applications for both  
state and local government permits should be processed in a timely and fair manner to  
ensure predictability”. He questioned whether requiring a large, expensive study to show  
how a site might be mined without any guarantee of designation or ability to mine would  
meet requirement #7 of predictability.

Commissioner Bell asked the advantage of increasing the distance to 2,000 feet, as  
proposed, for rural and residential districts.

Mr. Fleischmann stated the public process gets bigger, which is one of the goals to  
encourage public process. This could be a good or bad thing. More people usually means  
more people that are opposed.

Commissioner Elenbaas stated that GMA also calls for consistency in the code and 1,000 is  
usually what is stated.

Mr. Fleischmann stated this would be the only activity that has 2,000 feet. 1,000 would be  
consistent with most other permits.
Commissioner Honcoop asked what is meant by the proposal to make an "initial determination". Where in the process does that happen? Does there then have to be a final determination? Why the proposal to go from an administrative to conditional use?

Mr. Fleischmann stated that administrative approvals sometimes get appealed.

Ms. Starkenburg-Kroonjte stated the administrative approval process has worked well in the past. What was good about that process is that people had to submit their comments in writing. That is proposed to be changed. The concerns could be addressed rather than going straight to the Hearing Examiner. Because staff has changed there may be a loss of constancy so the Hearing Examiner may be a more constant process. She has nothing bad to say about the administrative approval process. Before GMA it was a conditional use permit. In one instance it failed because there was no previous contact with the concerned citizens.

The commission asked for previous mining studies. Staff will provide the 2003 Geo-Engineer study, the SMAC final report and recommendations from 2004, the Mineral Resource background document from 1994 and examples of how other counties designate MRLs. One of the things the documents show is there is no shortage of resource. The problem is there are competing uses, buffers, critical areas, agriculture, etc. that prevent MRL designation.

Commissioner Honcoop asked for an estimate of current supply.

Mr. Fleischmann stated the county is going through that process right now. A contract, with Element Solutions, should be approved next week.

Commissioner Bell stated he is not a fan of the industry going through the environmental process and the permit at the same time. It is not only redundant but expensive with no guarantee that they will get to mine.

Mr. Fleischmann noted that Exhibit B states if that process is gone through then there is a land disturbance permit on the back side. You can spend the money, do the report, show how you can mine but it will still be a political decision, there is no guarantee.

Commissioner Vekved asked when forecasting estimated quantities is that as designated or as permitted?

Mr. Fleischmann stated the SMAC Final Report and Recommendations, the DNR background information and the Geo-Engineers 2003 study examined sand and gravel, versus bedrock, so it’s not one number. The highest number he has seen is a 35 year supply in designated areas. That report is 11 years old.

Commissioner Hunter asked if there has been a study which provides information about the amount of actual mineable resource. Is there a map as well?
Mr. Fleischmann stated there is. It looks at what is in the ground, not whether it is available or not. It amounts to about one billion cubic yards. Yes. Staff will provide to the commission.

Commissioner Bell moved to table the issue until the public hearing on October 23, 2014. Commissioner Teigrob seconded. The motion carried.

**Other Business**

**Business Rules - Attendance**

Commissioner Bell stated the way the business rules are currently written are fine. The commission is smart enough and there are enough reasonable people on it to determine whether someone is abusing the system. They are a volunteer body and further defining them does no service.

Commissioner Vekved stated business can occur remotely. There are resources available for video conferencing which may work for his issue which has him missing every other meeting. He would like to participate if possible.

Commissioner Bell doesn’t think that is necessary. There are three commissioners from each district so they are well represented.

Commissioner McClendon would like to see Commissioner Vekved participate in that way. This may not be allowed in the by-laws.

Commissioner Hunter stated he had concerns regarding Commissioner Vekved’s absences. It is their duty to come to the meetings, informed, participate in the discussion and vote. He was impressed by Commissioner Vekved’s willingness to participate in the stated fashion. He does not think it’s overkill. The by-laws can be changed to make it possible for him to participate.

Commissioner Vekved stated his situation should be the exception, not the rule which may happen if it’s codified.

Staff will look into the technical and legal aspects of the suggestion.

Commissioner Bell went back to the main issue by stating the attendance rules worked as they should have, the issue was brought to their attention, regarding the absences, they decided as a body is was not an issue.

**Commissioner Bell moved to leave the rules as they are. Commissioner McClendon seconded. The motion carried.**

The meeting was adjourned at 11:17 p.m.

Minutes prepared by B. Boxx.
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WHATCOM COUNTY PLANNING COMMISSION ATTEST:

David Onkels, Chair

Becky Boxx, Secretary
Call To Order: The meeting was called to order, by Whatcom County Planning Commission Vice-Chair, Mary Beth Teigrob, in the Northwest Annex Conference Room at 6:35 p.m.

Roll Call
Present: Ben Elenbaas, Gary Honcoop, Mary Beth Teigrob, Ken Bell, Natalie McClendon
Absent: David Hunter, Gerald Vekved, David Onkels

Staff Present: Mark Personius, Joshua Fleischmann, Becky Boxx

Department Update
Mark updated the commission on the following:
- Upcoming commission schedule.
- Items before the County Council.
- PDS staff updates.
- Conversations between staff and the commission regarding weddings, special events and music events.

Open Session for Public Comment
There was no public comment.

Commissioner Comments
There were no commissioner comments.

Approval of Minutes
July 24, 2014: Commissioner Bell moved to approve as written. Commissioner McClendon seconded. The motion carried.

September 11, 2014: Commissioner Bell moved to approve as written. Commissioner McClendon seconded. The motion carried.

September 25, 2014: Commissioner Elenbaas moved to approve as written. Commissioner McClendon seconded. The motion carried.

File #PLN2013-00008: A proposed amendment to the Official Whatcom County Zoning Ordinance (Title 20) and the Whatcom County Comprehensive Plan regarding surface mining permitting processes and mineral resource land designation criteria and processes.

Joshua Fleischmann presented the staff report. The amendments address three topics. Surface mining permitting, the designation process and designation criteria. Both Exhibits A and B propose changing the permitting process from administrative approval to a conditional use. Exhibit A proposes extending the distance of notification to 2,000 feet.
Regular Meeting

Exhibit B proposes keeping it at 1,000 feet. Exhibit A proposes the SEPA project specific action be reviewed as part of the designation process. Exhibit B does not propose any changes to the present designation process. Regarding the designation criteria both Exhibit A and B propose that expansion of an existing MRL designation will require that existing mines are in full compliance with permits and regulations. Exhibit B clarifies that an expansion area and the existing mine must be in contiguous and common ownership so that one mining operation will not prevent another mining operation from expanding. Exhibit A proposes that site-specific designations shall be only be approved after mineral extraction impacts are anticipated and it also proposes that designations in the forestry zones are limited to 20 acres. Additional areas can be added once previously mined areas are returned to sustainable productive forestry and that the total designated area remains no more than 20 acres.

The hearing was opened to the public.

Meredith Moench, Whatcom County: She supports Exhibit A. She has had experience with the MRL designation applications, the administrative approval permitting applications and hearings before the Hearing Examiner. She owns property on Lummi Island. She has lived there for 11 years and she lives approximately 1,850 feet north of the Lummi Island quarry. Regarding Exhibit A designation criterion #10 for site-specific MRL designations to anticipate and evaluate impacts prior to approval the current process for MRL designations has been fraught with conflict and has been difficult. In her opinion that is because of the use of the phased SEPA process. According to that process, with a so-called non-project application, the SEPA is required but not taken seriously. The only information required at that point is the environmental checklist that the applicant submits. This checklist is filled out by the applicant to the best of their knowledge. This checklist tends to be very incomplete and may include inaccurate information. It is used for a decision on potential impacts for the site. This checklist is entered into the process and a decision is made based on it. Typically a SEPA is a determination of non-significance so based on little or no information it is declared to not have any significant impacts however maybe it does. Her experience with the Lummi Island quarry shows there were significant impacts that were very obvious on the ground and yet they still received the determination of non-significance. There needs to be environmental review upfront that is substantial. This then gets passed down through the process. She supports the conditional use permitting. This is used by Skagit and Snohomish counties. It increases public participation. With the 1,000 feet notification she lives just beyond that so she has not been notified regarding the Lummi Island quarry mining process. There is only a 15 day comment period associated with the process. Legal errors have to be pointed out in the appeal process so it is intimidating to the average citizen and the process is expensive. During the 2007 permitting process she and others did not appeal because of this. Participating in front of the Hearing Examiner provides an opportunity for citizen input and it clearly impartial. The Hearing Examiner has the opportunity to keep the record open to get additional information. This is a much better and fairer process. At her property she hears noise from crushing, excavating, loading, backup alarms, and trucks going by her house. She has dust come onto her property. There is heavy metal residue in this dust. There are also groundwater and visual impacts that extend more than 1,000 feet so extending it to 2,000
feet seems reasonable. It would also help citizens feel more included. Snohomish County
has a 2,000 feet notice requirement.

Leslie Dempsey, Whatcom County: She is a member of the Surface Mining Advisory
Committee (SMAC). She is available for any questions the commissioners may have
regarding the proposal.

The hearing was closed to the public.

Commissioner Honcoop asked Ms. Moench about the 15 day comment period. Is that
related to the MRL designation or the permit to mine?

Ms. Moench stated she was referring to the permitting to mine.

Commissioner Honcoop asked Ms. Moench what process she was referring to regarding
Skagit and Snohomish counties.

Ms. Moench stated she was referring to the use permit process. In 2010 the quarry
applied to expand an additional 27 acres. She does not know anyone who was notified.
They almost missed the comment period.

Commissioner Honcoop stated there seems to be a lot of confusion regarding the
designation and mining. They are two separate issues. What is important to know is that
aggregate is the foundation of every manmade structure. In 2004 Whatcom County
commissioned a study on what the current reserves were at that time. The conclusion was
that there was approximately a 19 year supply of resources in the existing MRLs. It also
stated Whatcom County has 10 years or less of measured permit gravel resources in the
MRLs. We are already starting to feel the shortage of aggregate products. For the
commission it is important when evaluating the two proposals and what is currently in
place that they carefully separate the discussion of designation versus permitting. It is
very clear that since the report written in 2004 very little additional ground has been
designated MRL. His opinion is that the MRL designation is to protect future resources, it’s
not for immediate use. The sooner it gets protected the less conflict there will be. What
the commission needs to encourage is the designation of the MRL lands not discourage it.
The current designations occurred a long time ago. The Comprehensive Plan used to state
there was to be a 50 year supply of aggregate. That is important to be stated. In some
other counties the counties themselves have taken the role of doing the designation. In
Whatcom County the designation occurs when private owners come to the county for a
MRL designation. This is the opposite of what should be happening. He feels that the
designation of MRLs need to be encouraged in any way possible in order to protect the
resource. He has a hard time with some of the requirements in Exhibit A. It seems staff
has some of the same concerns he has. For example on page 9, item 2 of the staff report
some of the items stated have already happened and the environmental impact of
trucking material from Skagit County has a very significant impact and is very inefficient.
Regarding the study done in 2004 some of the sands that were designated in that study
are unavailable. If a proponent has to go through the process outlined in Exhibit A they
are going to mine immediately. There is no other way to recover the money they have put
out. This will raise the price of aggregate. You can’t move the resource but you can have things put on top of it. That is a critical fault in Exhibit A which fails to protect the resource.

Commissioner Bell asked if the county does have a 50 year supply.

Mr. Fleischmann stated no.

Commissioner Bell asked what is broken in the process that has to be fixed.

Carl Weimer (one of the applicants) stated there were concerns from citizens. They find out too late what is going on. In many cases designating land MRL is almost the same as permitting it. Companies don’t go for the designation if they don’t plan on mining. Citizens don’t know this upfront. There is no environmental analysis. Often times these mineral lands are on top of other protected natural resource lands. How can you protect both if the intent is to mine there? The intent is to move some of that impact analysis to earlier in the process so the impacts would be known at the time of designation.

Commissioner Bell asked why the county waits for an applicant to designate MRLs rather than the county protecting the resources.

Mr. Personius showed a map of the MRL resources in the county. Most of those areas are in the agricultural zone. Part of the designation criteria for MRLs is that they cannot be in the agricultural zones. The county made that choice between the competing resources.

There is also a strong desire to maintain forest lands and not convert them to mining. What is left is the rural area. People are living out there so that creates the conflicts. What the other counties did was designate ahead of time, but a lot of what they designated was hard rock which is in the mountainous areas. They went through the same process in the sand and gravel process in the lower lands and they too favored agriculture over mining.

Commissioner Bell stated what that does is tell the current mining operations they have a cash cow because of the limited resources.

Mr. Personius stated that the SMAC, as part of the Comprehensive Plan update, are looking at the designation criteria. There was discussion and preliminary recommendations to state that the 50 year supply is not only not required by GMA it’s only supposed to look 20 years out. The county does have a consultant doing a study on what the supply is.

Commissioner Bell stated the Hearing Examiner is an adversarial environment. What is basically being said is the applicant’s attorney has to be present to fight against the citizen. That is a very unhealthy dynamic. He likes the idea of having an arbitrator of some kind. It makes sense that it would be a planning commission so issues can be worked out.
Regular Meeting

Commissioner McClendon stated it seems to her there is a problem with failure to designate MRLs. Was there any attempt to designate MRLs after the other resource lands were taken out?

Mr. Fleischmann stated that as part of the original designation process the county looked at sites that had existing Department of Natural Resources (DNR) mines. Staff did not know of any other designation attempts.

Commissioner McClendon asked if the study currently being done is to help identify new lands to designate.

Mr. Personius stated the consultants work is to identify the supply not new areas.

Commissioner McClendon stated there needs to be a tradeoff. Lands in other resource status need to be designated MRLs. She asked if the process for permitting was changed from an administrative to conditional use how is a decision made by the Hearing Examiner appealed?

Mr. Fleischmann stated it is appealed to the County Council within 10 days of the decision.

Commissioner Bell asked the appeal process for administrative approval.

Mr. Fleischmann stated it is appealed to the Hearing Examiner then further on if necessary.

Commissioner Honcoop commented on the appeal process history outlined in the staff report. It seems the method used is very good. All administrative approvals that have gone through the appeal process have been upheld. If it isn’t broke don’t fix it. Regarding the white paper put out by the SMAC when you go through the process of a conditional use, as outlined in the rationale, the exact opposite happens of what is being encouraged in the recommendation. With the administrative approval format all of the parties can communicate. When it’s quasi-judicial that can’t happen. Conflicts can be dealt with before the hearing. Before the Hearing Examiner the public can speak but they are limited in time. They can’t have a dialog. The proponent may also bring along professionals that the average citizen doesn’t have access to. This does not encourage participation. He supports the current process of administrative approval.

Mr. Personius added that a third option was discussed with the SMAC. Staff suggested the EIS be done at the time of designation which would then run with subsequent permits. The committee did not recommend this because this is money the applicant has to put out up front with no guarantee of approval of the designation.

Commissioner Teigrob stated that doing it that way seems to be a way to shut down mining. The financial risk is not worth it.

Commissioner Honcoop stated that what is missing in that scenario is that the permit to mine is not just from Whatcom County. There are also permits from the state that are required. If the EIS is done at the time of designation and the rules change by the time
they apply for the permit they will have to go back and readdress those issues. There would be very little flexibility to meet the current requirements.

Commissioner Elenbaas stated requiring an EIS before a land is even designated seems like putting the cart before the horse. For that reason he does not support Exhibit A. It will stop all mining in the county. Designating the area is done through the council which is a political thing. Politics don’t care much about what science says. Designation of MRLs is going to happen based on the political environment. The EIS should be done at the time of permitting.

Commissioner Bell stated that upfront environmental work entrenches the people that are already in the business. They have the ability and the money to spend. It decreases the amount of competition. This is creating monopolies for the gravel industrial for the people that already have it. Huge corporations, which may have different influences, will be the only ones to benefit from that.

**Commissioner Bell moved to recommend approval of Exhibit B. Commissioner Honcoop seconded.**

Commissioner Elenbaas stated he does not like the size limitation, of 20 acres, in Exhibit A. He asked if Exhibit B has any size limitations.

Mr. Fleischmann stated it does not.

Commissioner Elenbaas stated that mining in the agricultural district isn’t always a bad thing for the farmer. Farming flat land is easier, safer and more productive.

Commissioner Honcoop commented on 20.73.153(7). Is a revision to the permit required before moving on to the next mining phase?

Mr. Fleischmann stated he did not know.

Commissioner Honcoop asked if reclamation of a site needs to be complete before moving on to the next phase.

Ms. Dempsey stated it is up to DNR and the specifics of the mine. The initial reclamation permit is approved before mining starts.

Mr. Fleischmann stated reclamation before moving on to the next phase may not always make sense. They just have to be consistent with the reclamation plan. The SMAC approved the language suggested in 20.73.153(7).

Commissioner Elenbaas asked if the comprehensive plan amendments, in Exhibit B, will be reviewed again in the 2016 update.

Mr. Fleischmann stated they will be reviewed in the 2016 update.
Regular Meeting

Commissioner Honcoop asked if the verbiage to have a 50 supply of aggregate is still in the comprehensive plan.

Mr. Fleischmann stated it is in the plan but it now states “seek to designate” a 50 year supply.

Roll call vote on the motion to recommend approval of Exhibit B: Ayes – Bell, Honcoop, Elenbaas, Teigrob; Nays – McClendon; Abstain – 0; Absent – Hunter, Vekved, Onkels. The motion failed.

Commissioner Honcoop moved to table the issue until the next meeting. The motion failed for lack of a second.

Commissioner Bell asked Commissioner McClendon the reason for her vote.

Commissioner McClendon stated she wished to propose something different.

Commissioner McClendon moved to recommend approval of Exhibit A with the addition of 20.73.153(7) from Exhibit B; and a statement that the requirement for the SEPA project specific action requiring an EIS is a stop gap and that the county needs to move directly on directly more MRL land and pays for any environmental assessments upfront. The motion failed for lack of a second.

Commissioner Teigrob agrees that the county has really fallen down on their responsibility to designate MRLs. However, that is not an issue the commission can address at this time. Perhaps a suggestion the council needs to designate MRLs could be part of the findings.

Commissioner Bell stated that the idea of the SEPA and EIS being paid for by the proponent is not abhorrent to him at the time of permit application. He agrees that at some point the county needs to designate MRLs and at that time the county needs to do some type of environmental review. Is it unheard of for the county to do a SEPA on its own project?

Mr. Personius stated that in this instance it would become the county’s action so they would be obligated to do SEPA. It would be a non-project action so the review may not be at the level that the applicants are asking for. However, a lot of the issues may be dealt with upfront so the proponent can then rely on that analysis.

Commissioner Bell stated he liked the idea of recommending Exhibit B with the recommendation to the council to designate MRLs and do the environmental studies.

Commissioner Elenbaas doesn’t have a problem with corporate America paying for their own EIS. He has a hard time asking the county to spend tax dollars on it. An MRL designation is basically changing a color on a map. He doesn’t see that an EIS is necessary when changing a map.
Commissioner McClendon stated the concern she sees is that they want public notice and involvement closer to the front which is why proposal in Exhibit A is to do SEPA at the beginning when the resource land is designated. It is the county’s responsibility to designate and pay for the cost of the EIS up front.

Commissioner Elenbaas agreed but it doesn’t take an EIS to designate the land because no action is taking place on the ground.

Commissioner McClendon stated there should be community input up front when the designation is being made.

Commissioner Bell stated the market will decide things. Gravel will get to be so expensive they will eat up the farm land to mine gravel at some point.

Commissioner Honcoop cited RCW 36.70A.06. It states lands next to MRL shall not interfere with the continued use of the designated MRLs. He does not see that it is practical to do an EIS at the time of designation. There are other requirements that concurrently need to be met related to the DNS and the state agencies. The county is not the entity that is going to mine the gravel so they won’t be in the position to be able to put all the pieces together. He supports the statement that the county needs to designate MRLs.

Mr. Fleischmann reminded the commission that SEPAs don’t expire. If one is done at the designation process and mining doesn’t take place for 75 years, for example, that SEPA is still valid.

Commissioner McClendon responded by saying no mine owner is going to apply for the designation if they don’t intend to mine in the near future. They won’t sit on it for 75 years. That would be a waste of their money.

Commissioner Elenbaas stated that if doing the EIS up front particular elements may be missed that should be addressed.

Commissioner Honcoop stated the most important thing is the GMA requires protection of this resource which is being missed. The longer it takes for that to happen the more loss of the resource is going to happen. He disagreed with the statement that when a SEPA is done it’s good for a long time. When you apply for the SEPA you then have to conform to it, but things change dramatically. Things may not fall under the original SEPA that was done.

Commissioner McClendon stated no new designations have occurred because of public opposition at the end of the process. She doesn’t see doing the SEPA at the beginning of the process as a road block. It’s putting the public on notice at the beginning.

Commissioner Bell stated he would like to see the county go through the MRL designation and making it a public process but not a full blown SEPA. He would like this recommendation sent to the council.
Commissioner Bell moved to recommend approval of Exhibit B and make a recommendation to the council to designate MRLs for a 50 year supply through a public process. Commissioner Honcoop seconded.

Commissioner Elenbaas asked if an EIS is done when the county designates resource lands.

Mr. Personius stated the process would go through a non-project SEPA and if necessary an EIS.

**Roll Call Vote on motion to recommend approval of Exhibit B and make a recommendation to the council to designate MRLs for a 50 year supply through a public process. Ayes – Honcoop, McClendon, Elenbaas, Teigrob, Bell; Nays – 0; Abstain – 0; Absent – Onkels, Hunter, Vekved. The motion carried.**

**Other Business**

Commissioner McClendon asked to have Old Business on the agenda so items don’t get forgotten about. The commission agreed to this.

The meeting was adjourned at 9:00 p.m.

Minutes prepared by B. Boxx.

**WHATCOM COUNTY PLANNING COMMISSION ATTEST:**

Mary Beth Teigrob, Vice-Chair  
Becky Boxx, Secretary
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**

Application to rezone 5 acres from Neighborhood Commercial (NC) to Rural General Commercial (RGC) zoning district.

**ATTACHMENTS:**

1. Staff Memo
2. Proposed Ordinance and Exhibit
3. Staff Report
4. Planning Commission minutes

**SEPA review required?**

| (X) Yes | ( ) No |

**SEPA review completed?**

| (X) Yes | ( ) No |

**Should Clerk schedule a hearing?**

| (X) Yes | ( ) No |

| Requested Date |

1 The Council must hold a hearing if they want to change the Planning Commission’s recommendation (WCC 2.160.100(6)).

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

A proposal to rezone approximately five acres from Neighborhood Commercial (NC) to Rural General Commercial (RGC), located at the northwest corner of Slater and Elder Roads, about five miles west of Interstate 5.

**COMMITTEE ACTION:**

- 10/14/2014: Held in Planning Committee until October 28, withdrawn from Introduction
- 11/12/2014: Discussed in Planning and Development Committee
- 12/9/2014: Approved recommendation to hold open the Public Hearing

**COUNCIL ACTION:**

- 10/14/2014: Withdrawn from introduction and held in Committee until October 28 or a later date
- 10/28/2014: Deferred until 11/12/14 as per Gary Davis, PDS
- 11/12/2014: Introduced 7-0
- 12/9/2014: Public Hearing held open to future date

**Related County Contract #:**

- PLN2014-00008

**Related File Numbers:**

**Ordinance or Resolution Number:**

- Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
MEMORANDUM

TO: Whatcom County Council

THROUGH: Mark Personius, AICP, Long Range Planning Manager

FROM: Gary Davis, AICP, Senior Planner

DATE: October 28, 2014

SUBJECT: PLN2014-00008 Slater Road Rezone

At its October 14, 2014 meeting the Planning and Development Committee voted to hold the Slater Road rezone application in committee until a future meeting when additional information can be presented. This information includes:

- Details about the proposed configuration of the automobile sales use, as described in neighbor Larry Daugert’s July 11, 2014 comment. Mr. Daugert’s questions concerned:
  - Location of new lot lines as a result of a possible boundary line adjustment
  - Location of the used car sales lot on the site
  - Number of cars to be accommodated
  - Location of any wash or repair facilities
  - Location of a potential single family home
- Information on the applicant’s automobile sales license
- Information on what the applicant was told by PDS staff when the auto sales use was first proposed

The applicant, not PDS, is the source for this information and the applicant has submitted materials in response to the committee’s request (see attached). PDS can provide brief preliminary comments on these materials at the November 12 meeting, but cannot conduct a full site plan review on a use that is not currently legal. Staff has made some minor changes to the draft agreement, clarifying permitted uses, and allowing the County to rescind the rezone if the time limits in the agreement are not met (attached).

As the staff report stated, this application is a quasi-judicial matter per the state’s Appearance of Fairness Doctrine. Quasi-judicial actions are defined to be: "...those actions of the legislative body, planning commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case."
to engage in ex parte communication when quasi-judicial matters are pending. An ex parte communication is a one-sided discussion between a decision-maker and the proponent or opponent of a particular proposal which takes place outside of the formal hearing process on a quasi-judicial matter. Any communication between any party and a Council member that may have the appearance of or potential to lead to bias or partiality should be disclosed as soon as possible at the quasi-judicial hearing on the matter.\(^1\)

For further information on this application, please contact Gary Davis, Senior Planner, at extension 50246.

Attachments:

- Applicant's materials
  - Conceptual site plan
  - Letter from Massad Boulos
  - Business licenses
- Revised Draft Concomitant Agreement

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Dear County Council Members:

I have been a business owner in this neighborhood for twelve plus years and am very invested in my businesses and the community in which we reside. I am the owner of Starvin Sams X1X, a convenience store/gas station located on what has become known as “Jordyn’s Corner”.

Because of our store location we are the “last stop” for many of the people residing on Sandy Point, the local reservation and the surrounding communities. We have developed long standing and friendly relationships with our customers. Many we know on a first name basis. We strive to pass on excellent customer service and great value to all of our clients.

Incidental to our convenience store and gas station, I began selling used cars at this site about six years ago. I have never received a complaint from any of our neighbors. Our MB Motors sign has hung here with never an issue or problem until of late.

This zoning issue came as a complete surprise to me. When we moved forward with the startup of the car lot I enlisted the help of a family member to comply with all of the steps necessary. We applied for and obtained a business/dealer license. See attached. My cousin went to the Whatcom County Planning offices and spoke with a county employee at the counter regarding the property on which we planned to open the lot. He was told that the area was zoned commercial and that a car lot didn’t appear to be a problem. Unfortunately, my cousin cannot recall the name of the employee that he spoke with as it was years ago. We then moved forward and opened the car lot believing we had researched and followed all laws governing this type of business.

Upon hearing the devastating news regarding zoning, I immediately started to research what could be done to keep my car business up and running. I even went so far as to look at other locations where we might be able to move the car lot to if need be. The lease payments and sale prices at these locations were extremely high and not a feasible solution as we are a small business. Most of the revenue from our car sales goes to paying the mortgage on the building and property here and helping to cover my $35,000 overhead. The Lummi Nation’s opening of the gas station on Slater Road near the casino has materially affected our convenience store and gas station operations as the Lummi Nation is able to sell gas and other items at a significantly lower price. After reviewing our options, the most feasible solution for keeping my car business open is to have the property “rezoned” to allow for the car lot.

We recently hired an engineering firm to come up newest forth a design for the car lot which will include buffer zones and landscaping improvements that would buffer our neighbor’s view of our property, but Slater road as well. I have spent a lot of money trying to get this rezoning implemented and at the same time keep my neighbors happy. Closing down my car business would be devastating. I have personally, professionally, and financially invested a lot of time and money over the last six years. The closing down of MB Motors LLC would also force me to lay off at least 5 of my 15 employees. These are jobs available to people that live in this rural area, one of the purposes of the rural business zone that we seek for the property. My employees rely on me for a steady paycheck so that they can provide for their families. So, as you can see, there is a huge “trickledown” effect if we were forced to close.

As a business owner and committed citizen of this neighborhood I value what all of my neighbors think and I am very willing to sit down and discuss what I can do to continue my business operations here and at the same time keep my neighbors happy. I welcome any ideas or thoughts from the local community.
The “rezoning” of the property appears to be the best solution. I hope that we can come to a beneficial resolution.

Sincerely,

Massad Boulos
Owner/Operator
Starvin Sams XIX
MB Motors LLC
BUSINESS LICENSE

STATE OF WASHINGTON

Domestic Limited Liability Company

M.B. MOTORS LLC
3310 SLATER RD
FERNADE WA 98248 9011

Unified Business ID #: 602 957 080
Business ID #: 1
Location: 1
Expires: 09-30-2015

TAX REGISTRATION
MOTOR VEHICLE DEALER #1331

REGISTERED TRADE NAMES:
M.B. MOTORS LLC

This document lists the registrations, endorsements, and licenses authorized for the business named above. By accepting this document, the licensee certifies the information on the application was complete, true, and accurate to the best of his or her knowledge, and that business will be conducted in compliance with all applicable Washington state, county, and city regulations.

Director, Department of Revenue.

158
M.B. MOTORS LLC
3310 SLATER RD
FERNDALE WA 98248-9011

BUSINESS LICENSE

Domestic Limited Liability Company

M.B. MOTORS LLC
3310 SLATER RD
FERNDALE WA 98248 9011

TAX REGISTRATION
MOTOR VEHICLE DEALER #1331

REGISTERED TRADE NAMES:
M.B. MOTORS LLC

Unified Business ID #: 602 957 080
Business ID #: 1
Location: 1
Expires: 09-30-2014

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Director, Department of Revenue
M.B. MOTORS LLC
3310 SLATER RD
FERNDALE WA 98248-9011

Domestic Limited Liability Company

M.B. MOTORS LLC
3310 SLATER RD
FERNDALE WA 98248 9011

TAX REGISTRATION
MOTOR VEHICLE DEALER #1331

REGISTERED TRADE NAMES:
M.B. MOTORS LLC

Unified Business ID #: 602 957 080
Business ID #: 1
Location: 1
Expires: 09-30-2013

This document lists the registrations, endorsements, and licenses authorized for the business named above. By accepting this document, the licensee certifies the information on the application was complete, true, and accurate to the best of his or her knowledge, and that business will be conducted in compliance with all applicable Washington state, county, and city regulations.

Brad Florczyk
Director, Department of Revenue
M.B. MOTORS LLC
3310 SLATER RD
FERNDALE WA 98248-9011

BUSINESS LICENSE

Domestic Limited Liability Company

M.B. MOTORS LLC
3310 SLATER RD
FERNDALE WA 98248 9011

TAX REGISTRATION
MOTOR VEHICLE DEALER #1331

REGISTERED TRADE NAMES:
M.B. MOTORS LLC

Unified Business ID #: 602 957 080
Business ID #: 1
Location: 1
Expires: 09-30-2014

This document lists the registrations, endorsements, and licenses authorized for the business named above. By accepting this document, the licensee certifies the information on the application was complete, true, and accurate to the best of his or her knowledge, and that business will be conducted in compliance with all applicable Washington state, county, and city regulations.

Director, Department of Revenue
M.B. MOTORS LLC
3310 SLATER RD
FERNDALE WA 98248-9011

BUSINESS LICENSE

Unified Business ID #: 602 957 080
Business ID #: 1
Location: 1
Expires: 09-30-2012

Domestic Limited Liability Company

M.B. MOTORS LLC
3310 SLATER RD
FERNDALE WA 98248 9011

TAX REGISTRATION
MOTOR VEHICLE DEALER #1331

REGISTERED TRADE NAMES:
M.B. MOTORS LLC

This document lists the registrations, endorsements, and licenses authorized for the business named above. By accepting this document, the licensee certifies the information on the application was complete, true, and accurate to the best of his or her knowledge, and that business will be conducted in compliance with all applicable Washington state, county, and city regulations.

[Signature]
Director, Department of Revenue
M.B. MOTORS LLC
3310 SLATER RD
FERNDALE WA 98248-9011

Domestic Limited Liability Company

Unified Business ID #: 602 957 080
Business ID #: 1
Location: 1
Expires: 09-30-2011

TAX REGISTRATION
MOTOR VEHICLE DEALER #1331

REGISTERED TRADE NAMES:
M.B. MOTORS LLC

The licensee named above has been issued the business registrations or licenses listed. By accepting this document the licensee verifies the information provided on the application for these licenses was complete, true, and accurate to the best of his or her knowledge, and the business will be conducted in compliance with all applicable Washington state, county, city regulations.

[Signature]
Director, Department of Licensing
M.B. MOTORS LLC
3310 SLATER RD
FERNDALE WA 98248-9011

DOMESTIC LIMITED LIABILITY COMPANY

MASTER LICENSE SERVICE
PO Box 9034 • Olympia, WA 98507-9034 • (360) 684-1400

REGISTRATIONS AND LICENSES

Unified Business ID #: 602 957 080
Business ID #: 1
Location: 1
Expires: 12-31-2010

M.B. MOTORS LLC
3310 SLATER RD
FERNDALE WA 98248 9011

TAX REGISTRATION
MOTOR VEHICLE DEALER #1331

REGISTERED TRADE NAMES:
M.B. MOTORS LLC

The licensees named above have been issued the business registrations or licenses listed. By accepting this document the licensee certifies the information provided on the application for these licenses was complete, true, and accurate to the best of his or her knowledge, and the business will be conducted in compliance with all applicable Washington state, county, and city regulations.

Elizabeth A. Luxe
Director, Department of Licensing
DOMESTIC LIMITED LIABILITY COMPANY

M.B. MOTORS LLC
3310 SLATER RD
FERNDALE WA 98248-9011

TAX REGISTRATION

REGISTERED TRADE NAMES:
M.B. MOTORS LLC

Unified Business ID #: 602 957 080
Business ID #: 1
Location: 1

The licensee named above has been issued the business registration of licensees listed. By accepting this document, the licensee certifies the information provided on the application for these licenses was complete, true, and accurate at the time of his or her knowledge, and that business will be conducted in compliance with all applicable Washington state, county, and city regulations.

Elizabeth A. Locke
Deputy, Department of Licensing
AGREEMENT

This agreement (herein "Agreement") is made and entered into this ______ day of _____________, 2014, by and between Larry M. Jordan and SYB Holdings Co., Inc. (herein "Owners") and Whatcom County, a subdivision of the State of Washington (herein “County”).

RECITALS

The Owners are the owners of certain real property (herein the “Property”) which is more particularly described on Exhibit A, attached hereto and incorporated herein, and which is the subject of an application for rezone from Neighborhood Commercial (NC) to Rural General Commercial (RGC) zoning district. The Comprehensive Plan designation for the Property is Rural Business.

A determination of nonsignificance for the rezone proposal was issued by the SEPA Official on May 29, 2014. Notice of the July 10, 2014 public hearing of the Whatcom County Planning Commission was mailed to the Owners and property owners within 1,000 feet of the Property and posted on the Property on June 26, 2014.

On July 10, 2014 the Planning Commission held a public hearing, considered input from the staff, applicant, and neighbors, and made no recommendation. The Whatcom County Council held a second public hearing on October 28 ______________, 2014 and approved the rezone subject to a concomitant agreement.

The County has entered into this agreement with the Owners concurrently with the rezone of the Property to RGC. The purpose of this agreement to limit the permitted uses and to ensure compliance with all applicable development regulations. It is not intended that this Agreement would modify or eliminate other relevant requirements imposed by other applicable ordinance and regulations.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, and in consideration of the rezone of the Property as discussed above, the parties covenant and agree as follows:

I.  Rezone. Concurrently with the approval of this Agreement, the Whatcom County Council shall rezone the Property to RGC, subject to the terms and conditions of this Agreement. Upon approval of the rezone, this agreement shall be recorded as a covenant running with the land.

II. Permitted Uses. Permitted uses on the property shall include all permitted uses in the NC district (WCC 20.60.050), and the following uses: Automobile service stations, Rental storage establishments, Single family residences, and Automobile sales, excluding new buildings. Accessory and
conditional uses listed in WCC 20.60.100 and 20.60.150 are also permitted on an accessory and conditional basis, respectively.

III. Prohibited Uses. Subject to section II above, prohibited uses shall include all permitted uses in the RGC district (WCC 20.59.050) except that the following uses shall be permitted uses:

a. Automobile service stations,

b. Rental storage establishments,

c. Automobile sales, excluding new buildings, and

d. a single family residence (WCC 20.59.055).

IV. Compliance: The use of the property for automobile sales or any use not legally established shall be prohibited until a Pre-Application Meeting with Whatcom County Planning and Development Services (PDS) has been held, the required permits issued and final approval for all permits including a Certificate of Occupancy has been issued. The applicant shall comply with all Whatcom County Code requirements including but not limited to the Whatcom County Development Standards. Improvements that may be required include but are not limited to adherence to setbacks, fireflow, access, landscaping, and stormwater.

V. Pre-Application Meeting and Required Permits: For the purpose of this agreement, "days" shall be calculated as calendar days. The Owners and/or authorized agent shall comply with the following:

1. The Owners shall submit to Whatcom County Planning and Development Services, a complete packet of application materials accompanied by the appropriate filing fee for a zoning pre-application meeting within 14-days of the effective date of the rezone ordinance.

2. The County shall hold the pre-application meeting within 20-days of receipt of the complete pre-application documents. At the pre-application meeting the County will provide the Owners with information regarding all the permits that will be required. The County anticipates that, at a minimum, it will require a building permit that includes review of land disturbance, stormwater, traffic, landscaping, parking, fire access, and fire flow. A revocable encroachment permit may also be required.

3. Following the pre-application meeting, the Owners or authorized agent shall submit all required permit applications with the appropriate deposits and/or fees to the County within 30-days of the pre-application meeting. All applications must be complete.
4. The Owners shall, at the time of each permit application, inform the County project Planner that he/she has submitted the application to the County and shall supply the County with the permit numbers. This will allow the County to expedite issuance and tracking of the permits.

5. The County shall issue a determination of completeness for each application within 14 days of submittal, pursuant to WCC 2.33.020(D) and 2.33.050.

6. The County shall review all submitted permit applications, and if necessary, issue a Notice of Additional Requirements (NOAR) within 14-days of the applications being received. Although not anticipated, a NOAR may be necessary if County review of a complete application finds that additional information is needed, (e.g. if the site plan needs revision due to need for fire apparatus turnaround or because of the location of existing wells, septic systems, etc.)

7. If a NOAR is issued, the applicant shall submit the requested information to Whatcom County within 45 days from the date of the NOAR.

8. Immediately following the County’s final review, the County shall notify the Owners or authorized agent by telephone that a permit is ready for issuance. The Owners shall pay the remaining permit fees and pick-up the permits(s) within 14-days of notification that the permits are ready for issuance.

9. For procedures not specified in this section, the requirements of the Whatcom County Code shall apply.

VI. Time Limit: The County Council may take action to rescind ordinance rezoning the Property to RGC shall include a time limit that rescinds the rezone if the Owners have not received a County-issued Certificate of Occupancy within 120-days of permit issuance, provided notice of a hearing regarding such potential action is first provided to the Owners. The County may, at its discretion, extend this time limit if delays occur through no fault of the applicant.

VII. Effective Date: This agreement shall become effective on the effective date of the ordinance rezoning the property to RGC. This agreement in no way authorizes or condones any use or action on the property by the applicant until formal adoption of this agreement and the rezone to RGC by the County Council.

VIII. Miscellaneous.
1. **Applicable Law.** This Agreement shall in all respects be governed by the laws of the State of Washington and Whatcom County Codes.

2. **Modification or Amendment.** No amendment, change, or modification of this Agreement shall be valid unless in writing and signed by all of the parties hereto.

3. **Successors and Assigns.** All of the terms and provisions contained herein shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, legal representatives, successors, and assigns.

4. **Entire Agreement.** This Agreement constitutes the entire understanding and agreement of the parties with respect to its subject matter and any and all prior agreements, understandings, or representation with respect to its subject matter are hereby canceled in their entirety and are of no further force or effect.

5. **Headings.** The captions and paragraph headings used in this Agreement are inserted for convenience of reference only and are not intended to define, limit, or affect the interpretation of construction of any term or provision hereof.

IN WITNESS WHEREOF the parties have executed this Agreement on the day above first written.

SYB Holdings Co., Inc.

Larry M. Jordan
Land Owner

By: __________________________
Massad Boulos

Title: __________________________
Applicant

ATTEST:
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis
Council Clerk

Carl Weimer, Chairperson

Civil Deputy Prosecutor

Jack Louws, Executive

Date: __________________________
ORDINANCE NO. ____________

REZONING FIVE ACRES AT THE INTERSECTION OF
SLATER ROAD AND ELDER ROAD

WHEREAS, The property owners submitted an application to rezone two parcels totaling about
five acres from Neighborhood Commercial (NC) district to Rural General Commercial (RGC)
district at the northwest corner of Slater Road and Elder Road; and

WHEREAS, The Whatcom County Planning Commission held a public hearing on July 10,
2014; and

WHEREAS, The Whatcom County Planning Commission made no recommendation at its July
10, 2014 hearing; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The subject property was rezoned from Rural to Neighborhood Commercial (NC) in
1988 (Ord. 1988-043)
2. Whatcom County staff has notified the property owners that the ongoing sales of
automobiles is a prohibited use in the Neighborhood Commercial (NC) zoning district.
3. The property owners have submitted an application to rezone two parcels from NC to
Rural General Commercial (RGC) zoning district, which allows automobile sales,
among other uses.
4. The Planning Commission held a public hearing on July 10, 2014 and the County
Council held a public hearing on October 28, 2014.
5. Notice of the public hearings was issued in accordance with WCC 20.90.045,
including publication in the official county newspaper, mailed notices to property
owners within 1,000 feet, and posting of signs on the subject property at least ten days
before the hearing.
6. A State Environmental Policy Act (SEPA) determination of non-significance (DNS)
was distributed May 29, 2014.
7. Notice of the proposed rezone was submitted to the Washington State Department of
Commerce on May 29, 2014.
8. Per Whatcom County Code 20.90.020(3), a rezone may use a concomitant agreement
to impose conditions on, or limitations on uses and may also require performance by
the applicant(s) which is/are directly related to mitigation of probably on- and off-site
impacts to adjacent uses, public services and the environment. The agreement may be
in the form of a covenant running with the land. The provisions of the agreement will be in addition to all other pertinent Whatcom County Code requirements.

CONCLUSIONS

1. The proposed rezone is consistent with the Comprehensive Plan, and is in the public interest.
2. A concomitant agreement, in the form of a covenant running with the land, will ensure that new uses be limited to automobile sales and single family dwelling in addition to those permitted in the NC zoning district, and that automotive sales are permitted only after County approval of a site plan that assures compliance with County development regulations and after the required improvements are installed.
3. The proposed rezone with the concomitant agreement should not result in any significant environmental impacts.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Whatcom County official zoning map is hereby amended as shown on Exhibit A.

Section 2. Adjudication of invalidity of any of the sections, clauses, or provisions of this ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this _______ day of ________________, 2014.

ATTEST: 

Dana Brown-Davis, Council Clerk ________________________________

Carl Weimer, Chairperson ________________________________

APPROVED as to form: ________________________________

( ) Approved ( ) Denied ________________________________

Jack Louws, Executive

Date: ________________

2

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON
Call To Order: The meeting was called to order, by Whatcom County Planning Commission Chair, David Onkels, in the Northwest Annex Conference Room at 6:30 p.m.

Roll Call
Present: Gary Honcoop, David Onkels, Walter Haugen, Natalie McClendon, David Hunter Ben Elenbaas in attendance at 6:55 p.m.
Absent: Jerry Vekved, Mary Beth Telgrob, Ken Bell

Staff Present: Mark Personius, Gary Davis, Becky Boxx

Department Update
Mark updated the commission on the following:
- Items before the County Council.
- Upcoming commission schedule.

Gary Davis updated the commission regarding the Growth Management Hearings Board appeal cases.

Open Session for Public Comment
There was no public comment.

Commissioner Comments
Commissioner McClendon commented on the new chairs.

Public Hearing
File #PLN2014-00008: A proposal to rezone approximately five acres from Neighborhood Commercial (NC) to Rural General Commercial (RGC), located at the northwest corner of Slater and Elder Roads, about five miles west of Interstate 5.

Gary Davis presented the staff report.

Gary stated this is a quasi-judicial matter so the commissioners may want to disclose any potential conflict of interest or any contact they have had with the applicants.

The subject parcels were rezoned from Rural to Neighborhood Commercial in 1988. The uses in Rural General Commercial are a little more extensive than those in Neighborhood Commercial. The uses that are on the site are permitted in Rural General Commercial but not in Neighborhood Commercial, specifically the mini storage and the gas station. The majority of the parcels are already developed although some potentially developable land exists between the business and north of the service station. That is the area being used for automobile sales. The western 300 feet of the area lies within a ravine and contains a fish bearing stream. Staff recommends that if it is approved, that it be subject to a concomitant agreement. The reason this is being proposed is because having car sales on the property is not required to get a permit. Normally a rezone is done with the
understanding a building permit will be taken out in the future, when PDS can make sure
the use complies with codes. That is not the case here so the concomitant agreement will
take care of that.

The hearing was opened to the public.

Jon Sitkin, Whatcom County, representing the applicant: They have no objection to the
concomitant agreement. They asked that a single family residential use be added to the
agreement, as a permitted use, because one of the property owners, Larry Jordan, may
want to build a home in the future. In regards to the zoning, he had conversations with
staff and the zoning designations and purposes are nearly identical. The policies included
in the staff report, 2LL and 2HH from the Comprehensive Plan, supports the designation
and proposal.

Larry Daugert, Whatcom County: He lives on Elder Road close to the proposed rezone
which he opposes. He stated it is obviously a truism that it is better to ask for forgiveness
than permission. The car lot started over a year ago and was not consistent with the
zoning. They regularly parked cars in such a way that it impeded views coming off of Elder
Road onto Slater Road. He complained to the county who stated they don’t have much of
an enforcement mechanism. The county did talk to the owners of the car lot who stated
they would stop pending hearing to rezone. Then what they did is move the cars off,
blacktop everything, then moved the cars back. Selling cars is not consistent with the
rural lifestyle that he and everyone around him likes. The area is mostly five acre parcels
They live there for the rural qualities. Car lots have nothing to do with the rural lifestyle.
Neighborhood grocery stores are important and nobody has a problem with that. There
are no regulations or powers regarding where they get their water, employees or how
many bathrooms they have. He asked the commission to deny the proposal.

Jon Sitkin stated the Comprehensive Plan and zoning code already identifies uses in the
rural zones and these uses are consistent with the rural lifestyle. Stormwater,
landscaping, site plan, etc. would be executed as a condition of the rezone.

The hearing was closed to the public.

Commissioner Honcoop asked if the property remained zoned NC through the recent Rural
Element LAMIRD process.

Mr. Davis stated it did.

Commissioner Honcoop asked if the LAMIRD is limited to the pre-1990 uses.

Mr. Davis stated no, this type of LAMIRD is not subject to 1990 limitation.

Commissioner Honcoop asked if there were conditions placed on the mini-storage when it
was built.

Mr. Sitkin stated none that he was aware of.
Commissioner Honcoop stated there had been testimony that the property was recently paved. Was a land disturbance permit obtained for that?

Mr. Sitkin stated the property was not paved, only gravelized where it had been previously gravelized and no permits were obtained. There were existing areas that had been paved.

Commissioner Haugen asked Mr. Daugert if he felt this was correct.

Mr. Daugert stated that the question was if permits had been taken out and the answer is no. There may have been repaving of the previously paved areas.

Commissioner Haugen asked why the cars were put back after the county directed they be removed.

Mr. Sitkin stated they did remove the cars but the enforcement action was put on hold pending this hearing so there was some understanding the cars could be put back. They have since been removed again.

Commissioner Haugen stated it sounded like the county was legitimizing a businessman’s mistake.

Mr. Sitkin asked that the focus of the hearing be on the change in zoning not on the enforcement issue.

Commissioner Haugen asked what the impact of this rezone would be to the fish bearing streams.

Mr. Davis stated that if there were to be any development near the stream they would have to meet the setbacks involved in Title 16. Right now nothing is being proposed in that area.

Commissioner Haugen stated he knows John and Sarah Gergen, who are neighbors to this property. He stated that will not affect his decision on this matter.

Commissioner Haugen asked if the northeast corner of the property is being used for crops.

Mr. Davis stated there are crops there.

Commissioner Haugen asked if any part of the proposal would affect those crops.

Mr. Sitkin stated no.

Mr. Daugert stated there is an office on the property for the car business.

Commissioner Hunter stated it is not clear if the Planning Department thinks this is a good idea. He has his doubts that the rezone benefits anyone other than the person who sells cars there.
Mr. Davis stated that the county's approach is that if the zoning stays NC the car sales continues to be an enforcement issue. If they rezone is denied that process would continue. If the rezone is approved; with the recommended concomitant agreement requiring that before that automobile sales use is legal that they submit a site plan that makes sure they adhere to the setbacks, landscaping and buffering requirements; then car sales are the only use allowed above and beyond what is already there.

Commissioner Honcoop asked if the landscaping requirements are the same for both the NC and RGC. As such there doesn't seem to be a trigger point because a building permit is not required.

Mr. Davis stated there are no screening requirements for the existing non-conforming use that is already there.

Commissioner Honcoop asked if there is a trigger mechanism related to stormwater.

Mr. Davis stated the concomitant agreement would require anything the building permit would require.

Commissioner Honcoop asked why the full range of services allowed in the RGC zone are not being allowed.

Mr. Davis stated because this was an enforcement action on a particular use that is not legal under the current zoning. As such staff is recommending allowing the one stated use rather than the full range. A lot of the uses in RGC are more intensive uses geared towards larger LAMIRDs. This is only a five acre parcel, with the west 300 feet not really usable, and another 2 to 3 acres that is already developed. Since this is an attempt to legitimize a use that is already on there the county's approach is to limit the uses.

Commissioner McClendon asked what the expectations are regarding how much impervious surface there will be.

Mr. Davis stated that under the concomitant agreement the applicant will have to go through all the existing regulations involving drainage, etc.

Commissioner McClendon asked if impervious surface issues are looked at in the NC zone.

Mr. Davis stated yes if auto sales was a permitted use under that zone. At the time they asked to put in the sales area they would be given the regulations.

Commissioner McClendon stated that even if the area wasn't used to sell cars the gravel was put there. Is that allowed?

Mr. Davis didn't know whether that was a violation under the land disturbance permit process.

Commissioner McClendon asked if there were any areas west of the casino zoned RGC or NC.
Regular Meeting

Mr. Davis stated no.

Commissioner McClendon asked if there are any expectations regarding how isolated the LAMIRDs are and how extensive the development can be.

Mr. Davis there is designation criteria and spacing criteria in the Comprehensive Plan regarding LAMIRDs.

Commissioner Elenbaas stated he doesn’t care what happened in the past regarding this property. That is not the question before the commission. Is it legal to this? Is it a spot zone?

Mr. Davis stated it is legal and not a spot zone, particularly because it involves more than one parcel.

Commissioner Hunter stated he knew Larry Daugert’s father but that will not influence his decision regarding this matter.

Commissioner Hunter stated he had concerns regarding car repair because it is a necessary part of used car sales. It is not irrelevant that people feel they can use property in a certain way that is not consistent with local ordinances. Then having used it for a while getting people to say it’s okay based on the history of the use. This fact can play a role in the decision making. Regarding enforcement, over time screening, landscaping, etc. deteriorate because there is no reason to keep it up. He thinks will become another enforcement action in the future.

Commissioner Onkels asked if there is a requirement in the zoning ordinance regarding maintenance of landscaping.

Mr. Davis stated there is.

Commissioner Honcoop stated the RGC zoning is a much better fit because of what has historically been there and the existing legal businesses there. Regarding the statements related to enforcement, the agreement that would be put in place adds to tools the county has for enforcement.

Mr. Personius agreed and stated it will also benefit the neighbors by requiring screening. The agreement would have time limits and expectations that the applicant must meet otherwise the agreement expires and the rezone goes away.

**Commissioner Hunter moved to recommend denial of the proposal.**
**Commissioner Haugen seconded.**

Commissioner Hunter stated this is a compliance issue and there is no benefit to the neighbors or the county with the rezone. The county is going to have to rely on the neighbors to ensure that the conditions placed on the rezone are being met. If he were living in the area he would not want car sales in the neighborhood.
Commissioner McClendon asked how the enforcement process perceived. Isn’t it still an enforcement issue that should be pursued and agreements reached?
Mr. Davis stated the concomitant agreement takes the place of the enforcement action if all of the conditions are met.

Mr. Personius stated that enforcement is an issue, particularly in Whatcom County, partly because of the nature of the code. Enforcement issues are generally complaint driven because the county doesn’t have the staff or funding to look for issues. Complaints are investigated and action initiated in the form of notice to the property owner. The code is very limiting in terms of actions the county can take. Most of the rights lie with the property owner.

Commissioner Haugen stated the cars are still on the lot and the county says it can’t do anything about it. It impacts the neighbors and someone is making money off of the cars illegally. The Planning Department is bending over backwards to legitimize an illegal use. The county is not being fair and impartial and are not helping the people that live there.

Mr. Personius questioned if the sale of cars the issue or is it the visualization of car sales. If the area is screened so people driving by don’t see them is there an issue with the car sales?

Commissioner Haugen stated this is not about zoning at all, it’s about catering to some individual.

Commissioner Elenbaas stated he views it differently. To be fair and impartial the commission should look at the facts as to is it a legal rezone and does it fit the area and not what the applicant has done in the past.

Commissioner McClendon stated the applicant would not be asking for the rezone if they hadn’t done the non-conforming action.

Commissioner Honcoop stated all he is looking at is do the uses fit or not. He doesn’t see the rezone as a problem, but as an opportunity for the county to have some tools to be able to help mitigate the impact on the surrounding area. He sees the rezone as a benefit.

Commissioner Hunter stated all that is happening is substitution of an ordinance with a contract. The applicant has not followed the rules so far which indicates he won’t follow the concomitant agreement either. Don’t pretend there is some benefit to the county or neighbors from this.

Commissioner Elenbaas stated the fact that the applicant is at the meeting and is going through this process shows him that he does want to comply.

Commissioner McClendon stated she still has issue with the fact that it’s next to impossible to conclude an enforcement issue that the commission should roll over and change the rules. If there is no reason for zoning and it can’t be enforced then don’t have it. The argument she has heard is that whatever anyone wants to do the county will change to zoning to match it. What does that tell the rest of the public?
Commissioner Honcoop stated there are various reasons why zoning is applied to certain areas and it's not always the best fit. The commission can fix some of those errors. Because someone did something wrong do they need to be penalized? What is the best solution and best fit needs to be looked at.

Commissioner Elenbaas thanked Mr. Daugert for testifying and asked if he tried to get more people to come.

Mr. Daugert stated no.

Commissioner Honcoop stated in the past he had a relationship with Mr. Daugert's firm but that will not influence his decision on this matter.

Commissioners Elenbaas and Onkels have both bought items from the store located on the site but stated it will not influence their decisions.

**Roll Call Vote on the motion to recommend denial of the proposal:** Ayes – Haugen, Hunter, McClendon; Nays – Elenbaas, Honcoop, Onkels; Abstain – 0; Absent – Bell, Teigrob, Vekved. The motion failed.

Commissioner Honcoop moved to recommend approval of the proposal with changes to read: If the Planning Commission recommends approval, Planning and Development Services recommend the Planning Commission forward the proposed amendment to the County Council with a recommendation of approval subject to a concomitant agreement, a covenant running with the land, that limits new uses to NC uses plus automobile sales and, the existing service station and, rental storage uses as allowed under 20.59.050; 20.59.052(1); and a single family dwelling or duplex for lot of record; as allowed under 20.59.050 and 20.59.055; and requires County approval of a site plan that complies with all applicable county development regulations, and installation of required improvements, including but not limited to landscape materials. Commissioner Elenbaas seconded. Roll Call Vote: Ayes – Elenbaas, Honcoop, Onkels; Nays – Haugen, Hunter, McClendon; Abstain – 0; Absent – Bell, Teigrob, Vekved. The motion failed.

The meeting was adjourned at 8:12 p.m.

Minutes prepared by B. Boxx.

**WHATCOM COUNTY PLANNING COMMISSION ATTEST:**

[Signatures]

David Onkels, Chair
Becky Boxx, Secretary

179
WHATCOM COUNTY
PLANNING & DEVELOPMENT SERVICES
STAFF REPORT

I. BACKGROUND INFORMATION

File # PLN2014-00008

File Name: Slater Road Rezone

Applicant: Whatcom County

Summary of Request: Rezone about 5 acres from Neighborhood Commercial (NC) to Rural General Commercial (RGC).

Quasi-judicial status: This rezone is a quasi-judicial matter per the state’s Appearance of Fairness Doctrine. Quasi-judicial actions are defined to be: "...those actions of the legislative body, planning commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding." RCW 42.36.010 No member of a decision-making body is allowed to engage in ex parte communication when quasi-judicial matters are pending. An ex parte communication is a one-sided discussion between a decision-maker and the proponent or opponent of a particular proposal which takes place outside of the formal hearing process on a quasi-judicial matter. Any communication between any party and a Planning Commission member that may have the appearance of or potential to lead to bias or partiality should be disclosed as soon as possible at the quasi-judicial hearing on the matter. More information on quasi-judicial actions and the Appearance of Fairness Doctrine is available at http://www.mrsc.org/askmrsc/pastingsubject.aspx?sid=2

Location: Northwest corner of Slater and Elder Roads, about 5 miles west of Interstate 5.

Staff Recommendation: If the Planning Commission recommends approval, staff recommends that the rezone be subject to a concomitant agreement that limits new uses to NC uses plus automobile sales and the existing service station and rental storage uses, and requires County approval of a site plan that complies with all applicable County development regulations, and installation of required improvements, including but not limited to landscape materials.

History:
Whatcom County Planning & Development Services, Department of Code
Enforcement, received several Code Violation Reports from citizens concerned about property values deteriorating due to an alleged car lot at 3322 Slater Road. A site inspection in August 2013 revealed twenty used vehicles for sale parked on the subject site, in the county right-of-way, and on the neighboring parcel at 3310 Slater Road.

Planning & Development Services contacted the business owner and informed him the sale of automobiles in the Neighborhood Commercial (NC) zone district was a prohibited use and that he would have to remove the vehicles from the site. The property owner agreed to remove the vehicles if the county would grant him an extension until September 15, 2013. Staff agreed and conducted a follow-up site inspection and confirmed the vehicles had been removed as promised. Within a few weeks, staff was notified that the property owner had brought the vehicles back to the site.

In December 2013 the owners of both parcels submitted an application to rezone the parcels to Rural General Commercial (RGC) district, which lists automobile sales as a permitted use.

II. ANALYSIS OF PROPOSED REZONE

The area that includes the two subject parcels was rezoned from Rural to Neighborhood Commercial (NC) in 1988 (Ord. 1988-043) at the request of one of the current owners, Larry Jordan. The owners now propose a rezone from NC to Rural General Commercial (RGC) for both parcels. One parcel is developed as a 3,600 square foot service station/convenience store and the other is a rental storage facility with buildings totaling about 16,500 square feet. Neither the service station or mini-storage use is currently a permitted use in NC. The service station predates the NC zoning, and the rental storage use was developed under a conditional use permit.

A rezone from NC to RGC would expand the list of commercial uses permitted on these parcels. Automobile sales is included in RGC’s permitted uses, as are the existing service station and rental storage establishments. Commercial uses permitted in each zone are listed in the following table for comparison:

<table>
<thead>
<tr>
<th>Neighborhood Commercial (NC)</th>
<th>Rural General Commercial (RGC)</th>
</tr>
</thead>
<tbody>
<tr>
<td>WCC 20.60.050</td>
<td>WCC 20.59.050</td>
</tr>
<tr>
<td>Barber and beauty shops, baker shops, drug stores, food markets, hardware stores, stationery stores, other convenience retail shops not greater than 2,500 square feet per business</td>
<td>Retail establishments including but not limited to grocery, liquor, drug, sundries, variety, building supplies, clothing, florist, nurseries, optical, sporting goods, appliance, music, and pet stores</td>
</tr>
<tr>
<td>Professional offices not greater than</td>
<td>Service establishment including but not</td>
</tr>
</tbody>
</table>

Page 2 of 7
In both the NC and RGC zones, maximum building size is limited to 7,000 square feet within a Rural Business designation (WCC 20.59.322 and 20.60.302). This limit was established in 2012 to ensure that new commercial uses are “small-scale” in accordance with Comprehensive Plan Policy 2LL-1 (see Comprehensive Plan evaluation below).

The majority of both parcels is already developed, though some potentially developable land exists between the two existing businesses and to the north of the service station. That is the area that has been used for automobile sales. The western 300 feet of the area lies within a ravine and contains a fish-bearing stream. This area is affected by Critical Area Ordinance restrictions and the applicants plan no development in this area.

**Concomitant Agreement**
Staff recommends that if the rezone is approved, it is subject to a concomitant agreement that agreement that limits new uses to NC uses plus automobile sales and the existing service station and rental storage uses, and requires County approval of a site plan that complies with all applicable County development regulations, and installation of required improvements, including but not limited to landscape materials. WCC 20.90.020(3) authorizes a concomitant agreement in conjunction with a rezone “to impose conditions on, or limitations on uses and may also require performance by the applicant(s) which is/are directly related to mitigation of probable on-and off-site impacts to adjacent uses, public services, and
the environment. The agreement may be in the form of a covenant running with the land.”

Because automobile sales requires no building to be permitted, no discretionary permit would be necessary to allow the use.¹ The site plan approval requirement would ensure that PDS has reviewed the planned use for compliance with current County development regulations (including but not limited to landscaping, setbacks, access, and stormwater) which would mitigate on- and off-site impacts to adjacent uses, public services, and the environment. Automobile sales on the site would not be compliant with County code until after the site plan is approved and the required improvements are installed, including but not limited to landscaping materials.

III. COMPREHENSIVE PLAN EVALUATION

The Whatcom County Comprehensive Plan designates the two parcels as “Rural Business,” which is a “limited area of more intensive rural development” (LAMIRD), as described in the Washington State Growth Management Act (GMA), RCW 36.70A.070(5)(d)(iii). Comprehensive Plan Policy 2LL-1 mirrors the GMA requirements, describing these LAMIRDS as consisting of “the intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses.” Both the NC and RGC zones are permissible in a Rural Business designation (per WCC 20.59.010, 20.60.010), so no Comprehensive Plan designation change would be required for this rezone. As a “type iii” LAMIRD, development within the Rural Business designation is not required to be consistent with the sizes and uses that existing in 1990.

Whatcom County Comprehensive Plan goals and policies that are applicable to the proposed rezone are listed below. These goals and policies are in the rural element of Chapter Two Land Use, whose intent is to protect the character of Whatcom County’s rural areas. Staff’s recommendation to approve the rezone only in conjunction with a concomitant agreement is intended to protect the character of this rural area, consistent with these policies.

Goal 2LL: Designate Rural Business areas to limit and contain nonresidential uses.

Policy 2LL-1: All lands designated Rural Business shall meet the Rural Business designation criteria stated in this chapter, and the requirements of RCW 36.70A.070(5)(d)(iii), which describes limited areas of more intensive rural development consisting of

¹ This rezone could not be processed as a Site-Specific Rezone because one of the criteria for such a rezone is that the proposed use requires a discretionary development permit or building permit, per WCC 20.90.063(1)(b).
the intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses.

Policy 2LL-2: On lots in a Rural Business area where businesses did not exist on July 1, 2012, the new businesses shall be "small-scale" as described in the development regulations. On lots where businesses existed on July 1, 2012, development regulations should not hold the business to a "small-scale" standard.

Policy 2LL-3: Uses in the Rural Business designation need not be principally designed to serve the existing and projected rural population and nonresidential uses, but provide job opportunities for rural residents.

Goal 2DD: Retain the character and lifestyle of rural Whatcom County.

Policy 2DD-2: Protect the character of the rural area through the County's development regulations. In addition to the policies of this plan that provide measures governing rural development, the following County's key development regulations are incorporated into this plan by reference to assure that the plan contains measures to protect rural character:

A. Measures to contain or otherwise control rural development and reduce the inappropriate conversion of undeveloped land into sprawling, low-density development:

1. Limit the expansion of areas of more intensive development and higher rural densities through Policies 2A-8, 2A-9, 2DD-1, 2DD-8, 2GG-2, 2GG-3, 2JJ-1 through 8, 2KK 1 and 2, 2LL-1 through 4, and 2MM-1 through 4 of this plan.

2. Protect the aesthetic assets of the rural areas and soften the impact of structures through landscape buffers and setback requirements provided in the following Zoning Code provisions, adopted herein by reference:

   a. WCC 20.80.200 Setback requirements;
   b. WCC 20.80.300 Landscaping.
C. Measures to protect critical areas and surface and groundwater resources:

1. Protect the functions and values of critical areas (geologically hazardous areas, frequently flooded areas, critical aquifer recharge areas, wetlands, and habitat conservation areas) and the ecological processes that sustain them, through WCC 16.16 Critical Areas provisions, adopted herein by reference.

4. Protect surface and ground water resources through stormwater management standards established in the County’s Development Standards per WCC 20.80.630 through .636, WCC 20.51 and 12.08.035 referenced in the following Zoning Code provision, adopted herein by reference:

f. 20.59.704 Drainage, Rural General Commercial District;

IV. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION

Staff recommends the Planning Commission adopt the following findings of fact and reasons for action:

1. The subject property was rezoned from Rural to Neighborhood Commercial (NC) in 1988 (Ord. 1988-043)
2. Whatcom County staff has notified the property owners that the ongoing sales of automobiles is a prohibited use in the Neighborhood Commercial (NC) zoning district.
3. The property owners have submitted an application to rezone two parcels from NC to Rural General Commercial (RGC) zoning district, which allows automobile sales, among other uses.
5. Notice of the public hearing was issued in accordance with WCC 20.90.045, including publication in the official county newspaper, mailed
notices to property owners within 1,000 feet, and posting of signs on the subject property at least ten days before the hearing.

6. A State Environmental Policy Act (SEPA) determination of non-significance (DNS) was distributed May 29, 2014.

7. Notice of the proposed rezone was submitted to the Washington State Department of Commerce on May 29, 2014.

8. Per Whatcom County Code 20.90.020(3), a rezone may use a concomitant agreement to impose conditions on, or limitations on uses and may also require performance by the applicant(s) which is/are directly related to mitigation of probably on-and off-site impacts to adjacent uses, public services and the environment. The agreement may be in the form of a covenant running with the land. The provisions of the agreement will be in addition to all other pertinent Whatcom County Code requirements.

V. PROPOSED CONCLUSIONS

1. The proposed rezone is consistent with the Comprehensive Plan, and is in the public interest.

2. A concomitant agreement, in the form of a covenant running with the land, will ensure that new uses be limited to automobile sales in addition to those permitted in the NC zoning district, and that automotive sales are permitted only after County approval of a site plan that assures compliance with County development regulations and after the required improvements are installed.

3. The proposed rezone with the concomitant agreement should not result in any significant environmental impacts.

VI. RECOMMENDATION

If the Planning Commission recommends approval, Planning and Development Services recommends the Planning Commission forward the proposed amendments to the County Council with a recommendation of approval subject to a concomitant agreement, a covenant running with the land, that limits new uses to NC uses plus automobile sales and the existing service station and rental storage uses, and requires County approval of a site plan that complies with all applicable County development regulations, and installation of required improvements, including but not limited to landscape materials.

ATTACHMENTS

Maps
Application
Site Plan – Existing Conditions
WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive,
Bellingham, WA 98226-9013
360-676-6907, TTY 800-833-6384
360-738-2525 Fax

WHATCOM COUNTY
PLANNING AND DEVELOPMENT SERVICES DEPARTMENT
APPLICATION FOR ZONING AMENDMENTS

Please check one of the following:

☑ STANDARD MAP AMENDMENT
  Complete Sections A, B, C, & F

☐ SITE SPECIFIC REZONE
  Complete Sections A, B, D, & F

☐ ZONING TEXT AMENDMENT
  Complete Sections A, E, & F

Do not write in this section of the application-for official use only.

Date Received: ________________________ File #: ________________________
Date Complete: ________________________ Initials of reviewer: ________________________

A. GENERAL INFORMATION-All applicants must complete this section.

1. APPLICANT'S NAME:
   Masso Boulos

   SIGNATURE: ________________________

   MAILING ADDRESS:
   PO Box 30691
   Bellingham, WA 98228-2691

   E-MAIL ADDRESS
   Masso_boulos@hotmail.com

   BUSINESS PHONE: 360-961-8845  HOME PHONE: SAME
WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive,
Bellingham, WA 98226-9013
360-676-6907, TTY 800-833-6384
360-738-2525 Fax

WHATCOM COUNTY
PLANNING AND DEVELOPMENT SERVICES DEPARTMENT
APPLICATION FOR ZONING AMENDMENTS

Please check one of the following:

☑ STANDARD MAP AMENDMENT
Complete Sections A, B, C, & F

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Complete Sections A, E, & F

Do not write in this section of the application-for official use only.

Date Received: ___________________________ File #:

Date Complete: ___________________________ Initials of reviewer:

A. GENERAL INFORMATION-All applicants must complete this section.

1. APPLICANT'S NAME:

Larry Jordan

SIGNATURE:

MAILING ADDRESS:
P.O. Box 45
Ferndale, WA 98248

E-MAIL ADDRESS:

 BUSINESS PHONE: 9417720 HOME PHONE: 9417720
2. AGENT'S NAME:
   Larry Stoner

MAILING ADDRESS:
   4751 Birch Bay-Lynden Rd #259
   Blaine, WA 98230

E-MAIL ADDRESS
   stonerlv@aol.com

BUSINESS PHONE: 360-201-9777

3. TOPIC OF PROPOSED AMENDMENT:
   Zoning Map Amendment from Neighborhood Commercial to Rural General Commercial

4. Please give a complete but short description of the proposed amendment.
   See Attached

5. Explain how the proposed amendment is consistent with the goals, policies, and overall intent of the Comprehensive Plan by listing specific goals or policies and explaining how the proposal complies with each of them.
   See Attached
6. Please describe the “changed” condition(s), which support the amendment.

See Attached

B. ZONING MAP AMENDMENTS (STANDARD MAP AMENDMENTS AND SITE SPECIFIC REZONES)

7. PROPERTY INTEREST OF APPLICANT:
   □ PURCHASER/OWNER
   □ LESSEE
   □ OTHER:

EXISTING COMPREHENSIVE PLAN DESIGNATION:
Rural Business

EXISTING ZONING DISTRICT:
Neighborhood Commercial

SUBAREA:
Cherry Point

8. What is the proposed zoning classification?

Rural General Commercial

9. What is the present use of the property or properties within the proposed rezone?

See Attached
10. Describe the land use of the surrounding properties.

   See Attached

C. STANDARD MAP AMENDMENTS

11. Supporting information for standard map amendments (attach the following items):

   a) A vicinity map showing property lines, roads, buildings and their use, easements, existing and proposed zoning, wells and other pertinent data.

   b) A list of all property owners and others having a legal interest in the property covered by the proposed change.

   c) A list of the names and mailing addresses of the owners of all property within 300 feet (exclusive of roads and alleys).

A site plan may be requested at a future date if the intended amendment is to accommodate a particular development. The applicant may wish to submit a plan at the time of application. The site plan is a scaled drawing showing approximate location of buildings, roadways, parking, drainage facilities, sanitation and water facilities, and easements. Where appropriate, the location of landscaping, buffers, common areas, and typical individual lease spaces for mobile home and recreational vehicle parks shall be included in the site plan.

D. SITE SPECIFIC REZONES

12. Does the proposed amendment have a substantial relationship to public health, safety, morals, general welfare or community needs?
13. Will the proposed use be serviced adequately by essential public facilities such as highways, streets, public safety and fire protection, drainage structure, refuse disposal, water and sewers, and schools; or will the persons or agencies responsible for the establishment of the proposed use be able to adequately provide any such services? Describe.

14. Is the proposal is located within an Urban Growth Area? Yes No (go to question #15)

   a) Will the site be serviced by full urban services or be capable of receiving urban services in time to serve the development?

   b) Will the proposed site use preclude development at urban levels of density when the area is annexed into the city?

   c) Will the proposed site be five (5) or more acres in size? Yes No

15. Supporting information for site-specific map amendment.
   Attach the following items:

   a) A vicinity map showing property lines, roads, buildings and their use, easements, existing and proposed zoning, wells and other pertinent data.
b) A conceptual site plan drawn at not less than one (1) inch to one-hundred (100), unless mutually agreed to by the proponent and administrative official, including, but not be limited to:
   1) General location of structures.
   2) Location and number of access points.
   3) Approximate gross floor area of structures.
   4) Name of the proposal.
   5) Identification of areas requiring special treatment due to their sensitive nature.
   6) North directional arrow.
   7) Names and location of all public streets or roads bordering the site.
   8) General legal description(s) for the site.

c) Concurrent submittal of a Discretionary Development Permit or Building Permit, if required for the project.

NOTE: If the project does not require a Discretionary Development Permit or Building Permit or will be constructed in phases, then a narrative statement must be submitted with the conceptual site plan that provides a detailed description of the project proposal and a project completion date. If the project will be constructed in phases provide start and completion dates for each phase and include a final completion date for the entire proposed project.

d) A list of all property owners and others having a legal interest in the property covered by the proposed change.

e) Evidence that all property owners within the proposed rezone boundary concur with the rezone and project proposal.

f) Mailing labels with names and mailing addresses of the owners of all property included within the area proposed for re-designation and:

   - For a map amendment within an existing urban growth area, mailing labels with the typed address of each property owner within 300 feet of the external boundaries of the subject property as shown by the records of the county assessor.

   - For a map amendment outside existing urban growth areas, mailing labels with the typed address of each property owner within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor.

For map amendments that involve rezoning property to an Airport Operations District, mailing labels with the typed address of each property owner within 1,500 feet of the
external boundaries of the subject property as shown by the records of the county assessor.

g) A completed Environmental Checklist.

E. ZONING TEXT AMENDMENTS

16. Are there any other circumstances that justify the proposed change?

F. AUTHORIZATION:
Signature of Applicant(s) or Agent: (I, we) certify that (I, we) are the owner(s) of record of all the above described property and that we will pay for legal notice in the newspaper:

Date: 12/04/13
Date: 12/04/13
Date: 

Date: 

Date: 

Date: 

Date: 

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4. Please give a complete but short description of the proposed amendment.

The proposed zoning map amendment seeks to correct/change the zoning designation of the property located at the NW corner of Slater and Elder Roads within the existing LAMIRD III comprehensive plan Rural Business designation. The zoning designation correction would be a change from Neighborhood Commercial (NC) to Rural General Commercial (RGC). This proposal does not seek to change boundaries of the existing Type III LAMIRD – Rural Business Comprehensive Plan designation.

5. Explain how the proposed amendment is consistent with the goals, policies, and overall intent of the Comprehensive Plan by listing specific goals or policies and explaining how the proposal complies with each of them.

The Comprehensive Plan designation for the subject property is Rural Business. The Comprehensive Plan goals and policies related to said designation are Goal 2LL, and policies 2LL-1 through 2LL-4. A zoning designation of RGC for the existing Type III LAMRID area at Slater and Elder Roads furthers and implements the Comprehensive Plan goals and policies related to Type III LAMIRD-Rural Business, more so than the zoning designation currently in place at this location. NC is more closely associated with Type I LAMIRD’s. This location is already listed as a Type III LAMIRD within “Chapter 2, Land Use - Rural Business” section of the Comprehensive Plan, and that LAMIRD designation fits more closely with an RGC designation, as discussed in more detail below.

The purpose of the RGC zoning designation is as follows (WCC 20.59.010):

"The purpose of the Rural General Commercial District is to provide for limited commercial activities which serve the surrounding community and provide job opportunities for residents of the rural area. This district may be located in either a rural community or rural business area, which are "limited areas of more intensive rural development" per RCW 36.70A.070(5)(d). The district shall comply with the rural land use policies and criteria set forth in the Comprehensive Plan .......... New development in a rural business designation is limited to isolated small-scale businesses.” (Emphasis added).

The two parcels located within the Rural Business Comprehensive Plan designation at Slater and Elder Roads are developed with an indoor/outdoor rental storage facility and a mini-mart service station. They both provide
jobs and services to the residents in the adjoining rural zoned areas. If zoned RGC, both of these parcels could readily be used for expansion of existing or establishment of new businesses within the area of the existing Rural Business designation at this location.

The RGC designation is most applicable and consistent with the current and potential future uses at the site. Given the more limited use options within the Rural Neighborhood Comprehensive Plan designation, and the less restrictive limitations on uses within the Rural General Commercial zoning designation (which is proposed to be the new zoning designation), compatibility with the surrounding rural area is assured.

Comprehensive Plan policies that support this change from NC to RGC include:

*Goal 2LL of the Comprehensive Plan by:*

1) *providing job opportunites for rural residents;*

2) *allowing new development of isolated small scale business.*

Type III LAMIRD’S provide for the establishment of new businesses to better serve the surrounding area and to provide for employment opportunites. In this case, there is additional vacant acreage within the storage facility property (conditional use issued in 1998) to provide for expansion of this use, or establishment of new businesses.

There are fewer options and more restrictions on the establishment of new businesses within the NC zone than within the RGC zone. Under RGC, the gas station/mini-mart could be expanded to include automobile related uses such as auto maintenance, auto repair and auto sales. These logical options are not available within said NC zone. Such uses would require the hiring of additional employees to staff and operate these businesses. Given the zoning limitations of NC, the goals of the Rural Business designation are not met at this location with the NC designation, but would be furthered with the RGC designation. In sum, although the RGC and NC designations have similarities, there are significant differences and the RGC designation would better meet Goal 2LL of the Comprehensive Plan than the current NC designation does.

If rezoned from NC to RGC, there are many more options for further development of the mini-mart site and adjacent Rural Business land. The
parcel where the mini-mart is located can be enlarged via a boundary line adjustment, all within the existing Rural Business designation. There are approximately 1.5 acres of vacant Rural Business-NC zoned land adjoining to the north of the mini-mart. With this extra acreage, change of the current NC designation to RGC will provide for easy expansion of the mini-mart/gas station business or development of other businesses consistent with the Rural Business designation, and an RGC zoning designation that would provide additional services and employment opportunities for the nearby rural areas. Similarly, the owner of the storage facility would have more options to expand or establish new businesses if the NC designation is changed to RGC.

Within the NC zone, commercial uses are limited and do not further goals at the Rural Business location. Under the NC zoning designation there are only eight commercial permitted uses and four conditionally permitted commercial uses. One of said conditional uses is a service station which already exists on the site.

Furthermore, the NC zone places rather unusual restrictions on permitted uses. All permitted uses are subject to evaluation by the zoning administrator. The possibility of imposition of restrictive conditions or denial may tend to discourage business owners from attempting said expansion, or pursuing other uses ostensibly allowed in an NC zone. In RGC, permitted uses are permitted without this subjective judgement, further fostering the goals of allowing new small scale business and providing employment opportunities for rural residents.

Additionally goals and policies of the Comprehensive Plan which are further served by rezoning this property from NC to RGC are as follows:

Policy 2A-4: Designate land uses that reflect the best use of the land.

The RGC zoning designation allows the subject properties to be put to their highest and best use by permitting more commercial uses in this isolated Type III LAMIRD.

Policy 2A-13: Allow for adequate economic development to provide economic sustainability, adequate employment opportunities and services in and for the rural areas.

Permitting RGC uses on these properties provides for enhanced employment opportunities and adds appropriate rural general services for the rural community. This property is not located within an identifiable neighborhood or community for which the NC zone was intended. It is an isolated site that
is positioned on a major arterial, which provides expanded employment opportunities for more rural residents within a wider rural area. RGC allows a greater variety of uses that will provide expanded employment opportunities

*Policy ZK-1: Support small and cottage businesses in rural areas that minimally impact productive agricultural, forest or mineral resource land.*

The proposed amendment would not adversely impact any agricultural, forest or mineral resource lands as the properties are already developed as commercial businesses. Granting the zoning amendment would support small businesses in a rural zone by allowing an appropriate variety of commercial uses on the commercially developed properties within an existing Type III LAMIRD Rural Business designation.

*Policy 7K-2: Designate adequate zoning to allow business and industrial development where it is needed and most appropriate.*

*(see each of the discussions above)*

6. Please describe the "changed" condition(s), which support the amendment.

(See question #5 above). The change involved in this application is to reflect existing uses on this site, and to correct assignment of a zoning designation that upon closer scrutiny and consideration of the goals of the Rural Business Comprehensive Plan designation, is an incorrect zoning designation.

9. What is the present use of the property or properties within the proposed rezone?

The existing uses of the two properties within the proposed rezone include an indoor/outdoor storage rental facility and a mini-mart service station.

10. Describe the land use of the surrounding properties.

The zoning designation for all of the surrounding properties is R5A. The properties to the South are undeveloped tribal lands and the properties to the North, West, and East are intermittently developed with single family residences and small farms.
Agent Authorization

If you are authorizing an agent to apply for permits on your behalf you must complete this form, which will provide authorization for a designated agent to apply for permits on your behalf. This form is required for the protection of the property owner. Planning and Development Services will not accept an application that is not either signed by all property owners or accompanied by this form.

I/we, Larry Jordan, the owner(s) of the subject property, understand that by completing this form I hereby authorize Larry Stoner and Development Consultants to act as my agent. I understand that said agent will be authorized to submit applications on my behalf. I also understand that once an application has been submitted that all future correspondence will be directed to the agent.

Larry Jordan
Property Owner(s) Printed Name

12/4/13
Date

Property Owner(s) Signature

12/4/13
Date

I certify that I know or have satisfactory evidence that Larry M Jordan is/are the person(s) who appeared before me, and said person(s) acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in this instrument.

Dated 12/4/13

Notary Signature: [Signature]

Printed Name: Jesse J Stoner

Notary Public in and for the State of Washington
Residing at Ferndale, WA
My appointment expires: 08/27/15

Application received by ____________________________ Date ________________
Agent Authorization

If you are authorizing an agent to apply for permits on your behalf you must complete this form, which will provide authorization for a designated agent to apply for permits on your behalf. This form is required for the protection of the property owner. Planning and Development Services will not accept an application that is not either signed by all property owners or accompanied by this form.

I/we, __________________________, the owner(s) of the subject property, understand that by completing this form I hereby authorize Larry Stoner Land Development Consultants to act as my agent. I understand that said agent will be authorized to submit applications on my behalf. I also understand that once an application has been submitted that all future correspondence will be directed to the agent.

Massad Boulos
Property Owner(s) Printed Name

10/31/13
Date

Property Owner(s) Signature

10/31/13
Date

I certify that I know or have satisfactory evidence that Massad Boulos is/are the person(s) who appeared before me, and said person(s) acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in this instrument.

Dated 10/31/13

Notary Signature: __________________________

Printed Name: Jesse J. Stoner

Notary Public in and for the State of Washington

Residing at Ferndale, WA

My appointment expires: 08/27/15

Application received by __________________________

Date __________________________

Administrative Approval Application
PL4-83-014B

Page 8 of 10
Rev. December 2011
Fee Responsibility

Venue and Jurisdiction: The parties hereto recognize and agree that the venue of any action involving their rights or obligations related to this application shall be in Whatcom County, and the parties' rights and obligations hereunder shall be determined, in accordance with the laws of the State of Washington.

Fee Guaranty: Notwithstanding that this application has been submitted in the name of a company, I personally guarantee payment of fees accrued according to the terms listed in the Whatcom County Unified Fee Schedule and that my personal guarantee is part of the consideration for review of the application.

I/we, _____________________________, hereby certify that the above statements and the information contained in any papers or plans submitted herewith are true and accurate to the best of my knowledge, and that the list of surrounding property owners is complete and current.

______________________________  10/31/13
Signature of Applicant          Date

______________________________  10/31/12
Signature of Owner             Date

I certify that I know or have satisfactory evidence that _____________________________ is/are the person(s) who appeared before me, and said person(s) acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in this instrument.

Dated 10/31/13

______________________________
Notary Signature:

Printed Name: _____________________________
Notary Public in and for the State of Washington
Residing at _____________________________
My appointment expires: 08/27/15

Application received by: _____________________________ Date: _____________________________
C. STANDARD MAP AMENDMENTS

11. b) Massad Boulos - 3310 Slater Rd (parcel #390134 520013)

Larry Jordan - 3322 Slater Rd (parcel # 390134 485016)
From: Larry Daugert <ldaugert@gmail.com>  
To: <GDavis@co.whatcom.wa.us>  
Date: Fri, 11 Jul 2014 17:55:34 -0700  
Subject: Boulos/Jordan Elder & Slater Roads Rezone Application 2014/00008.

Whatcom County Planning Department  
Northwest Road  
Attn: Gary Davis, Senior Planner  
GDavis@co.whatcom.wa.us

Dear Mr. Jones,

My comments on the above application after the Planning Commission hearing on 7/10/2014:

1. I re-examined the site today and, in my opinion, someone has not only recently excavated and graveled large sections of the Jordan self-storage parcel for the [presently illegal] used-car sales lot, but also installed new asphalt paving just to the north of the convenience store. I can not tell whether that paving is intended for the store or the used-car sales area, nor can I tell without a survey whether it is upon the Boulos or Jordan parcels.

2. Mr. Sitkin at one point in the hearing indicated that 'obviously there would have to be a lot line adjustment', presumably adding area to the Boulos store parcel to accomodate the used-car lot, and subtracting area from the Jordan self-storage parcel.

If that is true, then I believe it encumbent upon the Planning Department to require disclosure of the details of such lot-line change prior to any further re-zone hearing, especially given that the Department may recommend approval conditioned upon some sort of Covenant. What specific areas are to be burdened by what specific requirements of such Covenant?

The devil, it is said, is in the details. Where - exactly - is the used-car lot to be located? How large an area? How many cars will it accommodate [I can just see the sign: "Largest Inventory of Used Cars North of Everett"]? Where is its (inevitable) wash rack? From whence does it obtain its water? Where is its (inevitable) repair facility? Where is the location of Jordan's [proposed] single family home that he asks the Department allow him to build on the remainder of his parcel?

Without knowledge of these details, neither the pubic nor the Department can properly repond to the re-zone request. If this Application is pursued, I urge the Department to obtain and disseminate answers.

I remain committed to my opposition to such re-zone.

Sincerely,

Larry Daugert
To: Honorable members of the Whatcom County Council:

At the request of the Council and a neighboring private land owner, we have been asked to submit a site plan depicting what the finished car sales lot will look like.

At the November 12, 2014 council meeting, we submitted a preliminary site plan prepared by Freeland Engineering showing location of the car lot, proposed landscaping and preliminary stormwater control based on a 2000 survey.

During said meeting, you asked for more detailed information regarding stormwater, access and landscaping.

As such, we have engaged J.P. Slagle with Freeland Engineering to prepare more specific engineered plans for stormwater control, vehicular access and internal circulation.

We first had Brian Christie prepare a topographic survey of the entire parcel to provide Freeland with a proper basis to design a stormwater control system.

Next, Katrina Jackson, wetland consultant, was engaged to conduct a wetland delineation of the entire site, including the ravine and stream located at the west end of the property. Her report is attached.

On November 25th, Sanja Barisic of the Whatcom County Engineering department conducted a site visit to determine county requirements for said storm drainage and access. Her report was thence transmitted to Mr. Slagle for incorporation into his site plan and is attached. Note that said report indicates all of the as-built driveway entrances are acceptable.

We now wish to present a more detailed, engineered site plan for your review and consideration.  

Larry Stoner, President, Larry Stoner Land Division Consultants

(Due to the limited time frame given to submit this information, please note that the subject site plan must still be considered preliminary).
Subject: FW: Site Plan for Boulos

J.P. Slagle, P.E.
Freeland & Associates, Inc.
t: (360) 650-1408
jpslagle@freelandengineering.com

From: Sanja Barisic [mailto:sbarisic@co.whatcom.wa.us]
Sent: Wednesday, November 26, 2014 12:28 PM
To: JP Slagle
Cc: larry@larrystoner.net
Subject: RE: Site Plan for Boulos

Public Works- Engineering Services has reviewed submitted Schematic Site Plan and Preliminary Stormwater Design prepared by Freeland & Associates (JP Slagle, P.E.) and can confirm that all items have been addressed, and therefore we believe that proposed project can meet min. Whatcom County Development Standards.

Kind Regards,

Sanja Barisic
Whatcom County Public Works-Engineering Services
5280 Northwest Drive
Bellingham, WA 98226
Office: 360.676.6730
sbarisic@co.whatcom.wa.us
November 25, 2014

Whatcom County Planning and Development
5280 Northwest Drive
Bellingham, WA 98226

RE: Tax parcel #s 390134 -520013, -485016. Boulos Rezone

Dear Critical Areas Administrator,

The project site is mostly developed with the exception being the west end. The northeast portion is pasture and vegetable gardens. The applicant proposes a rezone to provide opportunity to install a single family residence in the west portion. Commercial redevelopment in the west portion is proposed.

Critical areas were reviewed using resources provided by the Army Corps of Engineers, Department of Ecology, Natural Resource Conservation Service, Washington State Department of Fish and Wildlife, Department of Natural Resources, Whatcom County Planning, and various plant taxonomy sources.

Our firm conducted a field observation on 11/18/2014. Several test pits were observed across the site. Four representative data points were recorded. The soil is typically non hydric, brown 3/3 loam at the surface with a 4/3 to 4/4 found starting at about 10 to 14 inches below the surface.

An "F" Type, fish bearing stream is found in the western portion. The Whatcom County standard buffer for this type of stream is 100'. In addition, a 10' building set-back is applied to the CA buffer. The buffer may be modified under provisions for development near critical areas as per Chapter 16.16 of the county code. A standard buffer reduction to retain 75% of the standard buffer with mitigation may be applied for land development when demonstrated with mitigation that no net loss of the function of the critical area will result and that no less impactive alternative feasible options can be found. Any areas on this subject site found to meet wetland characteristics are included within the OHWM of the creek.

<table>
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<tr>
<th>Cutthroat</th>
<th>Oncorhynchus clarki</th>
<th>Occurrence</th>
</tr>
</thead>
<tbody>
<tr>
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<td>Salvelinus malma</td>
<td>Occurrence/Migration</td>
</tr>
<tr>
<td>Resident Coastal Cutthroat</td>
<td>Oncorhynchus clarki</td>
<td>Occurrence/Migration</td>
</tr>
<tr>
<td>Coho</td>
<td>Oncorhynchus kisutch</td>
<td>Occurrence/Migration</td>
</tr>
</tbody>
</table>

A very small potential wetland area is observed offsite by evidence of hydric herbaceous vegetation from a point from within this subject property without trespass. It is located at the lowest end of a moderately steep ravine located northward of the west side of the creek and northwest of the foot bridge. The narrow offsite ravine slopes to the stream. Because of small size, low quality, and location, the sloped wetland (<200-300 SF) will not be functionally challenged by the project development proposed. The anticipated (60' moderate or 80' high intensity land use) standard buffer of a Category III wetland (2014 WDOE Rating System) falls within the stream buffer overlay.

Throughout the site with exception of the stream area, hydrology does not appear to be of sufficient consistent duration to meet wetland characteristics by observation of all three parameters including primary or secondary hydrologic indicators, soils, and vegetation parameters.

Limitations
This critical areas review is prepared based upon information collected in the field and from resources provided by federal, state, and local agencies. It is the opinion of the author subject to approval by appropriate agencies.

Please do not hesitate to contact us with any questions or concerns about this matter.

Regards,

Katrina Jackson
November 26, 2014

Whatcom County Engineering  
5280 Northwest Drive  
Bellingham, WA  98225  

Attention:  Ms. Sanja Barisic  

Subject:  Boulos Property  
3310 Slater Road  
Preliminary Stormwater Design  

Dear Ms. Barisic:

The proposed project is located at 3310 Slater Road in Ferndale, Washington. This project will include stormwater infrastructure for two gravel parking lots. One parking lot will be used for car sales and the other for overflow parking for the gas station. This letter serves as a preliminary drainage proposal.

Both areas proposed as parking lots have already been converted to gravel. Stormwater runoff from the proposed car sales lot flows overland to a swale created within the gravel surface. The swale is directed to the existing infiltration pond that serves the adjacent ministorage buildings located at 3322 Slater Road. Stormwater runoff from the proposed overflow parking area currently sheet flows onto the existing asphalt of the gas station located at 3310 Slater Road. No flow control or treatment facilities have been identified at the existing gas station. Stormwater from the gas station appears to be collected in catch basins and conveyed to a piped conveyance system in Slater Road.

During a site visit on November 25, 2014, erosion from the proposed car sales lot was observed entering the existing infiltration pond. It appears that the observed erosion is due to the concentrated stormwater conveyed down the side slopes of the existing infiltration pond without proper stabilization. The final proposal will include maintenance and stabilization to the existing stormwater infiltration pond, which is predicted to reverse adverse effects from sedimentation due to erosion. No other sources of erosion were observed onsite.
The proposed development will be subject to Whatcom County Chapter 2 – Stormwater management. It is anticipated that stormwater mitigation will be provided with bioretention systems along the east and south side of the proposed car sales lot and along the south side of the overflow parking lot. These bioretention systems will provide enhanced stormwater treatment and will be designed per Department of Ecology requirements.

Stormwater flow control is anticipated to be achieved through infiltration. Existing onsite soils consist of Kickerville silt loam (hydrologic ‘B’ classification), which typically has capacity for infiltration. In addition, the existing stormwater facility for the adjacent ministorage project is currently utilizing an infiltration pond. Geotechnical analysis will be completed prior to final design to confirm infiltration capacity of the soils and to determine design infiltration rates.

Please feel free to contact me if you have any questions about these observations.

Sincerely,
Freeland and Associates, Inc.

Jean-Paul (J.P.) Slagle, P.E.

CC: Larry Stoner

Encl: Vicinity Map
Soils Map
Extraordinary Inspection for 3310 & 3322 Slater Road
Vicinity Map

Project Site
3310 Slater Road
Ferndale, WA

Fig. 1
Map Unit Name: **Kickerville silt loam, 0 to 3 percent slopes**

▲ Map Unit Composition

80% - **Kickerville**
Geomorphic Position: terraces

5% - **Clipper**
Geomorphic Position: terraces
Horizon data n/a | View Similar Data

3% - **Birchbay**
Horizon data n/a | View Similar Data

3% - **Laxton**
Horizon data n/a | View Similar Data

3% - **Everett**
Horizon data n/a | View Similar Data

2% - **Shaicar**
Geomorphic Position: flood plains
Horizon data n/a | View Similar Data

2% - **Fishtrap**
Geomorphic Position: flood plains
Horizon data n/a | View Similar Data

2% - **Barnhardt**
Horizon data n/a | View Similar Data

▲ Map Unit Data

Map Unit Key: 75144
Type: Consociation
Farmland Class: All areas are prime farmland
Available Water Storage (0-100cm): 20.79 cm
Max Flood Freq: None
Drainage Class (Dominant Condition): Well drained
Drainage Class (Wettest Component): Well drained
Proportion of Hydric Soils: 9%
Min. Water Table Depth (Annual): n/a
Min. Water Table Depth (April-June): n/a
Min. Bedrock Depth: n/a

Project Site
3310 Slater Road
Ferndale, WA

Soils Map

Fig. 2
Extraordinary Inspection Memo
MEMORANDUM

TO: Larry Stoner, Agent for Sam Boulos
FROM: SANJA BARISIC, PW Engineering Services
DATE: November 25, 2014
SUBJECT: Extraordinary Inspection, 3310 & 3322 Slater Rd

Engineering Services has visited the subject site and conducted the following inspection on November 25, 2014 as requested by the applicant:

1- Observation of the existing on-site drainage flows and infiltration pond.
2- Observation of the proposed gravel car lot area in relation to parking space, traffic flows, access, drainage flows, and landscaping area.
3- Observation of the existing sight distance and access points and spacing between existing access points.
4- Existing access approach off of Slater Road that serves Jordan’s business storage site has commercial paved apron installed. Access meets minimum sight distance criteria, as per current WC Development Standards.
5- Spacing between access approach to Jordan’s storage business and access approach to the existing gas station is approximately 60 ft. That is min. required spacing between two driveways as per Development Standards.

Based on today’s site visit, Engineering Services requires the following items to review prior to any recommendation or approval:

1- Preliminary Stormwater proposal including short narrative addressing proposed impervious surface, stormwater flows and runoff treatment as per Development Standards and meeting Chapter 2, Stormwater Management. Based on record drawing submitted for Larry Jordan storage business, some of the existing drainage flows will need to be addressed (swale in gravel area). Additional gravel area behind the existing gas station needs to be addressed in this preliminary stormwater proposal as well.

2- Site Plan shall clearly depict parking area and car lot including ingress/egress area that will also serve Jordan’s storage business.
3- Existing infiltration pond shall be maintained and slopes hydro seeded. Additional rip-rap to be installed if proposed additional inflows to the pond.

4- Landscaping shall be installed on the site as required and shall not obstruct sight distance.

5- Installation of vertical curb will prevent parking in the gravel area in front of infiltration pond. Grass can be seeded on site next to the pond. Curb shall be installed on the edge of the existing shoulder or at the road inspector recommendation. Revocable Encroachment Permit shall be obtained for this work. Site Plan shall show vertical curb preliminary location.

If you have any question, please call me at 676-6730, ext. 50245. Thank you.
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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<th>Initial</th>
<th>Date</th>
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Division Head:

Dept. Head: K Goens 01/06/2015

Prosecutor:

Purchasing/Budget:

Executive:

TITLE OF DOCUMENT:
Training Proposal: Effective Meetings for Focus & Productivity

ATTACHMENTS:
Memo to Jack Louws, County Executive & Rud Browne, County Council member
Draft flyer

SEPA review required? ( ) Yes ( ) NO
SEPA review completed? ( ) Yes ( ) NO
Should Clerk schedule a hearing? ( ) Yes ( ) NO
Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Proposes two sessions of training “Effective Meetings for Focus & Productivity” Tuesday, February 3, 2015 for County Council, Planning Commission, and other commission, advisory board, committee members and staff with Ann Macfarlane of Jurassic Parliament.

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
MEMORANDUM

TO: Jack Louws, County Executive
    Rud Browne, County Council member

FROM: Karen Goens, Human Resources Manager

SUBJECT: TRAINING PROPOSAL

DATE: December 11, 2014

At your request, I contacted the trainer both of you recommended after attending her sessions at the Washington State Association of Counties' Leadership Conference.

I learned Ann Macfarlane has been offering her surprising twist on Robert's Rules of Order, "Jurassic Parliament," for the last 15 years. While her business is located in Seattle, Ann works for civic leaders, nonprofit boards of directors, and school boards across the nation. In our region, she recently trained the Washington Society of Association Executives and the Skagit County Planning Commission. Here are some statements from testimonials she sent:

"As an 'old-timer' I thoroughly enjoyed the program...and heard some great reminders, as well as information that was new to me. Most amazing of all, not one of us checked our phones or other devices even once during your program...that's how engaged we were."

(Some participants)..."signed up with a little trepidation—thinking a program on Robert's Rules would either be deadly dull or overwhelmingly complex. Of course, it was neither! You made it lively and fun and involved everyone by giving them a role to play (in a completely non-threatening manner). You provided great information and ever-so-clearly explained the whys not just the whats."

I've asked Ann to hold a training date for Whatcom County Tuesday, February 3, 2015 (a non-Council meeting week). The training would be for County Council, Planning Commission, members of other County boards and committees, and County staff. I believe increasing the focus and productivity of meetings county-wide could dovetail nicely with other LEAN initiatives the County will undertake in 2015 and this training could be funded from this part of the Executive's budget.

Attached are draft concepts for a flyer Jurassic Parliament would put into a professional layout. I will wait to move forward until after the County Council has had an opportunity to discuss this at the January 13th County Council meeting.

Enclosure: Effective Meetings for Focus and Productivity
Effective Meetings for Focus & Productivity

Audience
County Council, Planning Commission, other Commissions, Advisory Boards, Advisory Committees, and County staff

About This Course
Elected officials and volunteer appointees devote countless hours in public meetings to represent the interests of the public and provide essential support to county programs and activities. In appreciation of this service and to gain value for the time invested, we are offering a special, fun training event with Ann Macfarlane of Jurassic Parliament. While her business is located in Seattle, Ann works for civic leaders, nonprofit boards of directors, and school boards across the nation. In our region, she recently trained the Washington Society of Association Executives and the Skagit County Planning Commission.

Tuesday, February 3, 2015
Civic Center – Garden Level Conference Room -- 322 N. Commercial

1:00 – 4:00 p.m.
OR
5:30 – 8:30 p.m.

Learn key guidelines to help Council, Commission, and Committees function well in the face of complex, challenging, and divisive issues.

Ann Macfarlane will cover little-known but essential principles that have immediate practical application. Learn by doing in this entertaining and enjoyable session. Your grasp of meeting Rules of Order and your meetings will never be the same!

Specifically, you will learn:
• The role of the chair of the board and the rights of members
• How a board meeting is the opposite of our usual meeting structure
• One little-known rule that transforms discussion
• Minimizing "groupthink" and improving your board’s decision-making process
• Common mistakes to avoid when using Rules of Order

Space is limited!
To register, go to InsideWhatcom and click on "Training" or call Human Resources at 676-6802 by January 28, 2015

Council members/staff from Bellingham or other cities may attend for $35 per person if space available.

2 Certified Public Official (CPO) Credits
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**

2015 Reorganization of Whatcom County Approved Council

**ATTACHMENTS:**

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<th>( ) Yes ( ) NO</th>
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2014 Reorganization of Whatcom County Approved Council

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

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<th>At Large: Rud Browne</th>
<th>1st Dist: Barry Buchanan</th>
<th>1st Dist: Pete Kremen</th>
<th>2nd Dist: Ken Mann</th>
<th>2nd Dist: Sam Crawford</th>
<th>3rd Dist: Carl Weiner</th>
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**Standing Committees:**

| Finance & Administrative Services    | Yes (1st Choice)    | √                      |                     |                 |                     |                     |                     |
| Chair of Finance Committee will act as Council Representative to What-Comm |                     |                        |                     |                 |                     |                     |                     |

| Planning & Development               | Yes (2nd Choice)    | √                      |                     |                 |                     |                     |                     |
| Public Works, Health and Safety      |                     |                        |                     |                 |                     |                     |                     |
| Select Lummi Island Ferry Advisory Committee on Offic member (select 2 backup representatives) |                     |                        |                     |                 |                     |                     |                     |
| Natural Resources                    |                     | √                      |                     |                 |                     |                     | √                   |
| Select 2 Natural Resource Committee members as Representatives to Lake Whatcom Policy Group |                     |                        |                     |                 |                     |                     |                     |

**Other Committee Assignments**

- Bellingham International Airport Advisory
- Bellingham/Whatcom Chamber of Commerce & Industry: Yes
- Birch Bay Shellfish Protection District Advisory Committee
- Council of Governments (COG) (2)
- Developmenal Disabilities Board: Yes
- Drayton Harbor Shellfish Protection District
- EMS Oversight Board: Would consider

**Alternate Representative**

- Flood Control Zone Committee (Ex Officio): Yes
- Intergovernmental Tribal Relations Committee (2)
- Integrated Behavioral Health Advisory Board (replaces Mental Health & Substance Abuse Advisory Committees)
- LEOFF Board
- Local Emergency Planning Committee (LEPC)
- Lummi Island Ferry Advisory Committee

**Alternates (2)**

- Marine Resources Committee: Would consider
- North Sound Mental Health Administration Board: Would consider
- Northwest Clean Air Agency
- Northwest Regional Council (NWRC)
- Opportunity Council
- Portage Bay Shellfish Protection District
- Public Defense Advisory: Yes
- Public Health Advisory Board
- Solid Waste Advisory
- WSAC Alternate Board Member (County Executive is the active representative, Councilmember is the alternate)
- WSAC Legislative Steering Committee
- Whatcom Transit Authority

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# WHATCOM COUNTY COUNCIL MEMBERS

## 2015

### Council At-Large

- **Rud Browne**
  - Term expires 1-2018
  - 820-9494

### District I

- **Position A**
  - Barry Buchanan
  - Term expires 1-2018
  - 224-4330

- **Position B**
  - Pete Kremen
  - Term expires 1-2016
  - 734-3802

### District II

- **Position A**
  - Ken Mann
  - Term expires 1-2018
  - 483-6020

- **Position B**
  - Sam Crawford
  - Term expires 1-2016
  - 671-7262

### District III

- **Position A**
  - Carl Weimer
  - Term expires 1-2018
  - 384-5919

- **Position B**
  - Barbara Brenner
  - Term expires 1-2016
  - 384-2762

---

**ALL MAIL FOR COUNCIL MEMBERS SHOULD BE SENT TO THE FOLLOWING ADDRESS:**

WHATCOM COUNTY COUNCIL  
311 GRAND AVENUE, SUITE 105  
BELLINGHAM, WA 98225  
(360) 676-6690  
council@co.whatcom.wa.us
2015 WHATCOM COUNTY COUNCIL COMMITTEES

Finance and Administrative Services Committee
Council Meeting - Tuesdays

Natural Resources Committee
Council Meeting - Tuesdays

Planning and Development Committee
Council Meeting - Tuesdays

Public Works, Health and Safety Committee
Council Meeting - Tuesdays

Bellingham International Airport Advisory Committee (BIAAC)
Meets mostly every month – 2nd Thursday at 5:30 p.m. - First meeting is January 8, 2015 (meetings held at General Aviation Terminal Conference Room, 4201 Mitchell Way)
Purpose: To serve as an advisory board for the management of the Bellingham International Airport and the Port Commission. This committee will address concerns over the policies, direction, and impact of BIA upon the Whatcom County community. It will maintain awareness of the economic mandate placed upon the Port which affect policy decisions and apply such knowledge in reaching any recommendations which are to be directed to the Aviation Manager.

Bellingham/Whatcom Chamber of Commerce & Industry

Birch Bay Shellfish Protection District Advisory Committee
Meets twice a year in coordination with the Birch Bay Watershed and Aquatic Resources Management Advisory Committee (BBWARM) (meetings held at the Fire Station 62, 9001 Semiahmoo Parkway, Blaine)
Purpose: The Advisory Committee advises the County Council on the proposed actions and operations relating to the restoration of water quality in Birch Bay.

Whatcom Council of Governments (WCOG)
Meets every other month – typically 2nd Wednesday at 3:30 p.m. (Two representatives from County Council – Both will serve on the Full Council and one of the two will serve also on the Executive Board & Transportation Policy Board) First meeting scheduled January 21, 2015. (meetings held at 314 E. Champion)
Purpose: Whatcom Council of Governments is a body of representatives, mostly elected officials that act together in reviewing and solving regional
issues. They are supported by a small staff. Much of the work accomplished relates to transportation issues of every kind.

The Washington State Governor has reposed special trust in the WCOG by designating it as both the Metropolitan Planning Organization (MPO) and the Regional Transportation Planning Organization (RTPO). Local elected officials make decisions about roads and other transportation topics as members of this organization.

**Developmental Disabilities Board**
Meet every other month – 4th Monday at 4:30 p.m. starting in January, 2015 (meetings held at Saint Luke’s Community Health Education Center)

**Purpose:** The Board shall serve in an advisory capacity to the department of Developmental Disabilities Services. The Board plans services for developmentally disabled people and coordinates those services. Members shall include but not be limited to representatives of public, private, or voluntary agencies, representatives of local government units and citizens knowledgeable about developmental disabilities.

**Drayton Harbor Shellfish Protection District Advisory Committee**
Meet every other month – 2nd Wednesday at 4 p.m. starting in February (meetings held at a location in Blaine to be determined for 2015)

**Purpose:** Members must be property owners that reside within the Shellfish Protection District or have a direct interest from one of the following groups: Commercial Shell fishing, Agriculture, Ports, Fish Processing, Recreational Boating, Blaine City Council, or Drayton Harbor Management Committee. The board’s duties are to advise the County Council on the proposed actions and operations relating to the restoration of water quality in the Drayton Harbor watershed.

**EMS (Emergency Medical Services) Oversight Board**
Meet Quarterly – 1st meeting TBA (meeting location to be determined)

**Purpose:** The Board shall with the active advise and participation of the Technical Advisory Board, make recommendations to the Whatcom County and the Cities and Fire Districts of Whatcom County regarding administration, operations, levels of service, and EMS budgets and financial reporting. The Board will be the primary organization responsible for framing the ongoing vision of an integrated and coordinated EMS system. The Board will meet at least four meetings per year (quarterly) to review the status of emergency medical services in Whatcom County and to develop recommendations.

**Flood Control Zone Advisory**
Meet every month – 2nd Thursday at 7 p.m. (meetings held at the Civic Center Building - Garden level Conference Room UNLESS OTHERWISE NOTED – January through April)

**Purpose:** Committee assists and makes recommendations to the Flood Control Zone District Board of Supervisors in performing flood damage repairs, maintenance and improvements, and minimizing future flood damage.
damage through prevention and management on the Nooksack River, its watershed and the other watersheds within Whatcom County. Serves as an Ex-Officio member (non-voting).

**Intergovernmental Tribal Relations Committee**  
**Meets on an as-needed basis**  
This committee consists of two County Councilmembers along with an unspecified number of tribal delegates serving on an as-needed basis as a liaison committee between the Whatcom County Council and either or both of the two Native American governments in Whatcom County. Meetings are not regularly scheduled, but can be requested by either or both tribal governments, or by the County Council. Committee members shall merely act in a representative capacity, and all final decisions on behalf of Whatcom County shall be made by vote of the entire County Council as provided in the Whatcom County Charter.

**Integrated Behavioral Health Advisory Board**  
**Meets every other month – 2nd Monday at 12 p.m. – First meeting is January 12, 2015 (meetings held at Saint Luke’s Community Health Education Center)**  
**Purpose:** The Board provides general advice on community needs, programming, service priorities, and public resource allocation related to people with behavioral health disorders (chemical dependency and mental illness). Members must be residents of Whatcom County and include people in recovery from addiction, consumers, family members of people with mental illness, and people with professional expertise in behavioral health.

**LEOFF Board**  
**Meets Monthly - 2nd Wednesday at 9 a.m.**  
**meetings held in County Executive Conference Room**  
**Purpose:** The Whatcom County law enforcement officers' and firefighters' disability board is established pursuant to RCW 41.26.110. The board has jurisdiction involving members of the "Washington Law Enforcement Officers' and Firefighters' Retirement System" of Whatcom County, other than members covered by a city which has established its own disability board. Such board shall act upon and either approve or disapprove all claims for disability from those within its jurisdiction.

**Local Emergency Planning Committee (LEPC)**  
**Meets Quarterly – 1st meeting is January 27, 2015 at 1:30 p.m. (April 28, September 22 and November 24) (meetings held at the Whatcom Unified Emergency Coordination Center, 3888 Sound Way, Bellingham)**  
**Purpose:** The LEPC was created in 1987 to fulfill local hazardous materials responsibilities designated by congress in the Superfund Amendment Reauthorization Act (SARA) Title III. The state of Washington implemented the congressional mandate with the adoption of WAC 118.
Also known as the Emergency Planning and Community Right-to-Know Act (EPCRA), the legislation requires LEPCs to develop a local hazardous materials response plan and to maintain public files that show chemical inventories of facilities regulated by the Act. The Whatcom County Sheriff’s Office Division of Emergency Management facilitates the activities of the LEPC. The Sheriff is Chair of the Committee.

It was the legislative intent of the Act that LEPCs be composed of a broad cross-section of the community including: state and local elected officials, response organizations, health officials, community groups, concerned environmental organizations and regulated businesses and industries.

**Lummi Island Ferry Advisory Committee (LIFAC)**

Work Sessions and Meetings are generally held at the Lummi Island Fire Hall once a month on Tuesdays at 6:30 p.m. Meeting dates are subject to change with appropriate notice. One councilmember will participate as a designated, non-voting attendee as per the 1/28/2014 Public Works Committee Meeting. Need two alternates.

**Purpose:** The Committee provides review and recommendations to the Whatcom County Council and Executive on issues that affect the ongoing operations and infrastructure of ferry service to Lummi Island. The committee also provides a forum for those who depend upon Lummi Island ferry service to voice their ideas and concerns about the ferry service.

**Marine Resource Committee**

Meets Monthly – 1st Thursday at 6 p.m.

(*meetings held at the Civic Center Building - Garden level Conference Room through July and then TBD*)

**Purpose:** The Whatcom County marine resource committee will address local marine issues and recommend remedial action to local authorities. The committee will build local awareness of issues, and gather support for remedies consistent with the benchmarks for performance as established in the August 20, 1998 report to the conveners by the Murray-Metcalf northwest straits citizens’ advisory commission.

**North Sound Mental Health Administration Board of Directors**

Meets Monthly - 2nd Thursdays at 1:30 p.m. First meeting is January 8, 2015 (in addition, representative may be appointed to one of four committees: Finance Committee, Executive Personnel Committee, Planning Committee, or Quality Management Oversight Committee)

(*meetings held in Mount Vernon office – 117 N. 1st Street; Suite 8*)

**Purpose:** The North Sound Mental Health Administration is a Regional Support Network for Island, San Juan, Skagit, Snohomish & Whatcom Counties. They join together to enhance our community’s mental health and support recovery for people with mental illness served in the North Sound region, through high quality culturally competent services.

**Northwest Clean Air Agency**

Meets Monthly - 2nd Thursday at 1:30 p.m. (will not meet January and July) (*meetings held in Mount Vernon office – 1600 S. 2nd*)

**Purpose:** The Northwest Air Pollution Authority’s seven member Board of
Directors establish policies and oversee agency operations. The Board is comprised of a representative from each of the three counties, a representative from each of the three largest cities -- Bellingham, Mount Vernon and Oak Harbor -- and a Member-at-Large selected by the other six members.

**Northwest Regional Council**
Meets three times a year – Thursdays at 10 a.m. (March 26, June 25 and November 5, 2015) *(meetings held at Skagit County Commissioner’s Hearing Room in Mount Vernon)*
*Purpose:* The Northwest Regional Council (NWRC) has been serving people of Island, San Juan, Skagit and Whatcom Counties since 1971. They are governed by a board of directors that is composed of two elected officials from each member county. Efforts are concentrated in planning and implementing services for people who are older or disabled and who need assistance caring for themselves. NWRC funds community-based care programs in order to help people live in their own homes and communities for as long as possible, postponing or eliminating the need for institutional care. Meets at Skagit County Commissioners Hearing Room in Mt. Vernon.

**Opportunity Council (OC)**
Meets Monthly – 4th Thursday at 4 p.m. First meeting is January 22, 2015 (November & December are combined into one meeting on December 3, 2015) *(does not meet July & August)*
*Purpose:* The Opportunity Council (OC) creates innovative, collaborative solutions and partnerships to meet the needs of disadvantaged person in our communities. Development and Executive staff provide technical assistance, planning, strategic development, financial and organizational direction, leadership on agency-wide systems, and the political and institutional relationships vital to the future of the agency and communities.

The OC plays a key role in the development and ongoing operations of many local, state and national groups that improve the lives of low-income, homeless and disadvantaged persons.

**Portage Bay Shellfish Protection District**
Meets Quarterly – last Wednesday at 3 p.m. – First meeting is January 28, 2015 *(Civic Center Building – Garden level Conference Room until July and then TBD)*
*Purpose:* The committee advises the County Council on the proposed actions and operations relating to the restoration of water quality in the Portage Bay Watershed. Members must have a direct interest in the Shellfish Protection District.

**Public Defense Advisory Committee**
Meets once per year
*Purpose:* The Committee shall submit its observation of the public defender system to the Executive and the County Council not less than annually.
Public Health Advisory Board
Meets every other month – 1st Thursday at 7 a.m. except for January
(January 14, March 5, May 7, July 2, September 3, and November 5,
2015) (meetings held at the Health Department Conference Room)
Purpose: The Board shall serve in an advisory capacity to the Health
Department on all issues related to the County Health Department and its
programs. Members are residents of the county, eight of which are appointed
by the Executive, subject to the County Council confirmation. One member is
appointed by County Council for a term of one calendar year.

Solid Waste Advisory Committee
Meets Quarterly – 4th Thursday at 5:30 p.m. (January 22, April 23,
July 23 and October 22, 2015) (meetings held at Civic Center
Building – Garden level Conference Room for January and April and
TBD for the rest of the year)
Purpose: The Whatcom County solid waste advisory committee is established
to be comprised of a county-wide group of representatives of citizens, public
interest groups, business, the waste management industry, and local elected
public officials to provide for coordination and information exchange between
the groups about solid waste issues and to provide ongoing public input and
advice to Whatcom County on solid waste management issues.

The Whatcom County solid waste advisory committee shall advise and make
recommendation to the county executive and council on matters within their
scope and charge.

WSAC Board Member as Alternate
(Washington State Association of Counties)
Meets generally four times each year (January, May, September, and
November)
Purpose: The Washington State Association of Counties’ Board of Directors is
charged with the “general supervision over the affairs of the Association…”
WSAC bylaws provide for the following representation on the WSAC Board of
Directors: “(e) One representative and an alternate, who is an Active
Member, from each county of 180,000 population or greater.” The
Association bylaws will be provided to the appointed alternate.

WSAC Legislative Steering Committee
(Washington Association of Counties)
Meets 7 times in 2015 (January 22, February 5, February 19, March
5, March 19, April 2, April 16)
Purpose: The Legislative Steering Committee is responsible to prepare and
recommended a proposed legislative program for consideration of the
membership at the Annual Meeting.

The Legislative Steering Committee shall monitor events of each legislative
session and shall be empowered to adopt policy relating to legislation,
executive branch policies and operation, and the activities of other
organizations and associations.
Whatcom Transit Authority (WTA)
Meets Monthly - 3rd Thursday at 8 a.m.
   Executive Committee
      Meets Monthly - 2nd Thursday at 8 a.m. (will not meet in January) at 4111 Bakerview Spur Road in Bellingham

Purpose: The Board concurs and approves all matters pertaining to the running of the WTA. Any item over $25,000 must be brought to the Board for approval. In addition, the board member attends the Executive Committee meeting listed above. The Board discusses the following: route changes; services offered to the public, service planning; major personnel issues; labor negotiation issues; fiscal issues; funding issues; capital expenditures; major purchases; grants and contracts.
**Professional services contract with Foster Pepper PLLC to provide legal services related to the Lake Whatcom phosphorus and bacterial TMDL.**

**ATTACHMENTS:**
Memorandum
Contract

**SEPA review required? ( ) Yes ( X ) NO**
**SEPA review completed? ( ) Yes ( X ) NO**

**Should Clerk schedule a hearing? ( ) Yes ( X ) NO**

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)**

Professional services contract with Foster Pepper PLLC to provide legal representation for Whatcom County in dispute resolution with Washington Department of Ecology and other associated legal services related to the Lake Whatcom phosphorus and bacterial TMDL.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.
TO: The Honorable Jack Louws, County Executive

THROUGH: Frank M. Abart, Director

FROM: Gary S. Stoyka, Natural Resources Program Manager

RE: Lake Whatcom TMDL Legal Services Contract

DATE: December 29, 2014

Requested Action
Enclosed are two (2) originals of a contract for Lake Whatcom TMDL Legal Services between Foster Pepper PLLC and Whatcom County for your review and signature.

Background and Purpose
DOE recently issued the final Lake Whatcom Watershed Total Phosphorus and Bacteria TMDLs Volume 2. Water Quality Improvement Report and Implementation Strategy. The final TMDL contains conditions which are of concern to Whatcom County. On December 9, 2014, the Whatcom County Council voted unanimously to file a request for dispute resolution with the Department of Ecology to attempt to resolve these issues. On December 19, 2014 Whatcom County filed the request for dispute resolution with the Department of Ecology. Legal services provided by Foster Pepper PLLC include services related to conducting dispute resolution and associated legal services. Approval of this contract will ensure the County’s continued retention of Foster Pepper for legal services related to the Lake Whatcom TMDL.

Funding Amount and Source
Total project cost for the current project is estimated to be $50,000.00. These costs will be paid for out of the Stormwater Fund (Fund 123).

Please contact Gary Stoyka at extension 50618, if you have any questions or concerns regarding the terms of this agreement.

Encl.
**WHATCOM COUNTY CONTRACT INFORMATION SHEET**

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Public Works/Natural Resources Division</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Gary Stoyka, Natural Resources Manager</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Foster Pepper, PLLC</td>
</tr>
</tbody>
</table>

**Is this a New Contract?** If not, is this an Amendment or Renewal to an Existing Contract? Yes _ No _

Yes _ No ___

If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #

(see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

**Does contract require Council Approval?** Yes _ No __

If No, include WCC __________________

**Is this a grant agreement?**

Yes _ No _

If yes, grantor agency contract number(s) __________________ CFDA # __________________

**Is this contract grant funded?**

Yes _ No _

If yes, associated Whatcom County grant contract number(s) __________________

**Is this contract the result of a RFP or Bid process?**

Contract

Yes _ No _

If yes, RFP and Bid number(s) __________________

Cost Center: 123212

**Is this agreement excluded from E-Verify?** No _ Yes _

If no, include Attachment D Contractor Declaration form.

**If yes, indicate exclusion(s) below:**

- Professional services agreement for certified/licensed professional
- Contract work is for less than 120 days
- Contract less than $100,000.
- Contract for Commercial off the shelf items (COTS)
- Contract work is all performed outside U.S.
- Work related subcontract less than $25,000.
- Interlocal Agreement (between Gov’t’s)
- Public Works - Local Agency/Federally Funded FHWA

**Contract Amount:(sum of original contract amount and any prior amendments)**

$ 50,000.00

**This Amendment Amount:**

$

**Total Amended Amount:**

$ 50,000.00

**Summary of Scope:**

DOE recently issued the final Lake Whatcom Watershed Total Phosphorus and Bacteria TMDLs Volume 2. Water Quality Improvement Report and Implementation Strategy. Whatcom County has entered into dispute resolution with DOE to resolve several legal and technical issues in the final TMDL. Services provided by Foster Pepper include participation in the dispute resolution process and associated legal services.

**Term of Contract: 1 year**

Expiration Date: 12/31/15

**Contract Routing Steps & Signoff: sign or initial**

1. Prepared by: GSS

   Date 12/22/14

2. Attorney reviewed: Daniel L. Gibson

   Date 12/30/14

3. AS Finance reviewed:

   Date

4. IT reviewed if IT related:

   Date

5. Attorney signoff: Daniel L. Gibson

   Date 12/30/14

6. Contractor signed:

   Date 1-5-15

7. Submitted to Exec Office:

   Date 1-5-15

8. Council approved (if necessary):

   Date

9. Executive signed:

   Date

10. Original to Council

   Date

11. Indicate date transmitted

   Date
CONTRACT
Legal Services for Lake Whatcom TMDL

FOSTER PEPPER PLLC, hereinafter called Contractor, and Whatcom County, hereinafter referred to as County, agree and contract as set forth in this Agreement, including:

General Conditions, pp. 3 to 8.
Exhibit A (Scope of Work), pp. 9 to 11.
Exhibit B (Compensation), pp. 12 to 18.
Exhibit C (Certificate of Insurance).

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 13th day of January, 2015, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2015.

The general purpose or objective of this Agreement is for legal services related to the Lake Whatcom TMDL dispute resolution process as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed FIFTY THOUSAND AND NO/100 DOLLARS ($50,000.00). The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this 5th day of January, 2015.

CONTRACTOR:

FOSTER PEPPER PLLC

Lori A. Terry, Member

STATE OF WASHINGTON

COUNTY OF King

On this 5th day of January, 2015, before me personally appeared Lori A. Terry to me known to be a MEMBER OF FOSTER PEPPER PLLC and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

Collen G. Hickman
NOTARY PUBLIC in and for the State of Washington, residing at Bellevue, WA. My commission expires 1-29-2019.
WHATCOM COUNTY:
Recommended for Approval:

[Signature]
Frank M. Abart  Date
Public Works Director

Approved as to form:

[Signature]  12-31-14
Daniel L. Gibson  Date
Chief Civil Deputy Prosecutor

Approved:
Accepted for Whatcom County:

By: ____________________________
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON  
COUNTY OF WHATCOM  

On this ______ day of ________ , 20 __, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

__________________________________________
NOTARY PUBLIC in and for the State of Washington, residing at 
My commission expires ____________________

CONTRACTOR INFORMATION:

FOSTER PEPPER PLLC  
Lori A. Terry, Member

Address:
1111 Third Avenue, Suite 3400
Seattle, WA  98101-3299

Phone: (206) 447-8902  
FAX: (206) 749-2002  
Contact Email: terrl@foster.com
GENERAL CONDITIONS

Series 00-09: Provisions Related to Scope and Nature of Services

0.1 Scope of Services:
The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:
Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

10.2 Extension: Not Applicable

11.1 Termination for Default:
If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor's receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and any damage sustained, or which may be sustained by the County by reason of such default.

11.2 Termination for Reduction in Funding:
In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

11.3 Termination for Public Convenience:
The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:
Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses...
incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:
The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:
In the event the County’s Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:
The Contractor agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages, minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:
The Contractor's services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph.
30.2 Assignment and Subcontracting:
The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:
The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.1 Ownership of Items Produced:
All writings, programs, data, public records or other materials prepared by the Contractor and/or its consultants or subcontractors, in connection with performance of this Agreement, shall be the sole and absolute property of the County.

31.2 Patent/Copyright Infringement:
Contractor will defend and indemnify the County from any claimed action, cause or demand brought against the County, to the extent such action is based on the claim that information supplied by the Contractor infringes any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:
A. The Contractor shall be notified promptly in writing by the County of any notice of such claim.
B. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

32.1 Confidentiality:
The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

33.1 Right to Review:
This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. Contractor also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Contractor, then the Contractor agrees to notify the Administrative Officer as soon as it is practical.

34.1 Proof of Insurance:
The Contractor shall carry for the duration of this Agreement commercial general liability insurance with the following minimums:
Property Damage - $500,000.00 per occurrence
Bodily Injury - $1,000,000.00 per occurrence

A Certificate of insurance, that also identifies the County as an additional insured, is attached hereto as Exhibit "C". This insurance shall be considered as primary and noncontributory and shall waive all rights of subrogation. The County insurance shall not serve as a source of contribution.

a. Professional Liability - $1,000,000 per occurrence:
If the professional liability insurance is a claims made policy, and should the contractor discontinue coverage either during the term of this contract or within three years of completion, the contractor agrees to purchase tail coverage for a minimum of three years from the completion date of this contract or any amendment to this contract.

Professional Liability - $1,000,000 per occurrence

34.2 Industrial Insurance Waiver:

Contract
Legal Services for Lake Whatcom TMDL
With respect to the performance of this agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this agreement.

34.3 Defense & Indemnity Agreement:
The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, its subcontractors, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County or its appointed or elected officials or employees. In case of damages caused by the concurrent negligence of Contractor, its subcontractors, its successors or assigns, or its agents, servants, or employees, and the County, its appointed or elected officers, employees or their agents, then this indemnification provision is enforceable only to the extent of the negligence of the Contractor, its agents, or its employees.

It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

35.1 Non-Discrimination in Employment:
The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:
The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status; or deny an individual or business any service or benefits under this Agreement; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement; or deny an individual or business an opportunity to participate in any program provided by this Agreement.

36.1 Waiver of Noncompetition:
Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and contractor further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.
36.2 Conflict of Interest:
If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County’s interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County’s interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:
This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County’s representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County’s right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Frank M. Abart, Director, Whatcom County Public Works, 322 N. Commercial Street, Suite 210, Bellingham, WA 98225

37.2 Notice:
Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County’s Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the “Contractor Information” section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

38.1 Certification of Public Works Contractor’s Status under State Law: Not Applicable

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions: Not Applicable

38.3 E-Verify: Not Applicable

Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes

40.1 Modifications:
Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.2 Contractor Commitments, Warranties and Representations:
Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to, any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

41.1 Severability:
If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:
Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.
42.1 Disputes:

a. General:
Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:
The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:
The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration:
Other than claims for injunctive relief brought by a party hereto (which may be brought either in court or pursuant to this arbitration provision), and consistent with the provisions hereinabove, any claim, dispute or controversy between the parties under, arising out of, or related to this Agreement or otherwise, including issues of specific performance, shall be determined by arbitration in Bellingham, Washington, under the applicable American Arbitration Association (AAA) rules in effect on the date hereof, as modified by this Agreement. There shall be one arbitrator selected by the parties within ten (10) days of the arbitration demand, or if not, by the AAA or any other group having similar credentials. Any issue about whether a claim is covered by this Agreement shall be determined by the arbitrator. The arbitrator shall apply substantive law and may award injunctive relief, equitable relief (including specific performance), or any other remedy available from a judge, including expenses, costs and attorney fees to the prevailing party and pre-award interest, but shall not have the power to award punitive damages. The decision of the arbitrator shall be final and binding and an order confirming the award or judgment upon the award may be entered in any court having jurisdiction. The parties agree that the decision of the arbitrator shall be the sole and exclusive remedy between them regarding any dispute presented or pled before the arbitrator. At the request of either party made not later than forty-five (45) days after the arbitration demand, the parties agree to submit the dispute to nonbinding mediation, which shall not delay the arbitration hearing date; provided, that either party may decline to mediate and proceed with arbitration.

Unless otherwise specified herein, this Agreement shall be governed by the laws of Whatcom County and the State of Washington.

43.1 Venue and Choice of Law:
In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:
The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Entire Agreement:
This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.
Foster Pepper

Legal services shall include: providing legal representation and acting as the lead for Whatcom County for the Washington Department of Ecology's dispute resolution process for the recently-issued Lake Whatcom Watershed Total Phosphorus and Bacteria Total Maximum Daily Loads (TMDL) and providing associated legal advice, which services shall not exceed $50,000. This contract is based on the assumption that Whatcom County will provide separate funding for technical expert witnesses needed for the dispute resolution process.

Our policy—and the foundation of a sound client-attorney relationship—is to ensure that we understand your legal needs and that you understand the nature of the services we will provide. Communication between us is critical. We regularly will keep you informed of our activities on your behalf and will act in your interest at all times to the best of our abilities, subject to our knowledge of the facts and the state of the law during the representation.

Generally, one lawyer will be responsible for and will oversee your representation. Other lawyers and legal assistants may work on your behalf especially when special skill or expertise is required or when delegation is more expeditious and cost-effective, or for other appropriate reasons. Your responsible lawyer will be your point of contact for all aspects of your representation. If at any time you are unhappy with any person working on your behalf, please tell your responsible lawyer or the Chair of the firm's Executive Committee. The situation will be addressed immediately.

We need your help to represent you to the best of our abilities. We rely on you to be candid with and responsive to us, as we will be with you. Please inform us immediately of any change of circumstance affecting the representation or our ability to contact you. We both must respond promptly and completely to inquiries and requests to enable us to represent you effectively. While we cannot assure a successful result in any engagement, we pledge to use our best efforts on your behalf.

You may terminate our representation of you at any time and for any reason. In addition, we may choose to withdraw from the representation, but only in accordance with the applicable Rules of Professional Conduct in effect in the jurisdiction where our relationship exists. If we choose to withdraw as your lawyers, we will notify you in writing. At termination or withdrawal, you will remain obligated to pay us promptly for all charges for legal services rendered as well as charges resulting from the termination or withdrawal, including working with any successor counsel. We will cooperate with successor counsel to assure a smooth transfer of the representation.

Conflicts of Interest

Because our representation of you is limited in scope and because we have a large number of clients, we wish to clarify the extent to which our representation of you may affect our ability to represent other clients in other matters, including matters in which you may be involved. We employ internal procedures to ensure that our representation of other clients will not cause a conflict of interest with you. Your identity as our client is the person or entity named as the client in our Engagement Letter and does not include any of your affiliates, officers, directors, principals or other related parties unless so specified. Accordingly, we may represent another client with interests adverse to any such affiliate without obtaining your consent, and we respectfully decline to be bound by any contrary policy. If we discover any actual or potential conflict of interest affecting our representation of you, we will notify you promptly.

Depending upon our relationship, at the conclusion of the engagement described in the Engagement Letter, you will no longer be considered a current client of the firm. As a former client, you may expect that we will not represent another person in the same or a substantially related matter if that client's interests are adverse to your interests unless you have consented in writing to the representation after consultation and full disclosure of material facts. You may also expect that we will preserve appropriately the confidentiality of your information and secrets. Without your prior written consent, we will not represent a client adverse to you in a different matter if we have obtained confidences or secrets from you that are material to that matter.
Records Retention

We maintain policies regarding retention and destruction of records. Records include our files and related electronic documentation, including e-mails. Records (including materials provided by you to us and all electronic documentation) relating to this engagement will be destroyed according to our policies unless you request that they be returned to you. Our own files pertaining to the matter will be retained in accordance with the policies. Our own files include, for example, firm administrative records, time and expense reports, personnel and staffing materials, credit and accounting records, internal lawyers’ work product such as drafts, notes, internal memoranda, and legal and factual research, including investigative reports, prepared by or for the internal use of lawyers. We retain client files for ten years after a matter is closed. We will endeavor to remind you of this policy on completion of the engagement, but we reserve the right to destroy records in accordance with our policy without further notice to you.

Fees for Services

We generally charge on an hourly basis for time expended on your behalf. This includes, for example, telephone conversations, face-to-face conferences, strategy development and planning, document preparation and review, research, drafting, negotiating, court appearances and travel. Through hourly billing, you pay only for work performed on your behalf. We maintain daily time records that include a brief description of the work done so that you will understand why you are being billed. We record our time in units of tenths of an hour.

Upon request, we will work with you to produce an estimate of the anticipated legal fees and costs for a particular engagement. Any such estimate will be based on our prior experience with similar engagements as well as information you provide us about your particular needs. Unless we reach a clear, written understanding that the fee will be a fixed amount, any estimate we make may be revised based upon the facts and circumstances we encounter during your representation.

Our rates (which are subject to change prospectively with notice) should always be discussed in advance with your responsible attorney. Generally, rates are revised annually and adjustments will be reflected in our invoices in the month following any adjustment. On occasion, and after discussion with you, we may perform services on a non-hourly basis. Our agreement with you to do so will be in writing. We strive to keep fees and charges at a level appropriate to the task.

Expenses

In addition to fees for legal services, you will be charged for expenses advanced on your behalf and ancillary costs incurred by us during the course of your representation. Such charges may be revised from time to time without notice and will be reflected in our invoice in the month following any revision. These charges include such things as photocopying, document binding, external messenger service, electronic records searches, special mailing or courier services, and costs associated with managing electronically stored information [e.g., scanning, image processing, data collection, database services, web hosting, document summaries, etc.]. We may add an administrative charge to some or all of these costs. The firm’s Automated Legal Support Services team may perform some of the services associated with managing electronically stored information. Charges for these services are part of the costs you agree to pay in connection with our representation of you. You will not be billed for long distance telephone charges, facsimile transmissions or standard postage charges. Please note that should your work require secretarial overtime (not caused by a secretary working for another client during the regular work day), you will be charged for such service.

You may be asked to pay certain non-routine expenses directly to the service provider. These may include travel expenses, filing fees, and fees and expenses of independent professionals such as appraisers, accountants, investigators, court reporters, and other consultants and experts. Often, these expenses must be paid in advance. Normally, we will send the charge directly to you for payment or obtain in advance funds from you to pay such costs. While we are under no obligation to do so, we may advance payment of such expenses and subsequently bill you for the charges.

Billing Policy

Usually, you will be billed monthly. For your convenience, the billing statement will describe briefly the matter and legal services performed and will set forth the fees and expenses relating to the legal services provided. The bill typically will contain charges incurred during the prior month. Charges for some expense items such as copy and delivery charges may not be processed and billed until some time after the expense has been incurred. Bills are due upon receipt, and may be paid by check, wire transfer, Visa, MasterCard or American Express. Any past due amounts will bear interest at twelve
percent per year. We strive to provide clear and prompt billing statements. If you have any questions regarding your invoice, please promptly call your responsible attorney or our accounting department.

Advance Fee and Trust Deposits

If required by your Engagement Letter, you must pay in advance an amount equal to our estimate of the fees and costs for some or all of the work contemplated by the scope of the engagement. Any amount remaining at the conclusion of the engagement will be returned to you. If, after commencing work, it appears the advance payment will be insufficient to cover legal fees and costs, you may be asked to advance additional amounts.

If required by your Engagement Letter, you must pay a retainer to secure our availability for a given period of time, which is considered earned by us when paid.

Amounts you pay to us in trust, including advance payments for fees and costs, will be deposited in a trust account that we maintain for the benefit of our clients as required by the Rules of Professional Conduct. Under these rules, if your deposit is not expected to earn a “positive net return” given its size, the expected duration of the deposit and prevailing interest rates (less reasonable bank and administrative charges), we will place the deposit into a pooled account. The interest earned on this account must be paid to a charitable foundation established by court rule. If your deposit likely will earn a “positive net return”, you may request that it be placed into a segregated account and interest earned on that account will be added to your deposit and will be reported by our bank to the Internal Revenue Service as taxable income to you. If you wish us to place such funds into a segregated account for your benefit, you must provide us with your Federal Tax Identification Number.

Attorney-Client Privilege

Our attorneys and staff recognize our duty to maintain confidentiality. The attorney-client privilege protects communications between us, whether oral or written, as long as neither of us discloses those communications to anyone else. Privileged communications cannot be used in court without your consent. Therefore, to preserve the privilege and confidentiality of our communications, you should not show our written communications or discuss any oral communications with us to anyone. Furthermore, certain communications and documents prepared in anticipation of litigation are also privileged even if no attorney is involved. Because disputes can arise as to whether certain communications are privileged, if you have any questions regarding what you can do, be sure to seek advice from the lawyer with whom you are working.

We are not acting as your counsel with respect to the provisions of this statement of Terms for Engagement of Services and to do so would be a conflict of interest. If you wish to seek advice from independent counsel of your choice about whether you should agree to these terms, please do so. In addition, if you have any questions or would like additional information, we are happy to discuss this statement with you further. These terms of engagement will govern our relationship, however, unless we reach a different agreement in writing.

We understand that you have selected us not only for our expertise, but also for our reputation as responsive and creative counsel. Be assured that we will strive to live up to your expectations. If you have any questions, please do not hesitate to call.

Seattle: Foster Pepper PLLC
1111 Third Avenue, Suite 3400
Seattle, Washington 98101-3299
Phone: (206) 447-4400 or (800) 995-5902
Facsimile: (206) 447-9700 or 9283

Spokane: Foster Pepper PLLC
US Bank Bldg
422 West Riverside Avenue, Suite 1310
Spokane, Washington 99201-0302
Phone: (509) 777-1600
Facsimile: (509) 777-1616

Revised: 01/08/13
Services shall not exceed $50,000.

Attorney with principal responsibility: Lori Terry Gregory  
Rate: $440.00/hour

Attorney associate: Stephanie Weir  
Rate: $275.00

Firm may also utilize the services of other attorneys and legal assistants within the office as necessary to efficiently handle the work and meet time deadlines. For the firm's billing procedures, see Terms for Engagement in Exhibit "A".

Budget Narrative
Contract amounts shall not exceed the total budget referenced (above). As consideration for services provided in Exhibit A, Scope of Work, the County agrees to compensate the contractor according to the hourly rates provided in the project budget (Exhibit B). Other reasonable expenses incurred in the course of performing the duties herein shall be reimbursed including mileage at the current IRS rate. Lodging and per diem shall not exceed the GSA rate for the location where services are provided. Other expenditures such as printing, postage, and telephone charges shall be reimbursed at actual cost plus 10%. Expense reimbursement requests must be accompanied by copies of paid invoices. Costs of alcoholic beverages are not eligible for reimbursement. Reimbursement for air travel (if applicable) will be at coach rates. Any work performed prior to the effective date or continuing after the completion date of the contract, unless otherwise agreed upon in writing, will be at the contractor's expense.
December 18, 2014

Foster Pepper PLLC
1111 Third Avenue
Suite 3400
Seattle, WA 98101-3299

To Whom It May Concern:

CONFIRMATION OF INSURANCE

We hereby confirm that Foster Pepper PLLC has Professional Liability Coverage under Policy ALA#1209 with an annual limit of $25,000,000 per claim and $50,000,000 in the aggregate with the right, under stated conditions, to purchase extended reporting rights upon termination of such Policy by ALAS.

The self-insured retention under such Policy is $500,000 each claim up to an aggregate of $1,000,000 and $100,000 each claim thereafter.

The Policy effective date is from January 1, 2015 to January 1, 2016.

Such Policy is subject to the terms, conditions, limitations and exclusions stated therein.

ATTORNEYS’ LIABILITY ASSURANCE SOCIETY, INC.,
A RISK RETENTION GROUP

By: Anne M. Mahoney
Assistant Director of Underwriting

Date: 12/18/14
### WHATCOM COUNTY COUNCIL AGENDA BILL

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<tbody>
<tr>
<td>Originator:</td>
<td>pj</td>
<td></td>
<td></td>
<td>01/13/2015</td>
<td>Finance/Council</td>
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<tr>
<td>Division Head:</td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Dept. Head:</td>
<td>12/31/14</td>
<td></td>
<td></td>
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<tr>
<td>Prosecutor:</td>
<td>12/3/14</td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>Purchasing/Budget:</td>
<td>12/5/14</td>
<td></td>
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</tr>
<tr>
<td>Executive:</td>
<td>1/2/15</td>
<td></td>
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</tr>
</tbody>
</table>

**TITLE OF DOCUMENT:** Contract between Washington Department of Health and Whatcom County

**ATTACHMENTS:**
1. Memo  
2. Info Sheet  
3. 2 copies of Contract

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( X ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes</th>
<th>( X ) NO</th>
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<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( X ) NO</td>
<td>Requested Date:</td>
<td></td>
<td></td>
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</tbody>
</table>

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

This contract is a major funding source for public health programs provided by the health department. All funding provided by the Washington State Department of Health is included in this contract.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Regina A. Delahunt, Director
DATE: December 2, 2014

Enclosed are two (2) originals of a grant agreement between the Washington Department of Health and Whatcom County for your review and signature.

▪ Background and Purpose
The Consolidated Contract is a major funding source for public health programs provided by the health department including Emergency Preparedness & Response, Infectious Disease Prevention, WIC, and others. All funding provided by the Washington State Department of Health is included in this contract.

▪ Funding Amount and Source
This contract is funded by state and federal revenue sources and is included in our current budget. This is a new contract and requires Council Approval.

▪ Differences from Previous Contract
This is a new contract which replaces the previous contract which expires on 12/31/2014.

Please contact Regina Delahunt at extension 50801, if you have any questions regarding this agreement.

Encl.
<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Health</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Regina Delahunt</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Washington Department of Health</td>
</tr>
<tr>
<td><strong>Is this a New Contract?</strong></td>
<td>Yes</td>
</tr>
<tr>
<td>Yes</td>
<td>X</td>
</tr>
<tr>
<td><strong>Does contract require Council Approval?</strong></td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Is this a grant agreement?</strong></td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Is this contract grant funded?</strong></td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Is this contract the result of a RFP or Bid process?</strong></td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Is this agreement excluded from E-Verify?</strong></td>
<td>No</td>
</tr>
</tbody>
</table>

**If yes, indicate exclusion(s) below:**
- Professional services agreement for certified/licensed professional
- Contract less than $100,000.
- Contract for Commercial off the shelf items (COTS)
- Contract work is all performed outside U.S.
- Work related subcontract less than $25,000.
- Interlocal Agreement (between Govt's)
- Public Works - Local Agency/Federally Funded FHWA

| Contract Amount: (sum of original contract amount and any prior amendments) | $ 1,061,946 |
| This Amendment Amount: | $ |
| Total Amended Amount: | $ |

Contracts that require Council Approval (incl. agenda bill & memo)
- Professional Services Agreement above $20,000.
- Bid is more than $50,000.
- Amendments that have either an increase greater than 10% or provide a $10,000 increase in amount (whichever is greater)

RENEWALS: Council approval is not required when exercising an option to renew that is provided in the original contract.

**Summary of Scope:**
This revenue contract from Department of Health is used to fund many Whatcom County Health Department programs.

**Term of Contract:** 3 years

**Expiration Date:** 12/31/2017

**Contract Routing Steps & Signoff:** [sign or initial] [indicate date transmitted]
1. Prepared by: | pj | Date 12/1/14
2. Attorney reviewed: | [Signature] | Date 12/3-14
3. AS Finance reviewed: | bennett | Date 12/15/14
4. IT reviewed if IT related: | | Date
5. Attorney signoff: | | Date 12-3-14
6. Contractor signed: | | Date
7. Submitted to Exec Office: | | Date 12-8-14
8. Council approved (if necessary): | | Date
9. Executive signed: | | Date
10. Original to Council | | Date

246
2015 - 2017

WASHINGTON STATE
DEPARTMENT OF HEALTH

CONSOLIDATED CONTRACT
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CONSOLIDATED CONTRACT
between
STATE OF WASHINGTON
DEPARTMENT OF HEALTH
(Referred to as “DOH”)
and
WHATCOM COUNTY HEALTH DEPARTMENT
(Referred to as “LHJ”)
for
THE DELIVERY OF PUBLIC HEALTH SERVICES
FOR THE PERIOD OF
January 1, 2015 through December 31, 2017

1. Purpose
This Contract is entered into in accordance with RCW 43.70.520, RCW 43.70.580, the general statutory powers of the Secretary of the Department of Health, including at RCW 43.70.040, the general statutory powers of local health jurisdictions, including at RCW 70.05.060, RCW 70.08.020, and RCW 70.46.060, and the authority for joint or cooperative action provided for under chapter 39.34 RCW. The purpose of this Contract is to define the parties’ joint and cooperative relationship. The contract and all statements of work adopted under its provisions are intended to implement applicable objectives under the Public Health Improvement Plan and to facilitate the delivery of public health services to the people in Washington State. This Contract is the result of cooperative planning efforts between the LHJ and DOH.

2. Statements of Work
The individual program activities, requirements, and outcomes/deliverables to be achieved by the parties under this Contract are described in Exhibit A, Statements of Work. Each statement of work shall comply with the performance-based criteria under RCW 43.70.580(2)(b).

The LHJ shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to the performance of the work as set forth in Exhibit A, Statements of Work.

3. Exhibits
This Contract incorporates by reference the following Exhibits:
- Exhibit A - Statements of Work
- Exhibit B – Allocations
- Exhibit C – Schedule of Federal Awards

4. Definitions
As used throughout this Contract and unless amended for a particular Statement of Work, the following terms shall have the meanings set forth below:

“Budget, Accounting, and Reporting System (BARS)” : The system designed by the State Auditor’s office for collecting, consolidating, and reporting financial budgeting and accounting information from all local governmental units.

“Client”: An agency, firm, organization, individual or other entity applying for or receiving services provided by the LHJ under this Contract.

“Catalog of Federal Domestic Assistance (CFDA)” : The unique identifying code assigned to a federal assistance program which identifies the awarding agency.

“Confidential Information”: Information protected from disclosure under federal or state law.
“Contract Coordinator”: Each party’s designated contact for all notices required or permitted under this Contract.

“Contracting Officer”: Individual(s) of the Contracts Office of DOH and his/her delegates within that office authorized to execute this agreement on behalf of DOH.

“Contractor”: An entity that provides goods or services to DOH and others. A contractor normally operates its business in a competitive environment, provides its goods and/or services to many different purchasers during normal business hours, and is not subject to the compliance requirements of the federal program.

“Equipment”: When used in this Contract is defined as an article of non-expendable, tangible property other than land, buildings, or fixtures which is used in operations and having a useful life of more than one year and an acquisition cost of $5,000 or more or as otherwise provided in the Statements of Work, Exhibit A.

“Federal Assistance”: Assistance provided by a federal agency in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, or direct appropriations, but does not include direct federal cash assistance to individuals.

“Federal Funding Accountability and Transparency Act (FFATA or the Transparency Act)”: A federal act to make information available online so the public can see how federal funds are spent.

“Fixed Assets”: Fixed assets are property and/or equipment obtained through donation, gift, purchase, capital lease, or construction with a service life of more than one year.

“Program Contact”: Each party’s designated contact for those purposes identified in the Statements of Work, Exhibit A.

“Subcontractor”: Any individual or group contracted with the LHJ to perform all or part of the services included in this Contract. This term will also apply to situations where an LHJ’s subcontractor contracts with another individual or group to perform all or part of the services included in its agreement with the LHJ.

“Subrecipient” or “Subgrantee”: A non-federal entity that receives a subaward of federal grant money or goods directly or indirectly from DOH and makes decisions regarding who can receive what federal assistance; has its performance measured against the objectives contained in the DOH agreement with the federal government; makes decisions on how to operate the program to accomplish the program goals; has the obligation to comply with federal subrecipient requirements; and/or use federal funds to carry out a program for the public purpose specified in the authorizing statute.

5. Funding and Billing
   A. DOH shall pay the LHJ for services as set forth in the Statements of Work, Exhibit A, not to exceed funding amounts as detailed in the Contract Allocations, Exhibit B, for those services provided herein.

   The LHJ will advise the Program Contact identified in the applicable Statement of Work in writing 90 calendar days prior to the end of the funded period, or as soon as practicable thereafter, if the LHJ anticipates not using all Contract funding.

   B. If the Exhibit A, Statement of Work, is supported by federal funds that require compliance with FFATA (the Transparency Act), the corresponding checkbox on the statement of work will be checked.

   C. Total consideration for this Contract is $1,061,946, or as amended.

   The LHJ will submit accurate and timely billings which, for clarity and consistency, will be prepared using the form provided and following the instructions located on the DOH website, www.doh.wa.gov

   DOH will authorize payment only upon satisfactory completion and acceptance of deliverables and for allowable costs as outlined in the statement of work and/or budget.
D. The LHJ will submit a BARS A financial report by March 15 for the prior calendar year.

6. **Contract Management**  
Unless otherwise specified in the Contract, the following individuals are each party’s designated contact (“Contract Coordinator”) for all notices required or permitted under this Contract.

<table>
<thead>
<tr>
<th>LHJ Contract Coordinators:</th>
<th>DOH Contract Coordinator:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Name:</strong> Polly Jones</td>
<td><strong>Name:</strong> Brenda Henrikson</td>
</tr>
<tr>
<td><strong>Title:</strong></td>
<td><strong>Title:</strong> Contracts Specialist</td>
</tr>
<tr>
<td><strong>Mailing Address:</strong></td>
<td><strong>Mailing Address:</strong></td>
</tr>
<tr>
<td>509 Girard Street, Bellingham WA 98225-4005</td>
<td>PO Box 47905, Olympia WA 98504-7905</td>
</tr>
<tr>
<td><strong>Physical Address:</strong></td>
<td><strong>Physical Address:</strong></td>
</tr>
<tr>
<td>Same as above</td>
<td>101 Israel Rd. SE, Tumwater WA 98501-5570</td>
</tr>
<tr>
<td><strong>Phone:</strong> 360-676-6724</td>
<td><strong>Phone:</strong> 360-236-3933</td>
</tr>
<tr>
<td><strong>Fax:</strong> 360-676-7646</td>
<td><strong>Fax:</strong> 360-586-2655</td>
</tr>
<tr>
<td><strong>Email Address:</strong></td>
<td><strong>Email Address:</strong></td>
</tr>
<tr>
<td><a href="mailto:pjones@co.whatcom.wa.us">pjones@co.whatcom.wa.us</a></td>
<td><a href="mailto:brenda.henrikson@doh.wa.gov">brenda.henrikson@doh.wa.gov</a></td>
</tr>
</tbody>
</table>

A party may change its Contract Coordinator or its Program Contact by providing written notice to the other party. DOH Program Contacts can be found in the Statements of Work, Exhibit A, and on the DOH website, www.doh.wa.gov.

7. **Access to Records**  
To the extent authorized by applicable federal and state law, the parties shall provide access to records relevant to this Contract to each other, the Joint Legislative Audit and Review Committee, the State Auditor, and authorized federal officials, at no additional cost. Inspections shall occur at reasonable times and upon reasonable notice.

8. **All Writings Contained Herein**  
This Contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto. The individuals signing this Contract certify by their signatures that they are authorized to sign this Contract on behalf of their respective entity.

9. **Assignment**  
Except for subcontracting as authorized in this Contract, the LHJ shall not assign or delegate, in whole or in part, this Contract or any of its rights, duties, obligations, or responsibilities, without the prior written consent of DOH’s Contracting Officer, which consent shall not be unreasonably withheld.

10. **Assurances**  
The parties agree that all activity pursuant to this Contract shall be in accordance with all applicable current federal, state and local laws, rules, and regulations.

The LHJ acknowledges its agreement to comply with federal certifications and assurances by signing and returning the following:
1. Standard Federal Certifications  
2. Standard Federal Assurances for Non-Construction Programs
11. Confidential Information

The parties agree to comply with all state and federal statutes and regulations relating to Confidential Information. DOH and LHV will limit access to the Confidential Information to the fewest number of people necessary to complete the work. Everyone having access to Confidential Information covered by this Contract must agree to protect the confidentiality of the information.

Either party to this Contract may designate certain Confidential Information as “Confidential Information/Notice Requested.” The designation shall be made by clearly stamping, watermarking, or otherwise marking each page of the Confidential Information. If a third party requestor seeks information that has been marked “Confidential Information/Notice Requested,” notice shall be given to the marking party prior to release of the information. Such notice shall be provided to the program contact no less than five business days prior to the date of disclosure, to allow the party objecting to disclosure to seek a protective order from the proper tribunal.

DOH and LHV agree to establish, document and maintain security practices and safeguards consistent with state and federal laws, regulations, standards, and guidelines to prevent unauthorized access, use, or disclosure of Confidential Information in any form. In accordance with federal and state contracting requirements, DOH may monitor, audit, or investigate LHV management of Confidential Information relating to this Contract. Working together, the LHV and DOH may use any and all tools available to track Contract related Confidential Information.

If one of the parties becomes aware of an actual or suspected breach of confidentiality, that party will promptly notify the Contract Coordinator for the other party of the facts. The parties will work within their respective organizations to take any steps necessary to determine the scope of the breach and to restore reasonable security to the Confidential Information. Both parties agree to mitigate any known harmful effects of a breach in confidentiality, including notifying affected individuals to the extent required by law. The parties will also reasonably cooperate with law enforcement as appropriate.

12. Ethics

Both parties and their officers shall comply with all ethics laws applicable to their activities under this Contract, including Chapters 42.23 and 42.52 RCW. If a violation occurs and is not cured within a reasonable time after notice, the other party shall have the right to terminate this Contract. This section is expressly subject to the Disputes section of this Contract.

13. Debarment Certification

The LHV, by signing this Contract, certifies that the LHV is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Contract by any federal department or agency. The LHV also agrees to include the above requirement in all subcontracts into which it enters. The LHV will notify DOH of any such events that may occur during the term of the Contract.

14. Disputes

Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, the parties agree to participate in good faith in non-binding mediation. The mediator shall be chosen by agreement of the parties. If the parties cannot agree on a mediator, the parties shall use a mediation service located in Washington State that selects a qualified mediator for the parties. Each party shall bear its own costs for mediation and each party shall contribute equally to the mediator’s fee, if any. The parties agree that mediation shall precede any action in a judicial tribunal.

Nothing in this contract shall be construed to limit the parties’ choice of a mutually acceptable alternate dispute resolution method in addition to the dispute resolution procedure outlined above.

15. Equipment Purchases

Equipment purchased by the LHV for use by the LHV or its subcontractors during the term of this Contract using federal funds, in whole or in part, shall be the property of the LHV. The use, management and disposal of the equipment must comply with federal requirements. These requirements are found in the OMB Circular A-102 or are included in the federal funding agency’s regulations.
16. Governing Law and Venue
The laws of the state of Washington govern this Contract. In the event of a lawsuit by the LHJ against DOH arising under this Contract, venue shall be proper only in Thurston County, Washington. In the event of a lawsuit by DOH against the LHJ arising under this Contract, venue shall be proper only in the county in which the LHJ is located or in either of the two nearest judicial districts within the meaning of RCW 36.01.050.

17. Independent Capacity
The employees or agents of each party who are engaged in the performance of this Contract shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

18. Insurance
The LHJ certifies that it is self-insured, is a member of a risk pool, or maintains insurance coverage as required by this Contract. Each party shall pay for losses for which it is found liable. The LHJ agrees to require all subcontractors to maintain insurance in types and with limits as may be determined by the LHJ and/or its risk manager, unless the LHJ and DOH agree otherwise.

19. Licensing, Accreditation and Registration
The LHJ shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements and standards, necessary for the performance of this Contract.

20. Maintenance of Records
Each party to this Contract shall maintain books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs expended by it. All books, records, documents, and other material relevant to this Contract will be retained for six years after expiration. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

Each party will use reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties. Both parties agree to continue protecting records until such time as the information is destroyed in accordance with applicable state and federal records retention laws.

21. Modifications and Waivers
This Contract, or any term or condition, may be modified only by a written amendment signed by the DOH Contracting Officer and the authorized representative for the LHJ. Either party may propose an amendment.

Failure or delay on the part of either party to exercise any right, power, privilege or remedy provided under this Contract shall not constitute a waiver. No provision of this Contract may be waived by either party except in a writing signed by the DOH Contracting Officer or the authorized representative of the LHJ.

22. No Third-Party Rights Created
This Contract, or any program hereunder, is entered into solely for the benefit of the two parties thereto and shall not be construed as giving rise to any right, remedy or expectancy of any kind or nature on the part of any third party.

23. Nondiscrimination
During the performance of this Contract, the LHJ and DOH shall comply with all federal and state nondiscrimination laws, regulations and policies. In the event of the LHJ’s noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be rescinded, canceled or terminated in whole or in part, and the LHJ may be declared ineligible for further contracts with DOH. The LHJ shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the “Disputes” procedure set forth herein.
24. Order of Precedence
In the event of an inconsistency in the terms of this Contract, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable state and federal statutes, and local laws, rules and regulations.
- Terms and conditions of this Contract.
- Statements of Work.
- Any other provisions of this Contract, including other materials incorporated by reference.

25. Ownership of Material/Rights in Data
Records and other documents relevant to this Contract, in any medium, furnished by one party to this Contract to the other party, will remain the property of the furnishing party, unless otherwise agreed. Data which is delivered under the Contract shall be transferred to DOH with a nonexclusive, royalty-free, perpetual, irrevocable license to publish, translate, reproduce, modify, deliver, perform, dispose of, and to authorize others to do so; provided that such license shall be limited to the extent which the LHJ has a right to grant such a license. The LHJ shall exert all reasonable effort to advise DOH, at the time of delivery of data furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Contract. DOH shall receive prompt written notice of each notice or claim or copyright infringement received by the LHJ with respect to any data delivered under this Contract. DOH shall have the right to modify or remove any restrictive markings placed upon the data by the LHJ, provided that if DOH modifies or removes such markings without the LHJ’s approval, it assumes all liability for doing so.

26. Publications
Any program reports, articles, and publications that result from information gathered through use of state and federal funds must acknowledge receiving support from DOH and/or the appropriate federal agencies. Correspondingly, such documents resulting from information gathered through use of local funds must acknowledge receipt of such local support.

27. Responsibility for Actions
Each party to this Contract shall be solely responsible for the acts and omissions of its own officers, employees, and agents in the performance of this Contract. Neither party to this Contract will be responsible for the acts and omissions of entities or individuals not party to this Contract. DOH and the LHJ shall cooperate in the defense of tort lawsuits, when possible.

28. Loss or Reduction of Funding
In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, DOH may elect to suspend or terminate the contract, in whole or in part, under the "Termination for Convenience" clause with a ten (10) business day notice to LHJ, to the extent possible, subject to renegotiation at DOH's discretion under those new funding limitations and conditions.

29. Severability
If any term or condition of this Contract is held invalid, such invalidity shall not affect the validity of the other terms or conditions of this Contract, provided, however, that the remaining terms and conditions can still fairly be given effect.

30. Subcontracts
The LHJ may subcontract any or all of the services or other obligations specified in this Contract. The LHJ will require the subcontractor to comply with all the applicable terms and conditions of this Contract, including all terms, conditions, assurances and certifications. The LHJ agrees it is responsible for assuring adequate performance on the part of the subcontractor.

The parties agree that all subcontractors must be responsible for any liabilities created by their actions or omissions.

In the event DOH, LHJ, and subcontractor are found by a jury or trier of fact to be jointly and severally liable for
personal injury damages arising from any act or omission, then each entity shall be responsible for its proportionate share.

31. Subrecipient
For those activities designated as “subrecipient” on Exhibit A, Statements of Work, the LHJ must comply with applicable federal requirements, including but not limited to OMB Circular A-87, A-102, A-133, and program specific federal regulations. If the LHJ expends $500,000 or more in federal awards from all sources, it is responsible for obtaining appropriate audits. For fiscal years starting after December 26, 2014, if the LHJ expends $750,000 or more in federal grants or awards from all sources, it is responsible for obtaining the required single audit.

32. Survivability
The terms and conditions contained in this Contract which by their sense and context, are intended to survive the expiration of the Contract shall survive. Surviving terms include, but are not limited to: Access to Records, Confidential Information, Disputes, Responsibility for Actions, Maintenance of Records, Ownership of Material/Rights in Data, Subcontracts, Termination for Convenience, Termination for Default, and Termination Procedure.

33. Term
This Contract will be in effect following execution by the parties from January 1, 2015 through December 31, 2017, unless terminated earlier as provided herein.

34. Termination for Convenience
Except as otherwise provided in this Contract, either party may terminate or suspend this Contract, or any program hereunder, for convenience by providing at least 30 days’ advance written notice to the other party.

If DOH elects to suspend the Contract, in whole or in part, LHJ shall stop work as of the effective date of DOH’s written notice of suspension. During suspension, each Party will reasonably notify the other of any conditions that may affect resumption of performance. Upon DOH’s written notice to resume performance, LHJ shall resume work unless the LHJ provides notice to DOH that services cannot be resumed. If LHJ cannot resume performance, the Contract or affected Exhibit A Statement of Work will be deemed terminated upon the date the LHJ received notice to suspend performance.

35. Termination for Default
(a) In the event of a default by either party under this Contract, the nondefaulting party may give written notice to the defaulting party that it intends to terminate this Contract, or any program hereunder, if the default is not cured within 30 days of the date of the notice, or such longer period of time as may be reasonable under the circumstances. If the default is not cured within that time, the nondefaulting party may then notify the defaulting party in writing that this Contract is terminated. In the event of such termination, the nondefaulting party shall have all rights and remedies available to it under general law.

(b) A disputed termination for default is expressly subject to the Disputes section of this Contract.

36. Termination Procedure
Upon termination DOH may require the LHJ to deliver to DOH any non-LHJ-owned equipment, data, or other property specifically produced or acquired for the performance of such part of this Contract as has been terminated.

DOH shall pay to the LHJ the agreed upon price, if separately stated, for completed work and services accepted by DOH. In addition DOH shall pay the amount determined by DOH’s Contracting Officer for (a) completed work and services for which no separate price is stated, (b) partially completed work and services, (c) other property or services which are accepted by DOH, and (d) the protection and preservation of the property. Disagreement by the LHJ with the determination of DOH’s Contracting Officer that relates to the obligations or amounts due to the LHJ shall be considered a dispute within the meaning of the “Disputes” clause of this Contract.
DOH may withhold from any amounts due the LHJ for such completed work or services such sum as DOH’s Contracting Officer reasonably determines to be necessary to protect DOH against potential loss or liability.

The rights and remedies of DOH provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

After receipt of a written notice of termination, the LHJ shall:

- Stop work under the Contract on the date and to the extent specified in the notice;
- Place no further orders or subcontracts for materials, services, or facilities, except as necessary to complete such portion of the work not terminated;
- Assign to DOH, to the extent reasonably directed by DOH’s Contracting Officer and to the extent that the LHJ has the legal right to do so, all of the right, title, and interest of the LHJ under the orders and subcontracts in which case DOH has the right, at its reasonable discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
- Settle all outstanding liabilities and all claims arising out of orders or subcontracts, with the approval or ratification of DOH’s Contracting Officer to the extent he/she may reasonably require, which approval or ratification shall be final for all the purposes of this clause;
- Transfer title to DOH and deliver, as reasonably directed by DOH’s Contracting Officer, any property which, if the Contract had been completed, would have been required to be furnished to DOH;
- Complete performance of such part of the work not terminated by DOH’s Contracting Officer; and,
- Take such action as may be necessary, or as DOH’s Contracting Officer may reasonably direct, for the protection and preservation of the property related to this Contract which is in the possession of the LHJ, or its subcontractors, and in which DOH has or may acquire an interest.

IN WITNESS WHEREOF, the parties have executed this Contract

WHATCOM COUNTY HEALTH DEPARTMENT

[Signature]
Health Dept. Director

Title: ____________________________

Print Name: [Regina A. Delahunt, Director]

Date: 12/2/14

STATE OF WASHINGTON
DEPARTMENT OF HEALTH

[Signature]

Title: ____________________________

Print Name: ____________________________

Date: ____________________________
WHATCOM COUNTY

JACK LOUWS
County Executive

STATE OF WASHINGTON )
COUNTY OF WHATCOM )

On this _____ day of ___________, 2015, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for
the State of Washington,
residing at Bellingham.

My Commission expires: __________________

APPROVED AS TO FORM

Royce Buckingham, Civil Deputy Attorney

Date
Standard Federal Certifications and Assurances

Following are the Assurances, Certifications, and Special Conditions that apply to all federally funded (in whole or in part) agreements administered by the Washington State Department of Health.

CERTIFICATIONS

1. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

The undersigned (authorized official signing for the contracting organization) certifies to the best of his or her knowledge and belief, that the contractor, defined as the primary participant in accordance with 45 CFR Part 76, and its principals:

a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

b) have not within a 3-year period preceding this contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

d) have not within a 3-year period preceding this contract had one or more public transactions (Federal, State, or local) terminated for cause or default.

The contractor agrees by signing this contract that it will include, without modification, the clause titled "Certification Regarding Debarment, Suspension, In eligibility, and Voluntary Exclusion--Lower Tier Covered Transactions" in all lower tier covered transactions (i.e., transactions with sub-grantees and/or contractors) and in all solicitations for lower tier covered transactions in accordance with 45 CFR Part 76.

2. CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

The undersigned (authorized official signing for the contracting organization) certifies that the contractor will, or will continue to, provide a drug-free workplace in accordance with 45 CFR Part 76 by:

a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee’s workplace and specifying the actions that will be taken against employees for violation of such prohibition;

b) Establishing an ongoing drug-free awareness program to inform employees about
   (1) The dangers of drug abuse in the workplace;
   (2) The contractor’s policy of maintaining a drug-free workplace;
   (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
   (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

c) Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by paragraph (a) above;
d) Notifying the employee in the statement required by paragraph (a), above, that, as a condition of employment under the contract, the employee will—
   (1) Abide by the terms of the statement; and
   (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;


e) Notifying the agency in writing within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every contract officer or other designee on whose contract activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted—
   (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
   (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;


g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

For purposes of paragraph (e) regarding agency notification of criminal drug convictions, DOH has designated the following central point for receipt of such notices:

   Compliance and Internal Control Officer
   Office of Grants Management
   WA State Department of Health
   PO Box 47905
   Olympia, WA 98504-7905

3. CERTIFICATION REGARDING LOBBYING

Title 31, United States Code, Section 1352, entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," generally prohibits recipients of Federal grants and cooperative agreements from using Federal (appropriated) funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a SPECIFIC grant or cooperative agreement. Section 1352 also requires that each person who requests or receives a Federal grant or cooperative agreement must disclose lobbying undertaken with non-Federal (nonappropriated) funds. These requirements apply to grants and cooperative agreements EXCEEDING $100,000 in total costs (45 CFR Part 93).

The undersigned (authorized official signing for the contracting organization) certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
(2) If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. (If needed, Standard Form-LLL, "Disclosure of Lobbying Activities," its instructions, and continuation sheet are included at the end of this application form.)

(3) The undersigned shall require that the language of this certification be included in the award documents for all subcontracts at all tiers (including subcontracts, subcontracts, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

5. CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds. The law does not apply to children's services provided in private residence, portions of facilities used for inpatient drug or alcohol treatment, service providers whose sole source of applicable Federal funds is Medicare or Medicaid, or facilities where WIC coupons are redeemed.

Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing the certification, the undersigned certifies that the contracting organization will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

The contracting organization agrees that it will require that the language of this certification be included in any subcontracts which contain provisions for children's services and that all subrecipients shall certify accordingly.

The Public Health Services strongly encourages all recipients to provide a smoke-free workplace and promote the non-use of tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.
6. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS INSTRUCTIONS FOR CERTIFICATION

1) By signing and submitting this proposal, the prospective contractor is providing the certification set out below.

2) The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective contractor shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective contractor to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3) The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

4) The prospective contractor shall provide immediate written notice to the department or agency to whom this contract is submitted if at any time the prospective contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5) The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the person to whom this contract is submitted for assistance in obtaining a copy of those regulations.

6) The prospective contractor agrees by submitting this contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by DOH.

7) The prospective contractor further agrees by submitting this contract that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction,” provided by HHS, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (of excluded parties).

9) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10) Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, DOH may terminate this transaction for cause or default.
7. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS -- PRIMARY COVERED TRANSACTIONS

1) The prospective contractor certifies to the best of its knowledge and belief, that it and its principals:
   a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
   b) Have not within a three-year period preceding this contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
   c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
   d) Have not within a three-year period preceding this contract had one or more public transactions (Federal, State or local) terminated for cause or default.

2) Where the prospective contractor is unable to certify to any of the statements in this certification, such prospective contractor shall attach an explanation to this proposal.

<table>
<thead>
<tr>
<th>CONTRACTOR SIGNATURE REQUIRED</th>
</tr>
</thead>
<tbody>
<tr>
<td>SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL</td>
</tr>
<tr>
<td>[Signature]</td>
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<table>
<thead>
<tr>
<th>TITLE</th>
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<table>
<thead>
<tr>
<th>ORGANIZATION NAME: (if applicable)</th>
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<tbody>
<tr>
<td>Whatcom County Health Department</td>
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<tr>
<th>DATE</th>
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<tr>
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</table>
Assurances – Non Construction Programs

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the contractor, I certify that the contractor:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).


14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

---

**CONTRACTOR SIGNATURE REQUIRED**

**SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL**

[Signature]

**Please also print or type name:**

Regina A. Delahant, Director

**ORGANIZATION NAME:** (if applicable)

Whatcom County Health Department

**DATE**

12/2/14
WHATCOM COUNTY HEALTH DEPARTMENT
2015-2017 CONSOLIDATED CONTRACT #C17132
EXHIBIT A - STATEMENTS OF WORK
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DOH Program Name or Title: Emergency Preparedness & Response - Effective January 1, 2015

SOW Type: Original Revision # (for this SOW)

Period of Performance: January 1, 2015 through June 30, 2015

Statement of Work Purpose: The purpose of this statement of work is to establish the funding and tasks for the Public Health Emergency Preparedness and Response program for the 2015 grant period through June 30, 2015.

Revision Purpose: N/A

<table>
<thead>
<tr>
<th>Chart of Accounts Program Name or Title</th>
<th>CFDA #</th>
<th>BARS Revenue Code</th>
<th>Master Index Code</th>
<th>Funding Period (LHJ Use Only) Start Date</th>
<th>Funding Period (LHJ Use Only) End Date</th>
<th>Current Consideration</th>
<th>Change Increase (+)</th>
<th>Total Consideration</th>
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<table>
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<tr>
<th>Task Number</th>
<th>Task/Activity/Description</th>
<th>*May Support PHAB Standards/Measures</th>
<th>Deliverables/Outcomes</th>
<th>Due Date/Time Frame</th>
<th>Payment Information and/or Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Admin 1</td>
<td>Complete reporting templates to comply with federal grant requirements (e.g., performance measures, gap analysis, etc.)</td>
<td>Submit completed templates.</td>
<td>As required</td>
<td>Reimbursement for costs, not to exceed total funding consideration amount.</td>
<td></td>
</tr>
<tr>
<td>Admin 2</td>
<td>Attend emergency preparedness events (monthly program update calls, quarterly workshops, etc.) hosted by the Department of Health (DOH).</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.1</td>
<td>Review the Whatcom County Health Department (WCHD) Emergency Response Plan and update as appropriate. Incorporate results from exercises and response events into plan updates.</td>
<td></td>
<td></td>
<td>June 30, 2015</td>
<td></td>
</tr>
<tr>
<td>1.2</td>
<td>Coordinate with community partners to address Public Health issues in community preparedness.</td>
<td></td>
<td></td>
<td>June 30, 2015</td>
<td></td>
</tr>
<tr>
<td>1.3</td>
<td>Participate in the Whatcom Local Emergency Planning Committee (LEPC) training and exercise workgroup.</td>
<td></td>
<td></td>
<td>June 30, 2015</td>
<td></td>
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<tr>
<td>Task Number</td>
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</tr>
<tr>
<td>1.4</td>
<td>Participate in the Regional Health Care Coalition meetings to discuss strategies for regional coordination and cooperation during disaster response activities.</td>
<td></td>
<td>Submit end-of-year reporting template.</td>
<td>June 30, 2015</td>
<td></td>
</tr>
<tr>
<td>1.5</td>
<td>Develop and conduct Incident Command System (ICS) and related training for WCHD and partner agency staff / employees</td>
<td></td>
<td>Submit end-of-year reporting template.</td>
<td>June 30, 2015</td>
<td></td>
</tr>
<tr>
<td>1.6</td>
<td>Attend relevant emergency preparedness training, seminars and/or conferences to support continued education and professional growth.</td>
<td></td>
<td>Submit end-of-year reporting template.</td>
<td>June 30, 2015</td>
<td></td>
</tr>
<tr>
<td>5.1</td>
<td>Continue development / updating of mass fatality incident (MFI) response plan for Whatcom County, in coordination with community partners/stakeholders.</td>
<td></td>
<td>Submit end-of-year reporting template.</td>
<td>June 30, 2015</td>
<td></td>
</tr>
<tr>
<td>5.2</td>
<td>Conduct regular inventory and maintenance of WCHD Mass Fatality Incident Response trailer, supplies and equipment.</td>
<td></td>
<td>Submit end-of-year reporting template.</td>
<td>June 30, 2015</td>
<td></td>
</tr>
<tr>
<td>7.1</td>
<td>Engage new Disaster Services Manager in coordination and planning for Emergency Support Function 6 (ESF-6) / ESF-8 activities.</td>
<td></td>
<td>Submit end-of-year reporting template.</td>
<td>June 30, 2015</td>
<td></td>
</tr>
<tr>
<td>7.2</td>
<td>Conduct research on vulnerable populations and apply towards ESF-6 / ESF-8 plan development.</td>
<td></td>
<td>Submit end-of-year reporting template.</td>
<td>June 30, 2015</td>
<td></td>
</tr>
<tr>
<td>9.2</td>
<td>Work with local medical service providers to establish Disaster Medical System (DMS) concept of operations and draft plan.</td>
<td></td>
<td>Submit end-of-year reporting template.</td>
<td>June 30, 2015</td>
<td></td>
</tr>
<tr>
<td>9.3</td>
<td>Develop tabletop exercise to evaluate DMS concept of operations draft plan.</td>
<td></td>
<td>Submit end-of-year reporting template.</td>
<td>June 30, 2015</td>
<td></td>
</tr>
<tr>
<td>14.1</td>
<td>Continue to work with local first responders and health care providers in conducting fit testing for personal protective equipment (PPE) masks.</td>
<td></td>
<td>Submit end-of-year reporting template.</td>
<td>June 30, 2015</td>
<td></td>
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<tr>
<td>14.2</td>
<td>Present AWR-118 Awareness and Response to Biological Incident course to local first responders and emergency management personnel.</td>
<td></td>
<td>Submit end-of-year reporting template.</td>
<td>June 30, 2015</td>
<td></td>
</tr>
</tbody>
</table>
Program Specific Requirements/Narrative

Federal Funding Accountability and Transparency Act (FFATA)
This statement of work is supported by federal funds that require compliance with the Federal Funding Accountability and Transparency Act (FFATA or the Transparency Act). The purpose of the Transparency Act is to make information available online so the public can see how the federal funds are spent.

To comply with this act and be eligible to perform the activities in this statement of work, the LHJ must have a Data Universal Numbering System (DUNS®) number. Information about the LHJ and this statement of work will be made available on http://USASpending.gov by DOH as required by P.L. 109-282.

Special Requirements
For purchases of individual equipment in which the aggregate unit price of the equipment (including shipping, handling and associated costs) is $5,000 or more, the LHJ shall obtain written prior approval from the Washington State Department of Health and adhere to all federal requirements as referenced in OMB Circular A-87 (State, Local and Indian Tribal governments) at: http://www.whitehouse.gov/omb/circulars_a087_2004/

DOH Program Contact
Rachel McKinlay, Contract & Finance Specialist
Department of Health
PO Box 47960, Olympia, WA 98504-7960
360-236-4056
rachel.mckinlay@doh.wa.gov

PHEPR Deliverable Submission: concondeliverables@doh.wa.gov
DOH Program Name or Title: Infectious Disease Prevention Section (IDPS) -
Effective January 1, 2015

Local Health Jurisdiction Name: Whatcom County Health Department

Contract Number: C17132

SOW Type: Original  Revision # (for this SOW)

Period of Performance: January 1, 2015 through June 30, 2015

Statement of Work Purpose: The purpose of this statement of work is to provide infectious disease (HIV, STD, and Adult Viral Hepatitis) prevention services.

Revision Purpose: N/A

<table>
<thead>
<tr>
<th>Chart of Accounts Program Name or Title</th>
<th>CFDA #</th>
<th>BARS Revenue Code</th>
<th>Master Index Code</th>
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<th>Current Consideration</th>
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<tr>
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<th>Payment Information and/or Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Complete and submit a detailed budget and budget justification prior to invoicing DOH for any program activities.</td>
<td></td>
<td>Budget and justification submitted and approved.</td>
<td>January 1, 2015</td>
<td>Invoices will not be paid until a detailed budget and justification are submitted by the LHJ and approved by DOH.</td>
</tr>
<tr>
<td>2.</td>
<td>Provide comprehensive syringe services programming to approximately 133 unduplicated clients.</td>
<td>Standard 1.2 Standard 3.1 Standard 4.2 Standard 7.2 Standard 10.1</td>
<td>Complete and report actual deliverables in the appropriate data reporting system. See General Requirements, 2 below.</td>
<td>Deliverables will be completed by the end of the period of performance.</td>
<td>Reimbursement for actual costs incurred, not to exceed total funding consideration. See General Requirements, 17. Payment below.</td>
</tr>
<tr>
<td>Task Number</td>
<td>Task/Activity/Description</td>
<td>*May Support PHAB Standards/Measures</td>
<td>Deliverables/Outcomes</td>
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<tr>
<td></td>
<td>HIV/STD care and treatment, medical case management and viral hepatitis prevention services.</td>
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<tr>
<td></td>
<td>d. In collaboration with DOH, build capacity to routinely offer hepatitis C virus (HCV) rapid testing as part of syringe exchange services.</td>
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<tr>
<td>3.</td>
<td>The LHJ shall also perform tasks as required by DOH that enhance, support, or are deemed as necessary for the success of the programs listed within this contract. Additional tasks not described in this statement of work will be delivered to the LHJ in writing and within a reasonable time frame.</td>
<td>Standard 1.2</td>
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<td></td>
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<td>Standard 3.1</td>
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</tr>
</tbody>
</table>

*For Information Only:
Funding is not tied to the revised Standards/Measures listed here. This information may be helpful in discussions of how program activities might contribute to meeting a Standard/Measure. More detail on these and/or other Public Health Accreditation Board (PHAB) Standards/Measures that may apply can be found at: http://www.phaboard.org/wp-content/uploads/PHAB-Standards-and-Measures-Version-1.0.pdf

Program Specific Requirements/Narrative

General Requirements
1. Subcontracting for services by the LHJ is prohibited by this Agreement unless approved in advance by DOH. If DOH grants approval, subcontractors are required to meet all requirements set forth in this contract. In such cases, the LHJ is responsible for ensuring that all requirements are met by their subcontractors.

2. All activities carried out in the performance of this statement of work must be documented in the appropriate DOH data system. LHJ must use Evaluation Web to report HIV testing activity. Negative test result data is due no later than ten (10) days after testing services are provided. For confirmed HIV positive results, additional testing information must be entered in Evaluation Web within ninety (90) days. LHJ must use the SHARE system for other program activity reporting. An LHJ needing assistance with developing or filing plans in SHARE should contact DOH. LHJ is required to use other data reporting systems that may become available during the contract period. DOH will provide training and technical assistance as needed to enable LHJ to comply with this requirement.

3. All activities carried out in the performance of this statement of work must conform to an approved budget. Changes to the Statement of Work incorporated in this contract require an amendment to the contract. Changes to the approved budget must be approved by DOH prior to taking effect.

4. The LHJ is required to participate in annual contract monitoring and quality improvement activities performed by DOH. DOH will inform the LHJ of applicable contract monitoring and quality improvement activities in advance to enable the LHJ to gather and retain appropriate information. The outcomes of contract monitoring and quality improvement activities carried out by DOH will be shared with the LHJ to support collaborative efforts to increase efficiency and quality of all programs funded by DOH. DOH will offer technical assistance to LHJ upon request. Technical assistance may be provided by DOH directly or in conjunction with CDC-contracted training and capacity building providers.
5. The LHIJ is required to participate in collaborative efforts with public health and community health and social service agencies, a wide variety of community partners and the population(s) they serve to generate input from the community regarding the needs of the population(s) served and the most appropriate strategies to meet identified needs. LHIJ's and their partners may use a variety of methods to generate community input such as client satisfaction surveys, focus groups, population or community surveys, key informant surveys, community forums, online input methods or other approaches to meet this requirement. LHIJ must document its community input methods as well as the information generated and make it available to its communities and DOH.

6. HIV CTR (Counseling, Testing, and Referral) services must follow Washington State and CDC guidance for HIV CTR.

7. Partner services (PS) must follow current CDC guidelines for HIV PS and the Washington state Department of Health HIV Partner Services Standards. LHIJ staff that provides PS must have completed CDC approved HIV Partner Services training available from a National Prevention Training Center prior to beginning work.

8. Any funds generated from charging clients for HIV testing will be used to support or enhance HIV prevention activities.

9. HIV CTR must be performed by personnel who have attended the two-day Washington State HIV Prevention Counseling course conducted by instructors trained by DOH or CDC (or an equivalent training as approved by DOH).

10. Persons performing HIV testing must be authorized by a licensed provider whose scope of practice includes ordering of diagnostic tests. This can be achieved with memorandum of understanding / agreement (MOU/A) between agencies if there is no licensed provider directly accountable to the contracted agency.

11. Persons performing HIV rapid testing must be trained in how to store, perform, and read the results of the rapid test and rapid test controls. The rapid testing training must be provided by the DOH or CDC (or an equivalent training as approved by DOH). Contractors performing HIV rapid testing must have written quality assurance (QA) plan in place and make the plan available to DOH upon request.

12. DOH will conduct quality assurance activities with agencies implementing HIV CTR. The quality assurance activities will be used to assess and, when necessary, improve the quality of services being provided. HIV testing programs will participate and conduct client satisfaction surveys. Documentation of the surveys will be sent to the DOH Testing Coordinator by April 30, 2015.

13. LHIJ prevention workers, testers and case managers involved in linkage to care activities are required to attend the appropriate Anti-Retroviral Treatment and Access to Services (ARTAS) course provided by DOH or CDC.

14. Contracted sites involved in linkage to care activities must have MOU’s in place with partnering agencies and medical providers to assure continuity of services to clients.

15. Material Review and Website Disclaimer Notice:
   In accordance with all federal guidance, an LHIJ receiving federal funds will:

   a) Submit all proposed written materials including, but not limited to, pictorials, audiovisuals, questionnaires, survey instruments, agendas for conferences, plans for educational sessions and client satisfaction surveys purchased, produced or used by staff funded with CDC funds to the State HIV/AIDS Review Panel for approval prior to being used. This includes World Wide Web pages.

   b) Assure prominent display of disclaimer notice on all websites containing HIV/AIDS education information (including sub-contractors). Such notice must consist of language similar to the following:

      "This site contains HIV prevention messages that may not be appropriate for all audiences. Since HIV infection is spread primarily through sexual practices or by sharing needles, prevention messages and programs may address these topics. If you are not seeking such information or may be offended by such materials, please exit this website."

16. Youth and Peer Outreach Workers:
   For purposes of this agreement, the term "youth" applies to persons under the age of 18. All programs, including subcontractors, using youth (either paid or volunteer) in program activities will use caution and judgment in the venues / situations where youth workers are placed. Agencies will give careful consideration to the age appropriateness of the activity or venue; will ensure that youth comply with all relevant laws and regulations regarding entrance into adult establishments and environments; and will implement appropriate safety protocols that include clear explanation of the appropriate laws and curfews and clearly delineate safe and appropriate participation of youth in program outreach activities. Programs using youth in program activities will submit protocols and other relevant materials to DOH by February 15, 2015.
17. Payment:
Payment under the statement of work shall not exceed the amounts contained in the contract budget period and will be based on actual costs with back-up documentation retained by the LHJ.

Maximum payment shall not exceed the total consideration. Payment will be made upon receipt and acceptance of the deliverables and receipt of properly executed A19-1A invoice voucher. Receipt of the deliverables must be documented in the appropriate DOH data system prior to payment of invoices. Grantee must submit the following with each monthly invoice for reimbursement:

a. A summary of personnel costs charged to this statement of work during the billing month.
b. A summary of goods or materials charged to this statement of work during the billing month.
c. A summary of any other expenses charged to this statement of work during the billing month.

The LHJ is required to gather and retain the following information and provide it to DOH upon request:

a. Documentation of all salaries and benefits charged to this statement of work, by individual and program activity.
b. Documentation of all goods or materials charged to this statement of work by program activity.
c. Documentation of all other expenses charged to this statement of work, including administrative expenses.

DOH Program Contact
Abby Gilliland
Washington State Department of Health
Disease Control and Health Statistics
Infectious Disease Prevention Section
PO Box 47840, Olympia, WA 98504-7840
360.236.3351/Fax 360.236.3400
abby.gilliland@doh.wa.gov
DOH Program Name or Title: LOSS-Kendall Septic - Effective January 1, 2015

SOW Type: Original  Revision # (for this SOW)

Period of Performance: January 1, 2015 through June 30, 2015

Statement of Work Purpose: The purpose of this statement of work is to provide funding to Whatcom County Health Department for abandonment of the Kendall Septic Interceptor System Large On-site Sewage System (LOSS).

Revision Purpose: N/A

<table>
<thead>
<tr>
<th>Chart of Accounts Program Name or Title</th>
<th>CFDA #</th>
<th>BARS Revenue Code</th>
<th>Master Index Code</th>
<th>Funding Period (L.H.J Use Only)</th>
<th>Current Consideration</th>
<th>Change Increase (+)</th>
<th>Total Consideration</th>
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<tr>
<td>ONSITE REVIEW (FEES) LOSS</td>
<td>N/A</td>
<td>345.29.xx</td>
<td>26702500</td>
<td>01/01/15 – 06/30/15</td>
<td>0</td>
<td>4,000</td>
<td>4,000</td>
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<td>TOTALS</td>
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<table>
<thead>
<tr>
<th>Task Number</th>
<th>Task/Activity/Description</th>
<th>*May Support PHAB Standards/Measures</th>
<th>Deliverables/Outcomes</th>
<th>Due Date/Time Frame</th>
<th>Payment Information and/or Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Hire a locally approved contractor to properly (according to WAC 246-272B-07500 and any local applicable rules) abandon the Kendall Septic Interceptor System Large On-site Sewage System. The approved contractor shall: 1. Hire an approved pumper to remove partially treated sewage from the filter manhole and the lift station. 2. Arrange for Puget Sound Energy (PSE) to pull their electrical meter. 3. Remove the pump(s) and controller at the lift station manhole (see provided plan sheet). Remove mounting post. 4. Remove and destroy the filter manhole and lift station manhole lids (see provided plan sheet). 5. Fill the filter manhole and lift station manhole with soil or gravel.</td>
<td>Contract with Contractor Pumper's Report Documentation from PSE Pictures of completed work</td>
<td>Contract due 03/10/15 Pumper’s Report / Documentation from PSE / Pictures due 04/15/15</td>
<td>$3,000</td>
<td></td>
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Local Health Jurisdiction Name: Whatcom County Health Department
Contract Number: C17132

Funding Source
☐ Federal <Select One>
☒ State
☐ Other

Federal Compliance (check if applicable)
☐ FFATA (Transparency Act)
☐ Research & Development

Type of Payment
☒ Reimbursement
☐ Fixed Price

Exhibit A, Statement of Work
Template Created 08-2014
<table>
<thead>
<tr>
<th>Task Number</th>
<th>Task/Activity/Description</th>
<th>*May Support PHAB Standards/Measures</th>
<th>Deliverables/Outcomes</th>
<th>Due Date/Time Frame</th>
<th>Payment Information and/or Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Administration</td>
<td></td>
<td></td>
<td>Final Report by 06/15/15</td>
<td>$1,000</td>
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</tbody>
</table>

*For Information Only:
Funding is not tied to the revised Standards/Measures listed here. This information may be helpful in discussions of how program activities might contribute to meeting a Standard/Measure. More detail on these and/or other Public Health Accreditation Board (PHAB) Standards/Measures that may apply can be found at:

Program Specific Requirements/Narrative
Plan Sheet provided by Jeanne Andreasson.

Special References (RCWs, WACs, etc)
WAC 246-272B-07500
Whatcom County Code Chapter 24.05 (On-site Sewage System Rules and Regulations of the Whatcom County Health Department)

Restrictions on Funds (what funds can be used for which activities, not direct payments, etc)
These funds can NOT be used for local match to federal grants.

Special Instructions
Progress report is due to DOH via email to laura.homan@doh.wa.gov and jeanne.andreasson@doh.wa.gov by June 15, 2015.

DOH Program Contact: Laura Homan, Office of Shellfish and Water Protection, PO Box 47824, Olympia WA 98504-7824; 360.236.3380; Laura.Homan@doh.wa.gov
DOH Fiscal Contact: Connie Dunn, Environmental Public Health, PO Box 47820, Olympia WA 98504-7820, 360-236-3013, Connie.Dunn@doh.wa.gov
DOH Program Name or Title: Maternal & Child Health Block Grant - Effective January 1, 2015

SOW Type: Original Revision # (for this SOW)

Period of Performance: January 1, 2015 through September 30, 2015

Statement of Work Purpose: The purpose of this statement of work is to support local interventions that impact the target population of the Maternal and Child Health Block Grant.

Revision Purpose: N/A

<table>
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<tr>
<th>Chart of Accounts Program Name or Title</th>
<th>CFDA #</th>
<th>BARS Revenue Code</th>
<th>Master Index Code</th>
<th>Funding Period (LHJ Use Only)</th>
<th>Current Consideration</th>
<th>Change Increase (+)</th>
<th>Total Consideration</th>
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<td>93.994</td>
<td>333.93.99</td>
<td>78734250</td>
<td>01/01/15 - 09/30/15</td>
<td>0</td>
<td>106,632</td>
<td>106,632</td>
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<tr>
<td>TOTALS</td>
<td></td>
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<th>Deliverables/Outcomes</th>
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</tr>
</thead>
<tbody>
<tr>
<td>1a</td>
<td>Participate in calls, at a minimum of every other month, with DOH contract manager. Dates and time for calls are mutually agreed upon between DOH and LHJ.</td>
<td></td>
<td>Designated LHJ staff will participate in contract management calls.</td>
<td>September 30, 2015</td>
<td>Reimbursement for actual costs, not to exceed total funding consideration. Action Plan and Progress Reports must only reflect activities paid for with funds provided in this statement of work for the specified funding period. See Program Specific Requirements and</td>
</tr>
<tr>
<td>1b</td>
<td>Participate in DOH sponsored MCHBG-related quarterly conference calls and/or webinars, including up to two (2) in-person meetings.</td>
<td></td>
<td>Designated LHJ staff will participate in calls, webinars, and meetings.</td>
<td>September 30, 2015</td>
<td></td>
</tr>
<tr>
<td>1c</td>
<td>Complete 2015-2016 MCHBG Budget Workbook for October 1, 2015 through September 30, 2016 using DOH provided template.</td>
<td></td>
<td>Submit completed MCHBG Budget Workbook to DOH contract manager.</td>
<td>September 4, 2015</td>
<td></td>
</tr>
<tr>
<td>1d</td>
<td>Report actual expenditures for October 1, 2014 – December 31, 2014.</td>
<td></td>
<td>Submit actual expenditures using the MCHBG Budget Workbook (Sections A and B only) to contract manager.</td>
<td>February 18, 2015</td>
<td></td>
</tr>
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</table>

Local Health Jurisdiction Name: Whatcom County Health Department

Contract Number: C17132

Funding Source

- Federal Subrecipient
- State
- Other

Federal Compliance (check if applicable)

- FFATA (Transparency Act)
- Research & Development

Type of Payment

- Reimbursement
- Fixed Price
<table>
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<tbody>
<tr>
<td></td>
<td><strong>MCHBG Assessment and Evaluation</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2a</td>
<td>Participate in statewide capacity and needs assessment activities in preparation for next statewide 5 year plan, as requested.</td>
<td>Documentation using report template provided by DOH.</td>
<td>May 1, 2015</td>
<td>Reimbursement for actual costs, not to exceed total funding consideration. See Program Specific Requirements and Special Billing Requirements.</td>
</tr>
<tr>
<td>2b</td>
<td>Participate in project evaluation activities developed and coordinated by DOH, as requested.</td>
<td>Documentation using report template provided by DOH.</td>
<td>September 30, 2015</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>MCHBG Implementation</strong></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>3a</td>
<td>Develop 2015-2016 MCHBG Action Plan for October 1, 2015 through September 30, 2016 using DOH provided template.</td>
<td>Submit MCHBG Action Plan to DOH contract manager.</td>
<td>Draft - August 21, 2015</td>
<td>Reimbursement for actual costs, not to exceed total funding consideration. Action Plan and Progress Reports must only reflect activities paid for with funds provided in this statement of work for the specified funding period. See Program Specific Requirements and Special Billing Requirements.</td>
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<tr>
<td></td>
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<td></td>
<td>April 15, 2015</td>
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<td></td>
<td></td>
<td>July 15, 2015</td>
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<td></td>
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<td></td>
<td>If LHJ chooses to bill on a monthly basis, reports are due on or before the 15th of the following month.</td>
<td></td>
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<tr>
<td></td>
<td><strong>Children with Special Health Care Needs (CSHCN)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4a</td>
<td>Complete Child Health Intake Form (CHIF) using the CHIF Automated System on all infants and children served by the CSHCN Program as referenced in CSHCN Program Manual.</td>
<td>Submit CHIF data into Secure File Transport (SFT) website: <a href="https://sft.wa.gov">https://sft.wa.gov</a></td>
<td>January 15, 2015</td>
<td>Reimbursement for actual costs, not to exceed total funding consideration. Action Plan and Progress Reports must only reflect activities paid for with funds provided in this statement of work for the specified funding period. See Program Specific Requirements and Special Billing Requirements.</td>
</tr>
<tr>
<td>4b</td>
<td>Administer allocated DOH Diagnostic and Treatment funds for infants and children per CSHCN Program Manual when funds are used.</td>
<td>Submit completed Health Services Authorization forms and Central Treatment Fund requests directly to the CSHCN Program</td>
<td>30 days after forms are completed.</td>
<td></td>
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<td>Task Number</td>
<td>Task/Activity/Description</td>
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<td>Deliverables/Outcomes</td>
<td>Due Date/Time Frame</td>
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</tr>
<tr>
<td>4c</td>
<td>Participate in the CSHCN Regional System and quarterly meetings as described in the CSHCN Program Manual.</td>
<td></td>
<td>Submit Action Plan quarterly reports including number of regional meetings attended to the DOH contract manager.</td>
<td>January 15, 2015 April 15, 2015 July 15, 2015</td>
</tr>
</tbody>
</table>

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Program Specific Requirements/Narrative

Special Requirements
 Federal Funding Accountability and Transparency Act (FFATA)
This statement of work is supported by federal funds that require compliance with the Federal Funding Accountability and Transparency Act (FFATA or the Transparency Act). The purpose of the Transparency Act is to make information available online so the public can see how the federal funds are spent.

To comply with this act and be eligible to perform the activities in this statement of work, the LHJ must have a Data Universal Numbering System (DUNS®) number.

Information about the LHJ and this statement of work will be made available on http://USASpending.gov by DOH as required by P.L. 109-282.


Restrictions on Funds (what funds can be used for which activities, not direct payments, etc)
1. At least 30% of federal Title V funds must be used for preventive and primary care services for children and at least 30% must be used services for children with special health care needs. [Social Security Law, Sec. 505(a)(3)].

2. Funds may not be used for:
   a. Inpatient services, other than inpatient services for children with special health care needs or high risk pregnant women and infants, and other patient services approved by Health Resources and Services Administration (HRSA).
   b. Cash payments to intended recipients of health services.
   c. The purchase or improvement of land, the purchase, construction, or permanent improvement of any building or other facility, or the purchase of major medical equipment.
   d. Meeting other federal matching funds requirements.
   e. Providing funds for research or training to any entity other than a public or nonprofit private entity.
   f. payment for any services furnished by a provider or entity who has been excluded under Title XVIII (Medicare), Title XIX (Medicaid), or Title XX (social services block grant).[Social Security Law, Sec 504(b)].
3. If any charges are imposed for the provision of health services using Title V (MCH Block Grant) funds, such charges will be pursuant to a public schedule of charges; will not be imposed with respect to services provided to low income mothers or children; and will be adjusted to reflect the income, resources, and family size of the individual provided the services. [Social Security Law, Sec. 505 (1)(D)].

**Monitoring Visits (frequency, type)**
Telephone calls with contract manager at least one every other month.

**Special Billing Requirements**
Payment is contingent upon DOH receipt and approval of all deliverables and an acceptable A19-1A invoice voucher. Payment to completely expend the “Total Consideration” for a specific funding period will not be processed until all deliverables are accepted and approved by DOH. Invoices must be submitted at least quarterly and must be based on actual allowable program costs. Billing for services on a monthly or quarterly fraction of the “Total Consideration” will not be accepted or approved. Monthly invoices on actual allowable program costs will be accepted but an updated Action Plan Progress Report must also be submitted.

**DOH Program Contact**
Chris Zipperer
Healthy Communities Consultant
Office of Healthy Communities
Washington State Department of Health
Street Address: 310 Israel Rd SE, Tumwater, WA 98501
Mailing Address: PO Box 47848, Olympia, WA 98504
Telephone: 360-236-3614/ Fax: 360-236-3646
Email: chris.zipperer@doh.wa.gov
DOH Program Name or Title: Office of Drinking Water Group A Program - Effective January 1, 2015

Local Health Jurisdiction Name: Whatcom County Health Department

Contract Number: C17132

SOW Type: Original

Revision # (for this SOW)

Period of Performance: January 1, 2015 through December 31, 2017

Statement of Work Purpose: The purpose of this statement of work is to provide funding to the LHJ for conducting sanitary surveys and providing technical assistance to small community and non-community Group A water systems.

Revision Purpose: N/A

<table>
<thead>
<tr>
<th>Chart of Accounts Program Name or Title</th>
<th>CFDA #</th>
<th>BARS Revenue Code</th>
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<th>Funding Period (LIJ Use Only)</th>
<th>Current Consideration</th>
<th>Change Increase (+)</th>
<th>Total Consideration</th>
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<tbody>
<tr>
<td>Drinking Water Group A - SS</td>
<td>N/A</td>
<td>346.26.64</td>
<td>2421921C</td>
<td>01/01/15 - 12/31/15</td>
<td>0</td>
<td>9,200</td>
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<td>Drinking Water Group A - SS State</td>
<td>N/A</td>
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<td>2421252C</td>
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<td>2421921D</td>
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<th>Payment Information and/or Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Trained LHJ staff will conduct sanitary surveys of small community and non-community Group A water systems identified by the DOH Office of Drinking Water (ODW) Regional Office. See Special Instructions for task activity.</td>
<td></td>
<td>Provide Final* Sanitary Survey Reports to ODW Regional Office. Complete Sanitary Survey Reports shall include: 1. Completed Small Water System checklist identifying significant deficiencies, significant findings, observations, recommendations, and referrals for further ODW follow-up 2. Updated Water Facilities Inventory (WFI). 3. Photos of water system with text identifying features</td>
<td>Final Sanitary Survey Reports must be received by the ODW Regional Office within 30 calendar days of conducting the sanitary survey.</td>
<td>Upon ODW acceptance of the Final Sanitary Survey Report, the LHJ shall be paid $400 for each sanitary survey of a non-community system with three or fewer connections. Upon ODW acceptance of the Final Sanitary Survey Report, the LHJ shall be paid $800 for each sanitary survey of a non-community system with four or more connections.</td>
</tr>
<tr>
<td>Task Number</td>
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<td>Deliverables/Outcomes</td>
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<td>---------------------</td>
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</tr>
<tr>
<td>2</td>
<td>Trained LHI staff will conduct Special Purpose Investigations (SPI) of small community and non-community Group A water systems identified by the ODW Regional Office. See Special Instructions for task activity.</td>
<td>Provide completed SPI Report and any supporting documents and photos to ODW Regional Office.</td>
<td>Completed SPI Reports must be received by the ODW Regional Office within 2 working days of the service request.</td>
<td>Upon acceptance of the completed SPI Report, the LHI shall be paid $800 for each SPI. Payment is inclusive of all associated costs such as travel, lodging, per diem. Payment is authorized upon receipt and acceptance of collected SPI Report within the 2 working day deadline. Late or incomplete reports may not be accepted for payment.</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Trained LHI staff will provide direct technical assistance (TA) to small community and non-community Group A water systems identified by the ODW Regional Office.</td>
<td>Provide completed TA Report and any supporting documents and photos to ODW Regional Office.</td>
<td>Completed TA Report must be received by the ODW Regional Office within 30 calendar days of providing technical</td>
<td>Upon acceptance of the completed TA Report, the LHI shall be paid for each technical assistance activity as follows:</td>
<td></td>
</tr>
</tbody>
</table>

Exhibit A, Statement of Work
Template Created 08-2014
<table>
<thead>
<tr>
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<th>*May Support PHAB Standards/Measures</th>
<th>Deliverables/Outcomes</th>
<th>Due Date/Time Frame</th>
<th>Payment Information and/or Amount</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>See Special Instructions for task activity.</td>
<td></td>
<td></td>
<td></td>
<td>• Up to 3 hours of work: $250</td>
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<td>• 3-6 hours of work: $500</td>
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<td>• More than 6 hours of work: $750</td>
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<td></td>
<td>Payment is inclusive of all associated costs such as consulting fee, travel, lodging, per diem.</td>
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<td>Payment is authorized upon receipt and acceptance of completed TA Report within the 30-day deadline.</td>
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<td>Late or incomplete reports may not be accepted for payment.</td>
</tr>
<tr>
<td>4</td>
<td>LHJ staff performing the activities under tasks 1, 2 and 3 must have completed the mandatory Sanitary Survey Training. See Special Instructions for task activity.</td>
<td>Prior to attending the training, submit an “Authorization for Travel (Non-Employee)” DOH Form 710-013 to the ODW Program Contact below for approval (to ensure that enough funds are available).</td>
<td>Annually</td>
<td>LHX shall be paid mileage, per diem, and lodging costs in accordance with the current rates listed on the OMF Website <a href="http://www.ofm.wa.gov/resources/travel.asp">http://www.ofm.wa.gov/resources/travel.asp</a></td>
<td></td>
</tr>
</tbody>
</table>

*For Information Only:*
Funding is not tied to the revised Standards/Measures listed here. This information may be helpful in discussions of how program activities might contribute to meeting a Standard/Measure. More detail on these and/or other Public Health Accreditation Board (PHAB) Standards/Measures that may apply can be found at: http://www.phaboard.org/wp-content/uploads/PHAB-Standards-and-Measures-Version-1.0.pdf

Program Specific Requirements/Narrative

*Special References (RCWs, WACs, etc)*
Chapter 246-290 WAC is the set of rules that regulate Group A water systems. By this statement of work, ODW contracts with the LHJ to conduct sanitary surveys (and SPIs, and provide technical assistance) for small community and non-community water systems with groundwater sources. ODW retains responsibility for conducting sanitary surveys (and SPIs, and provide technical assistance) for small community and non-community water systems with surface water sources, large water systems, and systems with complex treatment.
LHJ staff assigned to perform activities under tasks 1, 2, and 3 must be trained and approved by ODW prior to performing work. See special instructions under Task 4, below.

Special Billing Requirements
The LHJ shall submit quarterly invoices within 30 days following the end of the quarter in which work was completed, noting on the invoice the quarter and year being billed for. Payment cannot exceed a maximum accumulative fee of $18,400 for Task 1, and $8,000 for Task 2, Task 3 and Task 4 combined during the contracting period, to be paid at the rates specified in the Payment Method/Amount section above. When invoicing for sanitary surveys, bill half to BARS Revenue Code 346.26.64 and half to BARS Revenue Code 346.26.65.

When invoicing for Task 4, submit receipts and the signed pre-authorization form for non-employee travel to the ODW Program Contact below and a signed A19-1A Invoice Voucher to the DOH Consolidated Contracts Office, billing to BARS Revenue Code 346.26.66 under Technical Assistance (TA).

Special Instructions

Task 1
Trained LHJ staff will evaluate the water system for physical and operational deficiencies and prepare a Final Sanitary Survey Report which has been accepted by ODW. Detailed guidance is provided in the Field Guide for Sanitary Surveys, Special Purpose Investigations and Technical Assistance (Field Guide). The sanitary survey will include an evaluation of the following eight elements: source; treatment; distribution system; finished water storage; pumps; pump facilities and controls; monitoring, reporting and data verification; system management and operation; and certified operator compliance. If a system is more complex than anticipated or other significant issues arise, the LHJ may request ODW assistance.

- No more than 6 surveys of non-community systems with three or fewer connections to be completed between January 1, 2015 and December 31, 2015.
- No more than 20 surveys of non-community systems with four or more connections and all community systems to be completed between January 1, 2015 and December 31, 2015.

The process for assignment of surveys to the LHJ, notification of the water system, and ODW follow-up with unresponsive water systems; and other roles and responsibilities of the LHJ are described in the Field Guide.

Task 2
Trained LHJ staff will perform Special Purpose Investigations (SPIs) as assigned by ODW. SPIs are inspections to determine the cause of positive coliform samples or the cause of other emergency conditions. SPIs may also include sanitary surveys of newly discovered Group A water systems. Additional detail about conducting SPIs is described in the Field Guide. The ODW Regional Office must authorize in advance any SPI conducted by LHJ staff.

Task 3
Trained LHJ staff will conduct Technical assistance as assigned by ODW. Technical Assistance includes assisting water system personnel in completing work that has been required, requested, or advised by the ODW to meet applicable drinking water regulations, and verifying that work that has been required, requested, or advised by the ODW to meet applicable drinking water regulations have been addressed. Examples of technical assistance activities are described in the Field Guide. The ODW Regional Office must authorize in advance any technical assistance provided by the LHJ to a water system.

Task 4
LHJ staff assigned to perform activities under tasks 1, 2, and 3 must be trained and approved by ODW prior to performing work. LHJ staff performing the activities under tasks 1, 2 and 3 must have completed, with a passing score, the ODW Online Sanitary Survey Training and the ODW Sanitary Survey Field Training. LHJ staff performing activities under tasks 1, 2, and 3 must attend the Annual ODW Sanitary Survey Workshop, and are expected to attend the Regional ODW LHJ Drinking Water Meetings.

If required trainings, workshops or meetings are not available or not scheduled, or if the LHJ staff person is unable to attend these activities prior to conducting assigned tasks, the LHJ staff person may, with ODW approval, substitute other training activities to be determined by ODW. Such substitute activities may include one-on-one training with ODW staff, co-surveys with ODW staff, or other activities as arranged and pre-approved by ODW. LHJ staff may not perform the activities under tasks 1, 2, and 3 without completing the training that has been arranged and approved by ODW.
DOH Program Name or Title: Office of Immunization & Child Profile - Effective January 1, 2015

SOW Type: Original Revision # (for this SOW)

Period of Performance: January 1, 2015 through December 31, 2015

Statement of Work Purpose: The purpose of this statement of work is to define required immunization tasks, deliverables, and funding.

Revision Purpose: N/A

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<th>Chart of Accounts Program Name or Title</th>
<th>CFDA #</th>
<th>BARS Revenue Code</th>
<th>Master Index Code</th>
<th>Funding Period (LHJ Use Only) Start Date</th>
<th>End Date</th>
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<th>Change Increase (+)</th>
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<td>333.93.26</td>
<td>74203250</td>
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</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Facilitate annual renewal of the Provider Agreement for Receipt of State Supplied Vaccine for all health care providers receiving state-supplied childhood vaccines, per instructions at this link</td>
<td>Provider Agreements for Receipt of State Supplied Vaccine received online via the Washington Immunization Information System.</td>
<td>Annually, per Annual VFC Provider Agreement Update Schedule</td>
<td>Reimbursement for actual costs incurred, not to exceed total funding consideration amount. Funds available for this task*: FFY15 AFIX, 74205250</td>
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<tr>
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<tr>
<td>2</td>
<td><strong>Enroll new providers. Conduct an enrollment site visit to all new providers, and gather information needed to complete Program enrollment, per instructions at this link</strong></td>
<td></td>
<td>a) Provider Agreement for Receipt of State Supplied Vaccine with original signature (NOTE: a photocopy will not be accepted)</td>
<td>Within ten (10) days after the date of the provider enrollment visit</td>
<td>Reimbursement for actual costs incurred, not to exceed total funding consideration amount. Funds available for this task*: FFY15 AFIX, 74205250</td>
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<tr>
<td></td>
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<td></td>
<td>b) Provider Agreement (DOH 348-022)</td>
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<td>c) IIS Information Sharing Agreement</td>
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<td></td>
<td>d) Account Application</td>
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<td></td>
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<td></td>
<td>e) User Account Worksheet</td>
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<td>3</td>
<td><strong>Use and facilitate provider use of the Washington Immunization Information System to place and approve provider vaccine orders. Monitor provider orders for appropriateness (including: accuracy of shipping information, order frequency, timing, quantity and type) and approve vaccine order online after assuring the appropriateness of the order.</strong></td>
<td></td>
<td>Electronic submission of provider vaccine orders via the Washington Immunization Information System</td>
<td>Based on provider order schedules</td>
<td>Reimbursement for actual costs incurred, not to exceed total funding consideration amount. Funds available for this task*: FFY15 VFC Vaccine Ordering 74204250 FFY15 VFC Ops 74203250 FFY 317 Ops 74201250</td>
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<tr>
<td>Task Number</td>
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<td>4</td>
<td>Monitor and assure electronic or paper submission of vaccine accountability reports for compliance with Provider Agreement related to vaccine management (ordering, inventory management, reconciliation, compliance with storage and handling, and reporting of all vaccine incidents and returns).</td>
<td></td>
<td>a) Monthly Vaccine Accountability Report (DOH 348-006), submitted by e-mail or online in the IIS b) Inclusion in the online ordering system of doses used in the last month and inventory on hand. c) Report of Vaccine Storage Incidents (DOH 348-154) complete with reason and corrective action as needed. d) Report all cases (or suspected cases) of vaccine fraud or abuse.</td>
<td>a) By the 15th of each month b) based on provider order schedules c) within seven (7) days of the incident d) within seven (7) days of the incident</td>
<td>Reimbursement for actual costs incurred, not to exceed total funding consideration amount. Funds available for this task*: FFY15 AFX, 74205250 *See Restrictions on Funds below</td>
</tr>
<tr>
<td>5</td>
<td>Provide communication, technical assistance, consultation, and education to providers about vaccine quality assurance, accountability, program participation and vaccine management.</td>
<td></td>
<td>Summary of LHJ Technical Assistance Form (DOH 348-257)</td>
<td>December 31st</td>
<td>Reimbursement for actual costs incurred, not to exceed total funding consideration amount. Funds available for this task*: FFY15 VFC Ops 74203250 FFY 317 Ops 74201250 *See Restrictions on Funds below</td>
</tr>
<tr>
<td>6</td>
<td>Conduct VFC site visits at twelve (12) private provider site(s) within your jurisdiction. Site visits should address all requirements outlined in the Provider Agreement, the CDC Vaccines for Children (VFC) Operations Guide, and as directed by the state administrators of the</td>
<td></td>
<td>a) VFC Site Visit Selection Planning tool (will be supplied by DOH)</td>
<td>a) January 15th</td>
<td>Reimbursement for actual costs incurred, not to exceed total funding consideration amount.</td>
</tr>
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<tr>
<td>287</td>
<td>Vaccines for Children program. All VFC site visits must be conducted by September 30th. Conduct VFC Compliance Site Visit Follow-Up to assure providers resolve all corrective actions identified during the initial VFC compliance site visit. Follow-up may include another physical site visit or verification by email, phone, fax, or mail that corrective actions were completed. Documentation that all VFC Site Visit corrective actions have been completed must be available to DOH upon request. Participate in all DOH/CDC trainings required for site visit reviewers and supervisors (a list of required trainings will be provided by DOH).</td>
<td>b) Enter responses from the VFC Provider Compliance Site Visit questionnaire into the VFC Provider Education, Assessment, and Reporting (VFC-PEAR) on-line system for each provider site visit. Follow all corrective action and follow-up guidance provided by VFC-PEAR for each incorrect response. c) Submit copy of signed Acknowledgement of Receipt d) Document completion of each required training</td>
<td>b) At the time of the VFC Compliance Site Visit or within ten (10) business days of the site visit. c) upon completion of each training</td>
<td>Funds available for this task*: FFY15 AFIX, 74205250 *See Restrictions on Funds below</td>
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<tr>
<td>7</td>
<td>a) Conduct AFIX (Assessment, Feedback, Incentive, and Exchange) visits with four (4) provider sites in your jurisdiction per instructions at this link. Visits can be conducted in-person, by telephone, or by webinar. All AFIX visits must be conducted by September 30th. b) Conduct AFIX follow-up visits with provider sites that choose to implement quality improvement strategies during their initial AFIX visit. Continue following up with provider sites until they fully implement their selected quality improvement activities. Follow-up visits can be conducted in-person, by telephone, or by webinar.</td>
<td>a) Enter the following data in the AFIX Online Tool: • General Site Visit Information. • Questionnaire responses. • Coverage assessment results (from CoCASA reports). • Feedback visit information. b) Enter the following data in the Exchange tab of the AFIX Online Tool for follow-up visits: • Clinic progress on implementing quality improvement strategies. • Follow-up coverage assessment results (from CoCASA reports).</td>
<td>a) At the time of the AFIX visit or within ten (10) business days of the AFIX visit. b) At the time of the AFIX follow-up visit or within ten (10) business days of the AFIX follow-up visit</td>
<td>Reimbursement for actual costs incurred, not to exceed total funding consideration amount. Funds available for this task*: FFY15 AFIX, 74205250 *See Restrictions on Funds below</td>
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<tr>
<td>287</td>
<td>a) In coordination with hospitals, health care providers, and health plans (if applicable), conduct activities to prevent perinatal hepatitis B infection in accordance with the Perinatal Hepatitis B module of the WA Immunization Information</td>
<td>Enter information for each case identified into the Perinatal Hepatitis B module of the WA Immunization Information</td>
<td>By the 15th of each month</td>
<td>Reimbursement for actual costs incurred, not to exceed total funding consideration amount</td>
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<td></td>
<td>Hepatitis B Prevention Program Guidelines, including the following: 1) identification of HBsAg-positive pregnant women, and pregnant women with unknown HBsAg status 2) reporting of HBsAg-positive women and their infants 3) case management for infants born to HBsAg-positive women to ensure administration of HBIG and hepatitis B vaccine within 12 hours of birth, the completion of the 3-dose hepatitis B vaccine series, and post-vaccination serologic testing. b) Provide technical assistance to birthing hospitals to encourage administration of the hepatitis B birth dose to all newborns within 12 hours of birth, in accordance with ACIP recommendations. c) Report all perinatal hepatitis B investigations, including HBsAg-positive infants, in the Perinatal Hepatitis B Module of the Washington State Immunization Information System.</td>
<td>System</td>
<td>Annual Perinatal Hepatitis B Outreach Summary (DOH 348 268)</td>
<td>December 15th</td>
<td>Funds available for this task*: FFY 317 Ops 74201250</td>
</tr>
</tbody>
</table>

*For Information Only: Funding is not tied to the revised Standards/Measures listed here. This information may be helpful in discussions of how program activities might contribute to meeting a Standard/Measure. More detail on these and/or other Public Health Accreditation Board (PHAB) Standards/Measures that may apply can be found at: http://www.phaboard.org/wp-content/uploads/PHAB-Standards-and-Measures-Version-1.0.pdf

Program Specific Requirements/Narrative
- All LHJ staff who conducts VFC Compliance Site Visits and AFIX visits must participate in an annual VFC and AFIX training, conducted by DOH Office of Immunization and Child Profile (OICP) staff or their designee.
- All new LHJ site visit reviewers are required to have at least one (1) observational visit conducted by DOH OICP staff or their designee. DOH OICP staff (or designee) will periodically conduct observational VFC/AFIX site visits with all other LHJ reviewers who conduct VFC Compliance Site Visits.
- LHJ staff who conducts VFC Compliance Site Visits must participate in at least one (1) joint (observational) VFC compliance visit with DOH staff every other year. The observational visit will occur during a regularly scheduled site visit conducted by the LHJ reviewer. DOH will determine the Observational visit.
- Tasks in this statement of work may not be subcontracted without prior written approval from DOH OICP.
Special Requirements
**Federal Funding Accountability and Transparency Act (FFATA)**
This statement of work is supported by federal funds that require compliance with the Federal Funding Accountability and Transparency Act (FFATA or the Transparency Act). The purpose of the Transparency Act is to make information available online so the public can see how the federal funds are spent.

To comply with this act and be eligible to perform the activities in this statement of work, the LHJ must have a Data Universal Numbering System (DUNS®) number.

Information about the LHJ and this statement of work will be made available on [http://USASpending.gov](http://USASpending.gov) by DOH as required by P.L. 109-282.

**Program Manual, Handbook, Policy References**
Office of Immunization and Child Profile References and Resources for vaccine management, VFC compliance site visits, AFIX visits, and Perinatal Hepatitis B activities can be found at this [link](http://example.com) to our website.

VFC Operations Guide - A copy will be provided by the Office of Immunization and Child Profile. (Note: All site visit reviewers are required to have access to the most current CDC VFC Operations Guide at every VFC compliance site visit).

**Staffing Requirements**
Provide notification via email to oicpcontracts@doh.wa.gov within fifteen (15) days of any changes to staffing for those who conduct work outlined in this statement of work.

**Restrictions on Funds (what funds can be used for which activities, not direct payments, etc)**
Allowable expenses with 317 and VFC FA Operations Funds (dated September 7, 2011) document is posted on the DOH Consolidated Contract website at this [link](http://example.com). In addition to the funding listed in the Payment Information and/or Amount column for each task, FFY13 317 Ops funding may be used for any activity in this statement of work, per funding availability.

These federal funds may not be used for expenses related to travel or attendance at any CDC-sponsored conference, training, or event without prior written approval from the Office of Immunization and Child Profile.

**DOH Program Contact**
Tawney Harper, MPA
Budget and Operations Manager
Office of Immunization and Child Profile
Department of Health
PO Box 47843, Olympia WA 98504-7843
tawney.harper@doh.wa.gov, 360-236-3525

**DOH Fiscal Contact**
Sheri Spezze
Budget Coordinator
Office of Immunization and Child Profile
PO Box 47843, Olympia WA 98504-7843
Sheri.spezze@doh.wa.gov, 360-236-3495

Deliverables may be sent electronically via email at oicpcontracts@doh.wa.gov,
by fax to 360-236-3590, or by mail to PO Box 47843, Olympia WA 98504-7843

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Exhibit A, Statement of Work
Template Created 08-2014
Exhibit A
Statement of Work
Contract Term: 2015-2017

DOH Program Name or Title: Recreational Shellfish Activities - Effective January 1, 2015

Local Health Jurisdiction Name: Whatcom County Health Department

SOW Type: Original Revision # (for this SOW)

Period of Performance: January 1, 2015 through June 30, 2015

Statement of Work Purpose: The purpose of this statement of work is to provide funds for shellfish harvesting safety for the last six months of the 2013-2015 biennium.

Revision Purpose: N/A

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<th>Master Index Code</th>
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<th>End Date</th>
<th>Current Consideration</th>
<th>Change Increase (+)</th>
<th>Total Consideration</th>
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<td>26403600</td>
<td>01/01/15</td>
<td>06/30/15</td>
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<td>TOTALS</td>
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<tbody>
<tr>
<td>1</td>
<td>Biotoxin Monitoring</td>
<td></td>
<td>Submit report on DOH approved format of activities for the year, including the number and names of beaches posted for classification.</td>
<td>Email Report to DOH by: 02/20/2015</td>
<td>$5,500</td>
</tr>
<tr>
<td></td>
<td>• Collect samples on schedule according to Department of Health (DOH) Biotoxin Monitoring Plan, coordinate deviations from the schedule with DOH, notify DOH in advance if samples cannot be collected.</td>
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<td></td>
<td>• Post / remove recreational shellfish warning and / or classification signs on beaches and restock cages as needed.</td>
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<tr>
<td></td>
<td>• This may also include recruiting, training, and coordination of volunteers, and fuel reimbursement funds for volunteer biotoxin monitoring.</td>
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<tr>
<td>2</td>
<td>Outreach</td>
<td></td>
<td>Submit report including the number of events staffed, and amount of educational materials distributed.</td>
<td>Email Report to DOH by: 02/20/2015</td>
<td>$500</td>
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<td></td>
<td>• Staff educational booths at local events.</td>
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<td></td>
<td>• Distribute safe shellfish harvesting information.</td>
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**Program Manual, Handbook, Policy References**
Department of Health’s Biotoxin Monitoring Plan

**Special References (RCWs, WACs, etc)**
Chapter 246-280 WAC
http://www.doh.wa.gov/AboutUs/ProgramsandServices/EnvironmentalPublicHealth/ShellfishandWaterProtection/ShellfishProgram/Biotoxins.aspx

**Special Instructions**
Report for work done the previous year must be submitted via email to Liz Maier by February 20, 2015.
The report format will be provided by DOH and may be modified throughout the contract period via email announcement.

**DOH Program Contact (Name, Program Title, Mailing Address, Email Address, Phone & Fax Number)**
Liz Maier, Office of Shellfish and Water Protection, PO Box 47824, Olympia WA 98504-7824; 360.236.3308; Liz.Maier@doh.wa.gov
DOH Program Name or Title: WIC Nutrition Program - Effective January 1, 2015

Local Health Jurisdiction Name: Whatcom County Health Department
Contract Number: C17132

SOW Type: Original Revision # (for this SOW)

Period of Performance: January 1, 2015 through December 31, 2017

Statement of Work Purpose: The purpose is to provide Women, Infants, and Children (WIC) Nutrition Program services by following WIC federal regulations, WIC state office policies and procedures, WIC directives, and other rules. Refer to the Program Specific Requirements section of this document.

Revision Purpose: N/A

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<td>1.1</td>
<td>Maintain authorized participating caseload at 100% based on quarterly average as determined from monthly caseload management reports generated at the state WIC office. The Department of Health (DOH) State WIC Nutrition Program has the option of reducing authorized participating caseload and corresponding funding when: 1. Unanticipated funding situations occur. 2. Reallocations are necessary to redistribute caseload statewide.</td>
<td>7.2</td>
<td>Outcomes based on monthly participation data from state WIC caseload management reports.</td>
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<td>Task Number</td>
<td>Task/Activity/Description</td>
<td>*May Support PHAB Standards/Measures</td>
<td>Deliverables/Outcomes</td>
<td>Due Date/Time Frame</td>
<td>Payment Information and/or Amount</td>
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| 1.2         | Submit the annual Nutrition Education Plan for each year of the Contract. | 9.2 | Nutrition Education Plan | First year due 03/31/15  
Second year due 03/31/16  
Third year due 03/31/17 | Payment withheld if not received by due date. |
| 1.3         | Submit the annual Nutrition Services Expenditure Report for each year of the Contract. | 11.2 | Nutrition Services Expenditure Report | First year due 11/30/15  
Second year due 11/30/16  
Third year due 11/30/17 | Payment withheld if not received by due date. |
| 1.4         | Tell clients about other health services in the agency. If needed, develop written agreements with other health care agencies and refer clients to these services. | 3.1 | Documentation must be available for review by WIC monitor staff. | Biennial WIC monitor | |
| 1.5         | Provide nutrition education services to clients and caregivers in accordance with federal and state requirements. | 3.1 | Documentation must be available for review by WIC monitor staff. | Biennial WIC monitor | |
| 1.6         | Issue WIC checks while assuring adequate check security and reconciliation. | 11.2 | Documentation must be available for review by WIC monitor staff. | Biennial WIC monitor | |
| 1.7         | Collect data, maintain records, and submit reports to effectively enforce the non-discrimination laws (Refer to Civil Rights Assurances below). | 7.1 | Documentation must be available for review by WIC monitor staff. | Biennial WIC monitor | |
| 1.8a        | Submit WIC and Breastfeeding Peer Counseling Budget Workbook for each year of the contract. | 11.2 | Budget Workbook | First year due 09/30/15  
Second year due 09/30/16  
Third year due 09/30/17 | |
| 1.8b        | Revise and submit WIC Budget Workbook mid-year for each year of the contract. | 11.2 | Revised Budget Workbook | Mid-year revision due 04/30/15  
Mid-year revision due 04/30/16  
Mid-year revision due 04/30/17 | |
| 2           | Breastfeeding Promotion | | Status report of chosen activities in Nutrition Education Plan.  
Documentation must be available for review by WIC monitor staff. | First year due 03/31/15  
Second year due 03/31/16  
Third year due 03/31/17 | See "Special Billing Requirements" below |
<table>
<thead>
<tr>
<th>Task Number</th>
<th>Task/Activity/Description</th>
<th>*May Support PHAB Standards/Measures</th>
<th>Deliverables/Outcomes</th>
<th>Due Date/Time Frame</th>
<th>Payment Information and/or Amount</th>
</tr>
</thead>
</table>
| 2.2         | Work with community partners to improve practices that affect breastfeeding. Choose one or more of the following projects:  
- Change workplace policies of employers who likely employ low income women  
- Provide breastfeeding education to health care providers who serve low income pregnant and breastfeeding women  
- Work with birthing hospitals to improve maternity care practices that affect WIC client breastfeeding rates  
- Provide clients access to lactation consultants  
- Provide staff and community partners breastfeeding training  
Other projects will need pre-approval from the State WIC Office. | 4.2 | Status report of chosen activities in Nutrition Education Plan.  
Documentation must be available for review by WIC monitor staff. | First year due 03/31/15  
Second year due 03/31/16  
Third year due 03/31/17 | Biennial WIC monitor |
| 3           | Breastfeeding Peer Counseling Program | 3.1 | Breastfeeding Peer Counseling Annual Report and expenditures from the previous federal fiscal year.  
Documentation must be available for review by WIC monitor staff. | First year due 12/31/15  
Second year due 12/31/16  
Third year due 12/31/17 | Biennial WIC monitor |
| 3.1         | Provide breastfeeding peer counseling program activities in accordance with federal and state requirements. The WIC Breastfeeding Peer Counseling Program is meant to enhance, not replace, WIC Breastfeeding Promotion and support activities. | 3.1 | Breastfeeding Peer Counseling Annual Report and expenditures from the previous federal fiscal year.  
Documentation must be available for review by WIC monitor staff. | First year due 12/31/15  
Second year due 12/31/16  
Third year due 12/31/17 | Biennial WIC monitor |
| 3.2         | Track Breastfeeding Peer Counseling Program expenditures and bill separately from the WIC grant. | 3.1 | Documentation must be available for review by WIC monitor staff. | Biennial WIC monitor |

**For Information Only:**
Funding is not tied to the revised Standards/Measures listed here. This information may be helpful in discussions of how program activities might contribute to meeting a Standard/Measure. More detail on these and/or other Public Health Accreditation Board (PHAB) Standards/Measures that may apply can be found at:  

**Program Specific Requirements/Narrative**

**Federal Funding Accountability and Transparency Act (FFATA)**
This statement of work is supported by federal funds that require compliance with the Federal Funding Accountability and Transparency Act (FFATA or the Transparency Act). The purpose of the Transparency Act is to make information available online so the public can see how the federal funds are spent.

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Exhibit A, Statement of Work  
Template Created 08-2014  
Page 30 of 34  
Contract Number C17132
To comply with this act and be eligible to perform the activities in this statement of work, the LHJ must have a Data Universal Numbering System (DUNS®) number. Information about the LHJ and this statement of work will be made available on http://USASpending.gov by DOH as required by P.L. 109-282.

Program Manual, Handbook, Policy References:
The LHJ shall be responsible for providing services according to rules, regulations and other information contained in the following:

- WIC Federal Regulations, USDA, FNS 7CFR Part 246, 3016, 3017 and 3018
- Other directives issued during the term of the Contract

Staffing Requirements:
The LHJ must:

- Use Competent Professional Authority staff, as defined by WIC policy, to determine client eligibility, prescribe an appropriate food package and offer nutrition education based on the clients' needs.
- Use a Registered Dietitian (RD) or other qualified nutritionist to provide nutrition services to high risk clients, to include development of a high risk care plan. The RD is also responsible for quality assurance of WIC nutrition services. See WIC Policy for qualifications for a Registered Dietitian and other qualified nutritionist.
- Assign a qualified person to be the Breastfeeding Coordinator to organize and direct local agency efforts to meet federal and state policies regarding breastfeeding promotion and support. The breastfeeding coordinator must be an International Board Certified Lactation Consultant or attend an intensive lactation management course, or other state approved training.

Restrictions on Funds:
The LHJ shall follow the instructions found in the Policy and Procedure Manual under WIC Allowable Costs.

Special References (RCWs, WACs):
Washington Administrative Code WAC 246-790-050
What is the WIC program?

(1) The WIC program in the state of Washington is administered by DOH.

(2) The WIC program is a federally funded program established in 1972 by an amendment to the Child Nutrition Act of 1966. The purpose of the program is to provide nutrition and health assessment; nutrition education; nutritious food; breastfeeding counseling; and referral services to pregnant, breastfeeding, and postpartum women, infants, and young children in specific risk categories.

(3) Federal regulations governing the WIC program (7 CFR Part 246) require implementation of standards and procedures to guide the state's administration of the WIC program and are hereby incorporated in this rule by reference. These regulations define the rights, responsibilities, and legal procedures of WIC employees, clients, persons acting on behalf of a client, and retailers. They are designed to promote:

(a) High quality nutrition services;
(b) Consistent application of policies and procedures for eligibility determination;
(c) Consistent application of policies and procedures for food benefit issuance and delivery; and
(d) WIC program compliance.
(4) The WIC program implements policies and procedures stated in program manuals, handbooks, contracts, forms, and other program documents approved by the USDA Food and Nutrition Service.

(5) The WIC program may impose sanctions against WIC clients for not following WIC program rules stated on the WIC rights and responsibilities.

(6) The WIC program may impose monetary penalties against persons who misuse WIC checks or WIC food but who are not WIC clients.

Monitoring Visits:
Program and fiscal monitoring are done on a Biennial (every two years) basis, and are conducted onsite.

The LHJ must maintain on file and have available for review, audit and evaluation:
1) All criteria used for certification, including information on income, nutrition risk eligibility and referrals
2) Program requirements
3) Nutrition education
4) All financial records

Assurances/Certifications:
1. Computer Equipment Loaned by the DOH WIC Nutrition Program
   In order to perform WIC program activities, DOH requires computers and printers to be in local WIC clinics or to be transported to mobile clinics. This equipment ("Loaned Equipment") is owned by DOH, and loaned to the local agency (LHJ). The Loaned Equipment is supported by DOH. This equipment shall be used for WIC business only or according to WIC Policy and Procedures.

   An inventory of Loaned Equipment is kept by DOH. Each time Loaned Equipment is changed, the parties shall complete the Equipment Transfer Form and DOH updates the inventory. A copy of the Transfer Form will be provided to the LHJ. Copies of the updated inventory list may be requested at any time.

   The LHJ agrees to:
   a. Defend, protect and hold harmless DOH or any of its employees from any claims, suits or actions arising from the use of this Loaned Equipment.
   b. Assume responsibility for any loss or damage from abnormal wear or use, or from inappropriate storage or transportation.

   DOH may enforce this by:
   1) Requiring reimbursement from the LHJ of the value of the Loaned Equipment at the time of the loss or damage.
   2) Requiring the LHJ to replace the Loaned Equipment with equipment of the same type, manufacturer, and capabilities (as pre-approved by DOH), or
   3) Assertion of a lien against the LHJ's property.

   The Department recommends LHJs carry insurance against possible loss or theft.

2. Civil Rights Assurance
   The LHJ shall perform all services and duties necessary to comply with federal law in accordance with the following Civil Rights Assurance:

   a. "The LHJ hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); all provisions required by the implementing regulations of the Department of Agriculture; Department of Justice Enforcement Guidelines, 28 CFR 50.3 and 42; and FNS directives and guidelines, to the effect that, no person shall, on the ground of race, color, national origin, sex, age or handicap, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination under any program or activity for which the LHJ receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this Contract."
b. “By accepting this assurance, the LHJ agrees to compile data, maintain records and submit reports as required, to permit effective enforcement of the nondiscrimination laws and permit authorized USDA personnel during normal working hours to review such records, books and accounts as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, Food and Nutrition Service, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the LHJ, its successors, transferees, and assignees, as long as it receives assistance or retains possession of any assistance from DOH. The person or persons whose signatures appear on the contract are authorized to sign this assurance on behalf of the LHJ.”

3. 7CFR Parts 3016, 3017, 3018
The LHJ shall comply with all the fiscal and operations requirements prescribed by the state agency as directed by Federal WIC Regulations (7CFR part 246.6), 7CFR part 3016, the debarment and suspension requirements of 7CFR part 3017, if applicable, the lobbying restrictions of 7CFR part 3018, and FNS guidelines and instructions and shall provide on a timely basis to the state agency all required information regarding fiscal and program information.

Special Billing Requirements:
1. Definitions
   **Contract Period:** January 1, 2015-December 31, 2017
   **Contract Budget Period:** The time period for which the funding is budgeted.
   - There are four federal budget periods:
     January 1, 2015 through September 30, 2015;
     October 1, 2015 through September 30, 2016;
     October 1, 2016 through September 30, 2017;
     October 1, 2017 through December 31, 2017.

2. Billing Information
   a. Billings are submitted on an A19-1A form, which is coded and provided by DOH prior to each federal fiscal budget period. Submit summary level financial data to support each individual program billing.
   b. A19-1A forms are submitted monthly following the close of each calendar month or upon completion of services, before the end of the federal contract budget period.
   c. Funds are allocated by budget categories (refer to Chart of Accounts Program names) and by state and federal budget periods (refer to the allocation sheet).
   d. Expenses are incurred only during the budget period; no carry forward from previous time periods, or borrowing from future time periods is allowed. Advance payments are not allowed.
   e. Payments for a budget period are limited to the amounts allocated for the budget period for each budget category.
   f. Billings are based on actual costs, with back up documentation retained by the LHJ and available for inspection by DOH or other appropriate authorities.
   g. Payments will be made only for WIC approved expenditures. Refer to the Washington State WIC Nutrition Program Policy and Procedure Manual Volume 2, Chapter 4 – Allowable Costs and OMB Circulars A-87.

**Special Instructions:**
The LHJ shall:
1) Maintain complete, accurate, and current accounting of all local, state, and federal program funds received and expended.
2) Provide, as necessary, a single audit in accordance with the provisions of OMB Circular A-133. This circular requires the LHJ to have a single audit performed should LHJ spend $500,000 or more of federal grants or awards from all sources. The LHJ is a subrecipient of federal funds.
3) Staff must use Breastfeeding Peer Counseling (BFPC) Program funds only to support the peer counseling program. Once the program is established and peer counselors are trained, the majority of the salary costs must be paid to peer counselors to provide direct services to WIC clients. For a list of allowable costs see Volume 2, Chapter 4 – Allowable Costs. The priority use of BFPC funds is to hire and train peer counselors to provide breastfeeding peer counseling services to WIC clients.

Special Requirements:

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Other
Any program requirements that are not followed may be subject to corrective action, and may result in monetary fines, repayment of funds, or withholding of Contract payment.

DOH Program Contact
Sandy Cruz, BS
WIC Nutrition Program
PO Box 47886, Olympia, WA 98504-7886
Sandra.Cruz@doh.wa.gov 360-236-3660 or 1-800-841-1410 x 3660

DOH Fiscal Contact
Kim Henderson
WIC Nutrition Program
PO Box 47886, Olympia, WA 98504-7886
Kim.Henderson@doh.wa.gov 360-236-3491
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**Catalog of Federal Domestic Assistance**

**Federal revenue codes begin with "333". State revenue codes begin with "334".**
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<th>CFDA Program Title</th>
<th>Federal Agency Name</th>
<th>Federal Award Identification Number</th>
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<td>09/30/15</td>
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<td>TP12-12021 HPP AND PHEP COOPERATIVE AGREEMENTS</td>
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<td>Department of Health and Human Services Health Resources and Services Administration</td>
<td>B0MC28134</td>
<td>MATERNAL AND CHILD HEALTH SERVICES</td>
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**TOTAL** $1,011,796
**Whatcom County Council Agenda Bill**

<table>
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<tr>
<th>Clearances</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
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<td>1/5/2015</td>
<td></td>
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**Title of Document:**

Annual appointments to Council boards and commissions

**Attachments:**

Applications

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes</th>
<th>( X ) NO</th>
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</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( ) NO</td>
<td>Requested Date:</td>
<td></td>
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</tbody>
</table>

**Summary Statement or Legal Notice Language:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

**Committee Action:**

**Council Action:**

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers</th>
<th>Ordinance or Resolution Number</th>
</tr>
</thead>
</table>

*Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.*
WHATCOM COUNTY COUNCIL
BOARDS AND COMMISSIONS VACANCIES
Through January 31, 2015

BOARD OF EQUALIZATION: 1 Vacancy, three-year term.
   1 Vacancy representing District 2, current member eligible to reapply.
   Applicant(s): Sonya Merk, incumbent

COMMUNITY NETWORK: 1 Vacancy, three-year term
   Applicant(s): Candace Wilson

HORTICULTURE PEST AND DISEASE BOARD: 4 Vacancies, two-year terms
   No applications received.

LUMMI ISLAND FERRY ADVISORY COMMITTEE: 3 Vacancies, 3-year terms
   Note: Council may appoint no more than one non-island resident
   Applicant(s): Chris Colburn, incumbent (non-island)
                 Kelvin Barton (non-island)
                 Charles Antholt, incumbent (island)

NOXIOUS WEED CONTROL BOARD: 3 Vacancies. 4-year terms.
   District 2: 1 vacancy, current member eligible to reapply
   Applicant: L. Alan Yoder, incumbent

   District 3: No applications received.
   District 5: No applications received.

OPEN SPACE ADVISORY COMMITTEE: 4 Vacancies. Four-year terms
   No applications received.

PLANNING COMMISSION: 2 Vacancies. Four-year terms.
   2 vacancies representing District 1
   Applicant(s): Dave Onkels, incumbent
                 Christina Maginnis
                 Susan Templeton

PORTAGE BAY SHELLFISH PROTECTON DISTRICT ADVISORY COMMITTEE: 1 Vacancy, 4-year term
   Applicant(s): Wendy Scherrer
SOLID WASTE ADVISORY COMMITTEE: 3 Vacancies, three-year terms.
1 vacancy representing a Public Interest Group, current member eligible to reapply
Applicant(s): Mark Peterson, incumbent

1 vacancy representing the Waste Collection Industry
No applications received

1 vacancy representing the Waste Recycling Industry, current member eligible to reapply.
Applicant(s): Martin Kujis Jr., incumbent

SURFACE MINING ADVISORY COMMITTEE: 9 Vacancies, two-year terms, all current members eligible to reapply.

2 members of the surface mining industry;
Applicant(s): Steve Cowden, incumbent
Brad Davis, incumbent

1 citizen who lives in close proximity to active mining or mineral overlay area;
Applicant(s): Leslie Dempsey, incumbent

1 environmental consultant.
Applicant(s): Dan McShane, incumbent

1 civil or geo-technical engineer with no direct or indirect financial business;
Applicant(s): Scott E. Hulse, incumbent

1 representative of forestry;
Applicant(s): Christopher Secrist, incumbent

No applications received for the following vacancies:
1 surface mining material user;
1 geologist;
1 representative of a potable domestic groundwater supply (such as a public water system representative or private well owner);
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: SONGA MERRIN

Street Address: 912 NOOKSACK AVE

City: NOOKSACK

Mailing Address (if different from street address): 

Day Telephone: 360-305-8880 Evening Telephone: 

E-mail address: songam@crossfireconnections.net

Date: 11/8/14

Zip Code: 98276

1. Name of board or committee—please see reverse: 

BOB

2. You must specify which position you are applying for. Please refer to vacancy list. 

DISTRICT 2 BOARD MEMBER

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? 

(If applicable, please refer to vacancy list.) 

☐ yes ( ) no

4. Which Council district do you live in? 

( ) One ( ) Two ( ) Three

5. Are you a US citizen? 

☐ yes ( ) no

6. Are you registered to vote in Whatcom County? 

☐ yes ( ) no

7. Have you ever been a member of this Board/Commission? 

If yes, dates: 1/2003 - 1/2008 and 1/15 - current

☐ yes ( ) no

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? 

☐ yes ( ) no

If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education. 

LAN, YOUTH DIRECTOR, WORSHIP LEADER, HOME OWNER, PRESIDENT

BAND DIRECTOR, MICHIGAN TECH, LAW DEGREE 99 CREDITS AT UNIVERSITY WITH TEMPORARY SCHOLARSHIP

10. Please describe why you’re interested in serving on this board or commission: 

I LIKE THE ABILITY FOR TAXPAYERS TO HAVE AN AVENUE OF TAX RELIEF IF NECESSARY

References (please include daytime telephone number): 

MADEAN HODSON 360-670-6690

VBS VAN DE MARK 360-3557

MAE JANE ANDERSON 360-224-3912

Signature of applicant: 

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the above information will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Candice Wilson
Street Address: 3267 Douglas Road
City: Ferndale
Mailing Address (if different from street address): Same
Day Telephone: 360-380-9943 Evening Telephone: Same
Cell Phone 360-393-0883
E-mail address: qtcanzegmail.com

1. Name of board or committee—please see reverse:
   Community Network Rep.
   Representative-Community

2. You must specify which position you are applying for.
   Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.) (x) yes ( ) no

4. Which Council district do you live in? ( ) One ( ) Two (x) Three

5. Are you a US citizen? (x) yes ( ) no

6. Are you registered to vote in Whatcom County? (x) yes ( ) no

7. Have you ever been a member of this Board/Commission? ( ) yes (x) no
   If yes, dates:

8. Do you or your spouse have a financial interest in or are you an employee or officer of any
   business or agency that does business with Whatcom County? ( ) yes (x) no
   If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community
   activities, and education.
   Executive Leadership—Vice Chairwoman, Lummi Nation
   Elected official, served for a year on LUBC, Policy
   Development, Growth and Change for success of community

10. Please describe why you’re interested in serving on this board or commission:
    I believe my
    background in human services, with work in policy
    is a contributing attribute for a diverse membership
    I believe in human development and self determination.

References (please include daytime telephone number): John McGarvey (360) 738-9695 or
(360) 201-2726, Penny Carol Jullaine (360) 303-8424, Bernie Thomas (360) 815-5145

Signature of applicant: 

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available to the County Council, County Executive, and the public. All board and commission members are
expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these
expectations may result in revocation of appointment and removal from the appointive position.
December 30, 2014

Geof Morgan
Whatcom County Community Network
Whatcom County Council Office
311 Grand Avenue, Suite #105
Bellingham, WA 98225

Greetings,

I am writing in reference to a vacancy you have for the Community Network Representatives for Whatcom County, I feel I will be a contributing member of your team.

I believe I have a lot to offer, I have several years of experience in public relations, community service, and exceptional communication skills. I am a team player and an independent worker. I am willing to lead when others are reluctant, and to follow when others are in the lead. I enjoy outreach and advocacy to accommodate community members in maximizing capacity of services, wrap around services, I look forward to ensure all needs are met, seek outside services when necessary, and follow-up accordingly. I believe effective communication is essential for prevention and awareness by educating community through venues of where they are at, social networking, and how to reach them, outreach. I have an in-depth background in budgeting, finance and program management. I am outgoing, enthusiastic, motivated, and dedicated to doing the best I can at any given task.

I have attached my resume for your review, and look forward to the opportunity of serving with you soonest.

Hy’shqe

Candice Wilson
Candice Wilson
3267 Douglas Road, Ferndale, WA 98248 | H: 3603809943 | C: 3603930883 | qtcanz@gmail.com

Executive Leadership

Professional Profile

Executive Leadership with management experience and exceptional people skills. Versed in public relations and community coordination. Desiring a challenging role as a Community Network Representative serving community.

Qualifications

- Public Relations
- Leadership
- Espirit de corps
- Strategic Planning
- Event Coordination
- Group Facilitation
- Program Management
- Advocacy & Outreach

Relevant Experience

Policy Development
Facilitated coordinated response to community movement in human development, emphasis in Journey to Wellness Initiative, working towards health and wellness, with key partnerships, administrative and policy staff, to pursue development, implementation and expansion of services.

Correspondence
Preparation of documentation for policy development or amendments for leadership review and consultation, maintenance of living documents to keep leadership apprised of progress or deficiencies, utilizing historical data and statistics.

Process Improvement
Strategic planning for comprehensive community building, sustainable and healthy infrastructure, capital working projects, expansion of methodical investments for a thriving economy, affording an abundance in prosperity.

Experience

Lummi Native Vote Coordinator
Lummi Indian Business Council
2014
Successfully led key project in Get Out the Vote Campaign for Lummi Nation, which resulted in communication and education of the power of the vote. Project planning and execution of Lummi Native Vote to increase awareness and responsibility of voting, with development and monitoring of project goals, with database development design, and solicitation of community participation. Nurtured political campaign with local, state, and federal officials, candidates and organizations.
Lummi Nation Vice Chairwoman
Lummi Indian Business Council
Policy leadership for community of approximately 5000+ tribal members, related to treaty rights in our mission to preserve, promote and protect our shcelangen in our work together as one, for our self-determination, self-governance and sovereignty, in healthcare, housing, natural resources, land, water, natural resources, in judicial, legal, law enforcement, jurisdiction, development, financial responsibility, management, infrastructure, in all realms and capacities to uphold constitutional fortitude. Government to Government relations, with the United States, tribes, and federal agencies, including local & state governments.

Healthy Marriages Coordinator
Lummi Indian Business Council
Implementation of HHS ACF Administration for Native Americans grant funding, program management and supervision. Monitored workplan progress, compliance, and made adjustments accordingly, with consultation and approval of funding agency. Program integration with community partnerships to facilitate the goals and objectives, in supporting relationships and strengthening families, by conducting a community survey for the definition of a healthy marriage, utilized as a resource and benefit of healthy relationships.

Lummi Child Support Program Case Manager
Lummi Indian Business Council
Monitored multiple caseload to keep track of all clients to provide adequate contribution in support of children. Conducted analysis to address income determination which led to investment and welfare of children. Prepared financial and legal documents for judicial review and approval in benefit of children.

Funding Department Administrative Assistant
Lummi Indian Business Council
Monitored multiple databases to keep track of all grant and funding inventory. Effectively monitored the release federal funding opportunity and general submissions. Dissemination and distribution of federal agency announcements, awards, and reporting.

Lummi Dislocated Workers Program Job Counselor
Lummi Indian Business Council
Department of Labor funded grant. Performed rehabilitation counseling for 179 fishermen of economic fishing disaster, face to face interviews for eligibility, including the individual retraining plan and support service determination. Routine follow-up of progress to verify compliance with established plan, program guidelines, and on-site visits for On-the-Job-Training program. Provided quarterly monitoring reports and updates to the Lummi Fishing Commission.

Education

Bachelor of Arts, Tribal Governance & Business Management
Northwest Indian College - Lummi (Junior Year)
Transfer from Western Washington University - Human Services BA program to proceed in Tribal Governance & Business Management BA at NWIC

Associates in Arts & Science, Transfer Degree
Whatcom Community College - Bellingham
Concurrent enrollment with Northwest Indian College (Lummi Community College)
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Cris Colburn
Date: November 14, 2014
Street Address: 2629 N Park Dr
City: Bellingham, WA
Zip Code: 98225
Mailing Address (if different from street address): Same
Day Telephone: 715-4511 Evening Telephone: 738-3067 Cell Phone:
E-mail address: crisc@ridewta.com

1. Name of board or committee (please see reverse): Lummis Island Ferry Advisory Committee
   (LIFAC)
   County resident not living on Lummis Island

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.) (✓ yes ( ) no

4. Which Council district do you live in? ( ) One ( ) Two ( ) Three

5. Are you a US citizen? (✓ yes ( ) no

6. Are you registered to vote in Whatcom County? (✓ yes ( ) no

7. Have you ever been a member of this Board/Commission? (✓ yes ( ) no
   If yes, dates: Spring 2012 to present

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? (✓ yes ( ) no
   If yes, please explain: Employee of Whatcom Transportation Authority (WTA)

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   - Manager of Specialized Transportation at WTA for last 20 years
   - 37 plus year career in community and public transportation
   - Past board member of several community, public health, and professional organization

10. Please describe why you’re interested in serving on this board or commission:
    - Especially interested because I’ve served on LIFAC for the last two years and I’ve really enjoyed it and felt I gave value to the
    - at WTA, I’ve participated in development of services for the island committee

References (please include daytime telephone number):
- Pete Stark, WTA General Manager 738-4581
- Mel Hansen, Ferndale City Council Position #2 & WTA Board of Directors

Signature of applicant: [Signature]

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November 18, 2014

Whatcom County Council
311 Grand Avenue, Suite #105
Bellingham, WA 98225-4038

To the Council:

This letter and the enclosed form constitute my application for appointment to a second term on the Lummi Island Ferry Advisory Committee. My first term comes to a close in January.

In my initial application, I offered committed participation, broad experience, and commitment to quality transportation service. I believe I have followed through on that offer, and trust most other people who are involved feel the same way.

I would like to serve on the Committee for another term. During my first term I enjoyed getting to know fellow committee members, island residents, and County personnel involved with ferry operations. I believe my understanding of service issues and opportunities for improvement has developed in a useful way. I hope to provide continued and increasing value to the committee process.

I have developed a more specific understanding of Whatcom County Ferry issues during my first term. If this application is approved, I hope that understanding will support improving effectiveness for Committee work through a second term.

Thank you for considering this application.

Sincerely,

Cris Colburn
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Kelvin Barton
Date: January 2, 2015
Street Address: 7691 Francis Lane
City: Birch Bay
Mailing Address (if different from street address): 
Zip Code: 98230
Day Telephone: 360-927-1112 Evening Telephone: 360-927-1112 Cell Phone: 425-339-8081
E-mail address: Kelvin @ krontel.com

1. Name of board or committee-please see reverse:  Lummi Island Ferry Advisory Committee

2. You must specify which position you are applying for. Please refer to vacancy list.
Non-Lummi Island Resident

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
(If applicable, please refer to vacancy list.) (x) yes ( ) no

4. Which Council district do you live in? ( ) One ( ) Two (x) Three

5. Are you a US citizen? (x) yes ( ) no

6. Are you registered to vote in Whatcom County? (x) yes ( ) no

7. Have you ever been a member of this Board/Commission? ( ) yes (x) no
If yes, dates:

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) yes (x) no
If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education. Please see attached résumé

10. Please describe why you’re interested in serving on this board or commission: I thoroughly enjoyed my career in public transportation and would like to use my skills to benefit our community.

References (please include daytime telephone number):
Sandy Modell, GM, DA SH, 703-746-3274
Ken Houston, GM, Citi Link, 260-432-4977
David Reed, President, Schedule Masts, 425-5402

Signature of applicant: July Bott

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Kelvin Barton
7691 Francis Lane
Birch Bay, WA 98230
360-927-1112

January 3, 2015

Lummi Island Ferry Advisory Committee

Dear Whatcom County Council,

I am writing to express my interest in being appointed to the Lummi Island Ferry Advisory Committee as a non-Lummi Island resident. I have the tools to perform this position and would like to use them to the benefit of Whatcom County.

I spent my career in public transportation ranging from the Pacific Northwest to the Washington DC metropolitan area. Responsibilities included working with Washington State Ferries. I was the Operations Lead in a contract with the ferry system in their last closure and rebuild of the Mukilteo ferry terminal. I worked regularly with the ferry system in schedule coordination. I was the Assistant Bus Schedule Manager for the Vancouver 2010 Winter Olympics.

Thank you for your consideration.

Sincerely,

[Signature]

Kelvin Barton
Thirty-four years passenger transportation experience including the Vancouver 2010 Winter Olympics. Responsibilities ranging from Road Supervisor to Transit Planner with intensive computer emphasis.

EXPERIENCE ENCOMPASSES:

- Program Manager, DASH, Alexandria, VA
- Vancouver 2010 Winter Olympics Assistant Bus Schedule Manager Planning and Operations
- City of Everett, Washington, U.S.A. Transportation Services employee
- Worked regularly with Washington State Ferries
- Puget Sound Regional Smart Card (ORCA) program
- National Transit Database (NTD) Reports to U.S. Federal Government
- Computer intensive responsibilities include: Extensive experience with Microsoft Office Suite of Programs; Visual Basic, Visual Basic for Applications, C++, HTML, XML programming; Ridership database development and maintenance; GIS (Geographic Information Systems); The Master Scheduler (TMS) scheduling, run cutting and transit management software; Trapeze Pass (ADA database and ride scheduling software); Kronos Timekeeper; Scheduling and Run Cutting
- Development of organization Transit Policy and Procedure Manual; P Everett Transit Accident Review Board; City of Everett Affirmative Action Advisory Committee; Everett Fire Department Community Emergency Response Team; Boeing Commute Trip Reduction Regional Committee; Inter and intra transit and municipal agencies and Washington state agencies construction projects representation and coordination;
- Everett Station Security Liaison;
- Everett Community College Advisory Board for the GIS program
- Whatcom County Birch Bay Advisory Committee Member and Land Use Sub-Committee Chairman
- Software Company – working with GPS timing data – including installation of GPS software and providing training for Transit agencies in the communities of Hemet and Victor Valley, California.

CERTIFICATIONS, LICENSES and TRAINING

- Program Manager certification; Canadian Urban Transit Association – Scheduling and Run cutting; GIS Certificate; C++ Level 1 Programming Certificate; Program Management; CERT (Community Emergency Response Team); Firefighter Railroad Training; Class B license with passenger and airbrake endorsements; General Aviation license; US DOT “Train the Trainer” and Accident Investigation training.

EDUCATION

- Everett Community College, 2003, Associate in Technical Arts (CIS/Visual Basic Programming) and Geographic Information Systems (GIS), both with High Honors

ANCILLARY

- Member Phi Theta Kappa Honor Society; Boeing Special Recognition award for post 911 transportation security work, National USSF “C” Coaching license; 15 years Youth Soccer Coach includes 12 years Select/Premier Coach of both boys and girls teams and 2 soccer team trips to European Gothia Cup and Dana Cups 1 and 2.
REFERENCES

Sandy Modell, General Manager
DASH Transit, Alexandria, VA
3000 Business Center Drive
Alexandria, VA 22314
(703) 746-3274

Ken Housden, General Manager
Citilink
801 Leesburg Road
Fort Wayne, IN 46808
(260) 432-4977

David Reed, President
Schedule Master, Inc
200 -5A Conestoga Drive
Brampton, Ontario, Canada L6Z4N5
(905) 495-5402
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Charles H. AnthoIT Date: Nov. 16, 2014
Street Address: Lummi Island, WA Lane
City: Lummi Island, WA Zip Code: 98262
Mailing Address (if different from street address):
Day Telephone: 360-250-7665 Evening Telephone: 360-250-2711 Cell Phone: 223-1134
E-mail address: charles.anthoIT@wwu.edu

1. Name of board or committee–please see reverse: Lummi Island Ferry Advisory Committee
2. You must specify which position you are applying for. Please refer to vacancy list.
3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.)
   -( ) Yes ( ) no
4. Which Council district do you live in? -( ) One ( ) Two ( ) Three
5. Are you a US citizen? -( ) Yes ( ) no
6. Are you registered to vote in Whatcom County? -( ) Yes ( ) no
7. Have you ever been a member of this Board/Commission? -( ) Yes ( ) no
   If yes, dates: 2012-2014
8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? -( ) Yes ( ) no
   If yes, please explain: 

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   Agricultural Economist, LeTourneur WWU, Small Organic Farmer, MS, Cornell BS, Unive Wisconsin Board Farm Friends, Ex Board member Lummi Island Community Assoc.

10. Please describe why you’re interested in serving on this board or commission: Assistance in fare adjustment that are prudent, equitable, and adequate to participate in... and the chief going replace chief with a used ferry. We plan for a new boat.

References (please include daytime telephone number):
   Marty Maberry 815-8464 Chem Flanders, 815-5078
   Mike Mackenzie 571-6555

Signature of applicant: [Signature]

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name:  Alan Yoder

Street Address:  1083 E Pole Rd

City:  Everson

Mailing Address (if different from street address):

Day Telephone:  254-3817

Evening Telephone:  254-3817

Cell Phone:  681-5937

E-mail address:  ayoder@wilborellis.com

Date:  11-18-14

1. Name of board or committee-please see reverse:

Noxious Weed Control

2. You must specify which position you are applying for.

Please refer to vacancy list.

District 2

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?

(If applicable, please refer to vacancy list.)  ☒ yes  ( ) no

4. Which Council district do you live in?  ☒ One  ( ) Two  ( ) Three

5. Are you a US citizen?  ☒ yes  ( ) no

6. Are you registered to vote in Whatcom County?  ☒ yes  ( ) no

7. Have you ever been a member of this Board/Commission?  ☒ yes  ( ) no

If yes, dates:  Current

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?  ☒ yes  ( ) no

If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

Agronomist employed by Wilbur Ellis, serving agriculture needs in Whatcom & Skagit.

10. Please describe why you’re interested in serving on this board or commission:

References (please include daytime telephone number):

Signature of applicant:  Alan Yoder

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DATE: Dec 14, 2014

APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSION

WHATCOM COUNTY NOXIOUS WEED BOARD

I, Alan Yoder, seek the nomination of District 2 for the term of four years to the WHATCOM COUNTY NOXIOUS WEED BOARD.

THE UNDERSIGNED NOMINATE Alan Yoder TO REPRESENT THE WHATCOM COUNTY NOXIOUS WEED BOARD, DISTRICT 2, FOR THE TERM OF FOUR YEARS.

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
<th>CITY</th>
<th>STATE</th>
<th>ZIP</th>
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</thead>
<tbody>
<tr>
<td>Gene Summers</td>
<td>5716 Vista Dr</td>
<td>Ferndale</td>
<td>WA</td>
<td>98248</td>
</tr>
<tr>
<td>Brandon Pike</td>
<td>5318 NW Dove Apt 1-3</td>
<td>Bellingham</td>
<td>WA</td>
<td>98226</td>
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<tr>
<td>Frank Moser</td>
<td>591 Pleasant Bay Rd</td>
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<td>WA</td>
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<tr>
<td>Bob Moser</td>
<td>591 Pleasant Bay Rd</td>
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<tr>
<td>Sue Summers</td>
<td>5716 Vista Dr</td>
<td>Ferndale</td>
<td>WA</td>
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<tr>
<td>Ed Blok</td>
<td>2268 Bear Rd</td>
<td>Lynden</td>
<td>WA</td>
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<tr>
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<td>390 Fister Rd</td>
<td>Lynden</td>
<td>WA</td>
<td>98264</td>
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<tr>
<td>Stan de Moor</td>
<td>257 W. W'ser Lake Rd</td>
<td>Ferndale</td>
<td>WA</td>
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<tr>
<td>Jay Johnson</td>
<td>5661 Bell Ct Rd</td>
<td>Deming</td>
<td>WA</td>
<td>98247</td>
</tr>
<tr>
<td>Carl Angell</td>
<td>3909 Canby Ct</td>
<td>Bellingham</td>
<td>WA</td>
<td>98229</td>
</tr>
</tbody>
</table>
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: David Onkels

Street Address: 2154 E Birch St
City: Bellingham, WA
Mailing Address (if different from street address): 

Day Telephone: 360-389-2519
Evening Telephone: 
Cell Phone: 360-296-1243
E-mail address: david@onkels.com

Date: January 5, 2015
Zip Code: 98229

1. Name of board or committee—please see reverse: Planning Commission

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.)

4. Which Council district do you live in? (X) One ( ) Two ( ) Three

5. Are you a US citizen? (X) yes ( ) no

6. Are you registered to vote in Whatcom County? (x) yes ( ) no

7. Have you ever been a member of this Board/Commission? If yes, dates: January 2011-January 2015 (X) yes ( ) no

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education. I was a homebuilder in Bellingham and Whatcom County for decades prior to my retirement. My educational areas of focus were economics and chemistry. I am an enthusiastic student of geography, politics, demographic trends, and planning.

10. Please describe why you’re interested in serving on this board or commission: I have served one four-year term on the Commission, the last year as Chair. I took care to invest the time to read the packet before each meeting and to conduct whatever field research was suggested by the issue before the commission. Chairman Luke and I held pre-meetings with PCS staff before each meeting when she was chair. I have continued that tradition with important issues.

Signature of applicant: David Onkels

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Christina Maginnis
Street Address: 2430 Henry Street
City: Bellingham
Date: 1/5/15
Zip Code: 98225
Mailing Address (if different from street address): 
Day Telephone: 360 714-8240
Evening Telephone: 
Cell Phone: 360 961-8147
E-mail address: christinamaginnis@gmail.com

1. Name of board or committee—please see reverse: Planning Commission

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) (✓) yes ( ) no

4. Which Council district do you live in? (✓) One ( ) Two ( ) Three

5. Are you a US citizen? (✓) yes ( ) no

6. Are you registered to vote in Whatcom County? (✓) yes ( ) no

7. Have you ever been a member of this Board/Commission? (✓) yes ( ) no

If yes, dates: ____________________________

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? (✓) yes ( ) no

If yes, please explain: Employed by WA State Dept. of Ecology

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education. See attached resume

10. Please describe why you’re interested in serving on this board or commission: See other side

References (please include daytime telephone number): Andrea Maclellan 360 927-3050
John Stockman 360 510-3059

Signature of applicant: Christina Maginnis

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10. I am interested in serving on the Planning Commission because I want to improve the land use recommendations and Comprehensive Plan updates being forwarded to staff and Council over the next 4 years. My professional knowledge and local experience in environmental science & policy related to water, stormwater, and land use would be an asset, adding depth and diversity to the current Planning Commission. I bring a willingness to listen and understand other perspectives, and incorporate public feedback during hearings in a meaningful way. This open and responsive attitude would encourage citizens to fully participate in County Comprehensive Plan updates, and land use discussions at the Planning Commission meetings.
Christina M. Maginnis
2430 Henry Street Bellingham, WA 98225
(360) 961-8147
christinamaginnis@gmail.com

SKILL HIGHLIGHTS

- Sixteen years professional experience in Water Resource Management; Eight with WA state government
- Extensive knowledge and application of state and local stormwater regulations and permitting
- Water quality grant and loan negotiation and project management
- Communication of technical information to various stakeholders through public meetings, trainings, workshops, and news media releases

RELEVANT EXPERIENCE

Management

- Oversee compliance with 19 NPDES Municipal Stormwater Permits in Whatcom, Skagit, and Island counties
- Participate in statewide Municipal Stormwater Permit team to consistently implement stormwater permits
- Manage water quality grant and loan projects for local governments and non-profits
- Plan and accomplish multiple and dynamic job responsibilities within prescribed time frames and budgets
- Assist staff with watershed planning and land acquisitions
- Supervise undergraduate students and interns

Technical

- Conduct stormwater permit review and revision for re-issuance of permit in 2012 and modification in 2014
- Evaluate annual state water quality and stormwater grant and loan applications
- Negotiate contracts, budgets, and schedules with successful grant and loan recipients
- Prepare environmental field assessments for watershed properties
- Proficient with MS Office, Email, and social media

Communication

- Develop trainings, workshops, and guidance materials for stormwater permits and statewide grant programs
- Present at public meetings to communicate stormwater and water quality policy and grant guidelines
- Develop partnerships with public agencies and private sector, university researchers, and community groups
- Coordinate with environmental planning and management staff, public and private agencies, and groups involved in habitat restoration

Research

- Collect, compile, analyze, interpret and manage water quality data
- Develop methods and framework for integrating human health and ecological risk assessment models
- Research methods and summarize findings for determining barriers to fish and wildlife at road crossings
Christina M. Maginnis
2430 Henry St. Bellingham, WA 98225
(360) 961-8147
christinamaginnis@gmail.com

EDUCATION

Masters of Science, Environmental Science, Western Washington University December 2006
Bachelor of Science, Natural Resource Science, University of Massachusetts September 1998

PROFESSIONAL HISTORY

Municipal Stormwater Specialist, WA Department of Ecology, Bellingham WA, January 2007 – Present
Compliance and technical oversight for NPDES Municipal Stormwater Permits;
Manage Centennial Clean Water Fund grant and State Revolving Fund loan projects

Thesis: A Screening level Integrated Ecological and Human Health Risk Assessment for Lake Whatcom

Stormwater/Watershed Intern, City of Bellingham Public Works, Bellingham WA, April 2003 – Sept. 2005
Field inspection of construction sites to ensure compliance with stormwater policies and codes
Sampled and analyzed dry weather stormwater flows in Padden Creek watershed.
Conducted environmental field assessments of watershed properties and restoration sites
Worked with citizen volunteers on Mayor’s Watershed Advisory Board

Project Coordinator, Water Resources Research Center, Amherst MA, Dec 2000–Dec 2002
Coordinated statewide Acid Rain Monitoring project with 100 volunteers and 16 laboratories
Program development, coordination of volunteer recruitment and training, field work, and data management
for Stream Continuity Project which inventoried culverts for fish passage

COMMUNITY INVOLVEMENT

Mayor’s Watershed Advisory Board 2006-2014
Candidate for Whatcom County Council, District 2 2011
Community Emergency Response Team (CERT) volunteer 2010
Watershed Master/ Beach Watcher volunteer, WSU, Extension 2005
North Cascades Community Band 2003-2004
Nooksack Salmon Enhancement Association (NSEA) Stream Steward 2003-2004
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name:  __Susan Templeton__  
Street Address:  _2327 Northshore RD_  
City:  _Bellingham, WA_  
Mailing Address (if different from street address):  _PO Box 2274 Bellingham WA 98227_  
Day Telephone:  _360-756-2570_  
E-mail address:  _susan@loannetter.com_  

Date:  _01/06/2015_

1. Name of board or committee—please see reverse:  _Planning Commission_

2. You must specify which position you are applying for. Please refer to vacancy list.  _District 1 Member_

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?  
   (If applicable, please refer to vacancy list.)  
   Yes ( ) no  

4. Which Council district do you live in?  
   One ( ) Two ( ) Three  

5. Are you a US citizen?  
   Yes ( ) no  

6. Are you registered to vote in Whatcom County?  
   Yes ( ) no  

7. Have you ever been a member of this Board/Commission?  
   Yes ( ) no  

8. Do you or your spouse have a financial interest in or are you an employee or officer of any 
   business or agency that does business with Whatcom County?  
   Salaried Officer of Washington Federal  
   Yes ( ) no  
   If yes, please explain:  

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community 
   activities, and education. 
   Currently: Assistant Branch Manager of Washington Federal/ Cornwall Ave Branch  
   Formerly: Mortgage Lender since 2003 in Whatcom County  
   Hold a Bachelor of Environmental Design/Visual from NCSU (former advertising Creative Director)

10. Please describe why you’re interested in serving on this board or commission:  As an engaged business person,  
    I am eager to assist the forward planning process to create a more balanced approach to our vast 
    shared resource needs and assure long term socio-economic health of our region.

References (please include daytime telephone number):  Bob Ross, AIA: 360-676-4443  
Daniel Haygeman: 360-815-4273

Signature of applicant:  

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available to the County Council, County Executive, and the public. All board and commission members are 
expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these 
expectations may result in revocation of appointment and removal from the appointive position.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: **WENDY SCHERRER** Date: **12/31/14**

Street Address: **1905 LaRabee Ave**

City: **Bellingham, WA** Zip Code: **98225**

Mailing Address (if different from street address): 

Day Telephone: **(360) 715-2993** Evening Telephone: **(360) 715-2993** Cell Phone: **(360) 319-7918**

E-mail address: **bluegreennorthwest@gmail.com**

1. Name of board or committee—please see reverse:
   - Portage Bay Shellfish Protection Dist
   - Advisory Committee

2. You must specify which position you are applying for. Please refer to vacancy list.
   - Portage Bay Shellfish Protection Dist
   - Advisory Committee

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.)
   - (X) yes ( ) no

4. Which Council district do you live in? ( ) One ( ) Two ( ) Three

5. Are you a US citizen? (X) yes ( ) no

6. Are you registered to vote in Whatcom County? (X) yes ( ) no

7. Have you ever been a member of this Board/Commission? ( ) yes (X) no

   If yes, dates:

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) yes (X) no

   If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   - Executive Director - Northsac Salmon Enhancement Association
   - Environmental Planner / Environmental Education Consultant
   - Developed "People of the Salish Sea" curriculum for Whatcom County Library System (2012)

10. Please describe why you’re interested in serving on this board or commission:
    - I have worked with WSCA from 1999-2007, to implement riparian buffers, filter strips, livestock exclusion projects to improve water quality + salmon habitat. We need to work harder smarter to keep the water clean for shellfish in Portage Bay. I am retired and can volunteer to help with this issue.

References (please include daytime telephone number):
- Analise Burns, Northwest Ecological **360-920-0512**

Signature of applicant: **Wendy Scherrer**

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Wendy Scherrer

EDUCATION
Western Washington University
1988 Master of Education, Science Education
1983 Washington State K-8 Teaching Certification
1976 Bachelor of Science: Environmental Planning

University of Oregon
1978-79 Graduate Studies: Landscape Architecture

Occidental College
1971-73 Undergraduate Studies

PROFESSIONAL EXPERIENCE
Instructor, Adjunct Science Education Faculty. 1989-97. Western WA University, Bellingham, WA
Environmental Education Consultant. 1985-91. Teacher Workshops and Curricula
Environmental Planner. 1976-83. Bellingham/Whatcom Co. Building Dept. King County, Consultant

PUBLICATIONS/PROJECTS
People of the Salish Sea. Whatcom County Library System. Teaching kits for 3rd Grade Teachers, featuring Lummi and Nooksack culture. (2012)
• www.wccls.org
American Indian Responses to Environmental Problems, Smithsonian National Museum of the American Indian (2011)
• http://www.nmai.si.edu/environment
• http://www.cob.org/services/recreation/parks-trails/native-plant-trail.aspx
Whatcom Creek Pipeline Explosion: A Decade of Healing (2009)
• www.pstrust.org/library/docs/10thAnniversary-FullSinglePages.pdf
Green Infrastructure Plan for the Happy Valley Neighborhood Plan (2009)
• http://www.n-sea.org/educational-programs-1/students-for-salmon
• http://www.ncascades.org/more_info/resources/publications.html
Water in Whatcom County
“Kids Learning from Nature.” Clearing Magazine: Environmental Education in the Pacific Northwest City of LaConner Historic District Planning Study
Clean Water, Streams and Fish (40-minute videotape)
Environmental Impact Statements: Bellis Fair Mall (Bellingham), Jacob’s Landing (Birch Bay), Lone Star Cement Plan (Concrete), Skagit County Sulfur Filling Plant (Mt. Vernon)
Resident Handbook for Bellingham/Whatcom Housing Authority

AWARDS
Lifetime Distinguished Alumni Award. Western Washington University. (2006)
Northwest Women’s Hall of Fame. YWCA. Bellingham, WA. (2005)
Environmental Hero Award. ReSources. Bellingham, WA (2005)
Excellence in Education Award. Western WA University, (1994)
Mayor's Waste Watcher Award. City of Bellingham, WA. (1989)
Washington State Volunteer of the Year, WA State Dept of Fisheries. (1988)
National Wildlife Federation Graduate Conservation Research Fellowship. (1987)

RELATED EXPERIENCE
1990-2015 Happy Valley Neighborhood Association, Board of Directors.
2007-2011 Bellingham Cooperative School, Board of Directors.
1999-2007 Nooksack Recovery Team, Vice President, Board of Directors.
1999-2000 Mayor's Neighborhood Advisory Board, City of Bellingham, WA.
1999-2000 Institutional Master Plan Advisory Committee, WWU.
1990-1995 Founder and Executive Board, Environmental Ed. Assoc. of WA.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: MARK PETERSON  Date: 11/10/14
Street Address: 1100 ROLAND ST
City: BELLINGHAM, WA  Zip Code: 98229
Mailing Address (if different from street address):
Day Telephone: SAME  Evening Telephone: SAME  Cell Phone: 360-201-0879
E-mail address: MARK@SCONNECT.ORG

1. Name of board or committee - please see reverse:
   SOLEO WASTE ADVISORY COMMITTEE
   SUSTAINABLE CONNECTIONS
   PUBLIC INTEREST GROUP REPRESENTATIVE

2. You must specify which position you are applying for.
   Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.)  ☐ yes ( ) no

4. Which Council district do you live in?  ☐ One ( ) Two ( ) Three

5. Are you a US citizen?  ☐ yes ( ) no

6. Are you registered to vote in Whatcom County?  ☐ yes ( ) no

7. Have you ever been a member of this Board/Commission?  ☐ yes ( ) no
   If yes, dates: 4/14 - PRESENT

8. Do you or your spouse have a financial interest in or are you an employee or officer of any
   business or agency that does business with Whatcom County?  ☐ yes ( ) no
   If yes, please explain: 

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community
   activities, and education.

   SEE ATTACHED

10. Please describe why you’re interested in serving on this board or commission:

    SEE ATTACHED

References (please include daytime telephone number):

Signature of applicant:

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available to the County Council, County Executive, and the public. All board and commission members are
expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these
expectations may result in revocation of appointment and removal from the appointive position.
Mark Peterson
1100 Roland Street
Bellingham, WA 98229

Application for Appointment to Whatcom County Solid Waste Advisory Committee

9. I am currently the Sustainable Business Manager for Sustainable Connections and much of my work is related to the reduction of solid waste by the business community. Sustainable Connections has a long history of helping businesses achieve their Toward Zero Waste Goals. My job duties include working with commercial business and providing the resources they need to be successful.

Some of the resources we currently provide include waste audits, employee training and support for implementing a Toward Zero Waste action plans. I am a currently serving a partial term on the Solid Waste Advisory Committee and am also a Solid Waste Advisory Subcommittee member for the update of the Whatcom County Solid Waste Plan.

10. I am interested in continuing to serve on this committee because I am passionate about resource management and reducing the amount of solid waste generated by our community. How we handle solid waste now and in the future, is and will continue to be, a big challenge. I feel I have the experience, knowledge and skills to be a positive and contributing member of this committee.

Additionally, I believe in public service and have served on both Whatcom County and City of Bellingham Advisory Boards including that include; Lake Whatcom Watershed Advisory Committee, Bellingham Parks and Recreation Advisory Committee and the Whatcom County Bike and Pedestrian Committee.

References:

Derek Long, Executive Director – Sustainable Connections
360-647-7093 X101

Rodd Pemble, Recycling Manager – Sanitary Services Company
360-734-3490
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Martin Kuljis Jr.  Date: 12/30/14
Street Address: 3152 Grandview Rd.  
City: Ferndale, WA  Zip Code: 98248
Mailing Address (if different from street address): 
Day Telephone: 360-733-0100  Evening Telephone: 360-736-3446  Cell Phone: 
E-mail address: marty@nwrecycling.com

1. Name of board or committee—please see reverse: Solid Waste Advisory Committee

2. You must specify which position you are applying for.

   Please refer to vacancy list. Waste Recycling Industry

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) ☑ yes ( ) no

4. Which Council district do you live in? ( ) One ( ) Two ( ) Three

5. Are you a US citizen? ☑ yes ( ) no

6. Are you registered to vote in Whatcom County? ☑ yes ( ) no

7. Have you ever been a member of this Board/Commission? ☑ yes ( ) no
   If yes, dates: 4/10/12 to Present

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) yes ( ) no
   If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education. General Manager at Northwest Recycling, Inc. in Bellingham, WA. BA in Business Management from Western Washington University

10. Please describe why you’re interested in serving on this board or commission: I am interested in serving on SWAC so I can contribute my industry knowledge.

References (please include daytime telephone number): Lex Ludtke - 360-733-6670
        Paul Razore 360-734-3440, Russ Schutt 360-739-2088

Signature of applicant: [Signature]

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RE-APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Steve Couwen
Date: Dec 1, 2014
Street Address: 5570 Knight Rd
City: Bellingham
Zip Code: 98226
Mailing Address (if different from street address):
Day Telephone: ___________________ Evening Telephone: ___________________ Cell Phone: 360-787-4042
E-mail address: Steve @ couwenvic.com

1. Name of board or committee—please see reverse: SMAC

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) _______________________________ ( ) yes ( ) no

4. Which Council district do you live in? _______________________________ ( ) One ( ) Two ( ) Three

5. Are you a US citizen? _______________________________ ( ) yes ( ) no

6. Are you registered to vote in Whatcom County? _______________________________ ( ) yes ( ) no

7. Have you ever been a member of this Board/Commission? _______________________________ ( ) yes ( ) no

If yes, dates: 2014

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? _______________________________ ( ) yes ( ) no

If yes, please explain: __________ Gravel & Ready Mix

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

   President of couwen Gravel & Ready Mix

10. Please describe why you’re interested in serving on this board or commission: Help to serve with on going concerns of the aggregate community

References (please include daytime telephone number):

Signature of applicant: Steve Couwen

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: BRAD DAVIS  Date: 12-10-14
Street Address: 3048 PINE LANE
City: SEATTLE WA Zip Code: 98284
Mailing Address (if different from street address): 3094 Glenhaven Dr. Sedro Woolley, WA 98284
Day Telephone: 360-661-5837 Evening Telephone: 360-695-0278 Cell Phone: 360-661-5837
E-mail address: bradd@gravel pits.com

1. Name of board or committee—please see reverse: SMAC
   Member, Surface Mining Industry

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) (X) yes ( ) no

4. Which Council district do you live in? ( ) One (X) Two ( ) Three

5. Are you a US citizen? (X) yes ( ) no

6. Are you registered to vote in Whatcom County? (X) yes ( ) no

7. Have you ever been a member of this Board/Commission? (X) yes ( ) no
   If yes, dates: 2014

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? (X) yes ( ) no
   If yes, please explain: 

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

   Whatcom County Manager Concrete NorWest
   Sand & Gravel Supplier

10. Please describe why you’re interested in serving on this board or commission: To ensure that Whatcom County can protect our aggregate resources.

References (please include daytime telephone number): Dan Cox 360-757-3121

Signature of applicant: 

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Leslie Dempsey
Street Address: 1109 beach Ave
City: Lummi Island WA
Zip Code: 98262
Mailing Address (if different from street address): PO Box 11 Lummi Island WA 98262
Day Telephone: Evening Telephone: Cell Phone: 360,325,3420
E-mail address: Leslie@LummiDrapers.com

1. Name of board or committee—please see reverse: Surface Mining Advisory Committee

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) ☑ yes ( ) no

4. Which Council district do you live in? ( ) One ( ) Two ( ) Three

5. Are you a US citizen? ☑ yes ( ) no

6. Are you registered to vote in Whatcom County? ☑ yes ( ) no

7. Have you ever been a member of this Board/Commission? ☑ yes ( ) no If yes, dates: Current member 1st term.

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) yes ☑ no If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

   Part-time Outreach Coordinator for Lummi Island Heritage Trust (Land Conservancy Non-Profit), Former Board of Director for HLA adjacent to a quarry, Under Grad Degree in Business

10. Please describe why you’re interested in serving on this board or commission: As a near-neighbor to a quarry, I have a specific perspective to contribute.

References (please include daytime telephone number):

   Wendell & Terry Terry (360) 758-7432

Signature of applicant: [Signature]

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Dan McShane
Date: 1/5/15

Street Address: 1451 Grant St
City: Bellingham, WA
Zip Code: 98225

Mailing Address (if different from street address):

Day Telephone: (360) 714-9409 Evening Telephone: (360) 647-3744 Cell Phone:

E-mail address: mcshanedan@gmail.com

1. Name of board or committee—please see reverse:
   Surface Mining Advisory
   Environmental Consultant

2. You must specify which position you are applying for.
   Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.)
   (x) yes ( ) no

4. Which Council district do you live in?
   (x) One ( ) Two ( ) Three

5. Are you a US citizen?
   (x) yes ( ) no

6. Are you registered to vote in Whatcom County?
   (x) yes ( ) no

7. Have you ever been a member of this Board/Commission?
   (x) yes ( ) no
   If yes, dates: January 2013

8. Do you or your spouse have a financial interest in or are you an employee or officer of any
   business or agency that does business with Whatcom County?
   (x) yes ( ) no
   If yes, please explain: Stratum Group has done environmental consulting for County in past

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community
   activities, and education.
   Engineering geologist. Have conducted approximately
   20 aggregate and quarry assessments, familiar with use of aggregate and
   quarry materials, familiar with mine impacts to environment.

10. Please describe why you’re interested in serving on this board or commission:
    Currently on committee and we are partially through the update process to the comprehensive plan

References (please include daytime telephone number): Bob Mitchell 650-3541
                                             Paul Pitman - 671-9172, Kim Ninemom 714-9409

Signature of applicant: __________

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available to the County Council, County Executive, and the public. All board and commission members are
expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these
expectations may result in revocation of appointment and removal from the appointive position.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Scott E. Hulse
Street Address: 6911 Holeman Avenue
City: Blaine
Mailing Address (if different from street address): 
Day Telephone: 360 243 0745 Evening Telephone: 360 243 0745 Cell Phone: None
E-mail address: scotthulse@att.net

Date: 5 January 2015
Zip Code: 98230

1. Name of board or committee—please see reverse:
   Surface Mining Advisory Committee

2. You must specify which position you are applying for.
   Please refer to vacancy list:
   Geotechnical Engineer - Advisory Committee Member

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.) ○ yes ○ no

4. Which Council district do you live in? ○ One ○ Two ○ Three

5. Are you a US citizen? ○ yes ○ no

6. Are you registered to vote in Whatcom County? ○ yes ○ no

7. Have you ever been a member of this Board/Commission?
   If yes, dates:

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?
   If yes, please explain:

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   Education: BS Mine Engineering, BS Geological Sciences-Geophysics, MS Geological Sciences-Geophysics-Hydrology
   PhD Radiological Health Sciences-Health Physics, Registered Professional Engineer, Colorado Registration Number 22254
   Qualifications Related to Position: 20 years mine/geotechnical engineering, 20 years multidisciplinary project and program management, 8 years research and development characterizing risk from environmental transport and deposition of man-made radionuclides in soil. See attached Curriculum Vitae for Dr. Scott E. Hulse 30 December 2014 for details. I have served as a member of the Surface Mining Advisory Committee since February, 2013.

10. Please describe why you’re interested in serving on this board or commission: Metal and Industrial materials mining is an essential activity for economic development and infrastructure maintenance. Balanced, informed oversight is essential.

References (please include daytime telephone number):
   Mr. Richard Langabeer 360 671 6460,
   Mr. Jack Westford 360 303 6596, Mr. John Shuhler 360 933 1989

Signature of applicant: _______________________

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Dr. Hulse received a Bachelor of Science (Geological Sciences-Geophysics) and Bachelor of Engineering (Mine Engineering) from the University of Washington, a Master of Science (Applied Physics-Geophysics-Hydrology) from the University of Arizona and a Doctor of Philosophy (Radiation Health Sciences-Health Physics) from Colorado State University. Dr. Hulse’s relevant professional experience includes service as a Mine Engineer with ALCOA, a Geophysicist with Gulf Oil Corporation, Principal Engineer with IEG Ltd., Manager of the Advanced Technologies Group with Lockheed Engineering Corporation, Associate Director for Technology with the Colorado Center for Environmental Management and Manager for Aerial Measurement Systems with Lockheed Martin Corporation. Dr. Hulse also served as the Winter Manager of the Amundson Scott South Pole Station in Antarctica during the winter of 1999-2000. Dr. Hulse has served as a member of the Birch Bay Water and Aquatic Resource Management Advisory Committee since February, 2013 and a member of the Whatcom County Surface Mining Advisory Committee since February, 2014. In addition, Dr. Hulse has served as a member of the Boulder County, Colorado, Board of Technical Review, and Solid Waste Advisory Committees, American Society for Testing Materials Down hole Logging Standards Committee (standards for down hole geologic logging and radiation monitoring instrumentation) and The International Radiation Monitoring Working Group (International Atomic Energy Agency). Dr Hulse has also served in numerous other volunteer positions with the American Red Cross, Boy Scouts, Knights of Columbus and other organizations. Dr. Hulse is a registered Professional Engineer (Colorado Registration Number 22254). Dr. Hulse has written numerous technical papers that have been published in refereed Geophysics and Health Physics journals, and has authored several U.S. Environmental Protection Agency technical documents.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Christopher Secrist
Street Address: 1771 Academy Rd
City: Bellingham, WA
Mailing Address (if different from street address):
Day Telephone: 734-1480 Evening Telephone:
E-mail address: chris@ceserco.com

Date: 1/6/15
Zip Code: 98226

1. Name of board or committee—please see reverse: Surface Mining Advisory Committee
   Forestry

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) (✓) yes ( ) no

4. Which Council district do you live in? ( ) One ( ) Two ( ) Three

5. Are you a US citizen? (✓) yes ( ) no

6. Are you registered to vote in Whatcom County? (✓) yes ( ) no

7. Have you ever been a member of this Board/Commission? (✓) yes ( ) no
   If yes, dates: Jan, 2014 → Jan 2015

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) yes (✓) no
   If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   Geologist, Forester, Businessman,

   BS Geology ‘76 WWU

10. Please describe why you’re interested in serving on this board or commission:
    To use my experience in service to the community

References (please include daytime telephone number): Gordon J. Iversen - 360-220-3366

Signature of applicant: Christopher Secrist

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<th>Agenda Date</th>
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**TITLE OF DOCUMENT:**
Annual appointments to FC2D Board of Supervisors board/committee vacancies

**ATTACHMENTS:**
applications

**SEPA review required?** ( ) Yes ( ) NO
**SEPA review completed?** ( ) Yes ( ) NO
**Should Clerk schedule a hearing?** ( ) Yes ( ) NO
**Requested Date:**

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
WHATCOM COUNTY
FLOOD CONTROL ZONE DISTRICT BOARD OF SUPERVISORS
BOARDS AND COMMISSIONS VACANCIES
Through January 31, 2015

FLOOD CONTROL ZONE DISTRICT ADVISORY COMMITTEE: 7 Vacancies. Various terms.
3 vacancies representing geographical areas. Four-year terms:
Applicant(s): John Appel, incumbent
              Jeff DeJong, incumbent
              L. Alan Yoder
              John Heystek
              Scott E. Hulse (applied for either the Special District or Geographical area vacancy)
              Brenda Chapin (no specific position indicated on application)

2 vacancies representing Special Districts. One-year terms.
Applicant(s): Ron Brousema, incumbent
              Harry E. Williams, incumbent
              Scott E. Hulse (applied for either the Special District or Geographical area vacancy)

2 vacancies representing Impacted Cities. One-year terms.
Applicant(s): Robert Bromley, incumbent
              John Perry, incumbent

Alternates (unlimited). Six-year terms.
Applicant(s): Michael Schoneveld

BIRCH BAY WATERSHED AND AQUATIC RESOURCES MANAGEMENT ADVISORY COMMITTEE:
2 Vacancies, four-year terms, one member eligible to reapply.
Applicant(s): Peter Winterfeld, incumbent
              Patrick Alesse
              Donald A. Brown

SUMAS/EVERSON/NOOKSACK FLOOD CONTROL SUBZONE ADVISORY COMMITTEE: 3 Vacancies,
four-year terms
No applications received.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: John Appel
Street Address: 6397 Aldrich Rd
City: Bellingham
Mailing Address (If different from street address):

Date: 1/6/15
Zip Code: 98226

Day Telephone: Evening Telephone: Cell Phone: 3608156279
E-mail address: appel.cheese@comcast.net

1. Name of board or committee—please see reverse: Flood Control Zone District Advisory Board
2. You must specify which position you are applying for. Please refer to vacancy list.
3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) ☑ yes ( ) no
4. Which Council district do you live in? ( ) One ( ) Two ( ) Three
5. Are you a US citizen? ☑ yes ( ) no
6. Are you registered to vote in Whatcom County? ☑ yes ( ) no
7. Have you ever been a member of this Board/Commission? ☑ yes ( ) no
8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ☑ yes ( ) no
You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.
9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

Owner Appel Farms LLC

10. Please describe why you’re interested in serving on this board or commission: Live on the Nooksack River & am commissioner Dik, Dist III

References (please include daytime telephone number):

Signature of applicant: John Appel

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Jeff Diep Jong

Street Address: 1159 Abbot Hill Rd

City: Lynden

Zip Code: 98264

Day Telephone: (360) 815-0973

Email address: eaglemillwork@ymail.com

Flood Zone Control District #4

Geographic Area

Name of board or committee—please see reverse:

Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying?

(If applicable, please refer to vacancy list.)

Which Council district do you live in?

( ) One ( ) Two ( ) Three

Are you a US citizen?

( ) yes ( ) no

Are you registered to vote in Whatcom County?

( ) yes ( ) no

Have you ever been a member of this Board/Commission?

( ) yes ( ) no

If yes, dates: 2011-2015

Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?

( ) yes ( ) no

If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

Dairy Producer

I have served on this committee for 4 years, 3 of them as chair. It would like to continue working for the county as a member of this committee.

Please describe why you're interested in serving on this board or commission:

I love to work in the field plan my career & livelihood depend on how we can work together to ensure safety & the future.

References (please include daytime telephone number):

Nature of applicant:

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: L Alan Yoder
Street Address: 1083 E Pole Rd
City: Eversen
Zip Code: 98249
Mailing Address (if different from street address):
Day Telephone: Evening Telephone: 360-3817 Cell Phone: 360 661-5835
E-mail address: alan_yoder@comcast.net

1. Name of board or committee—please see reverse:
   Whatcom County Flood Control Zone District
   Geographic Areas

2. You must specify which position you are applying for.
   Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.)
   ☑ yes ☐ no

4. Which Council district do you live in?
   ☑ One ☐ Two ☐ Three

5. Are you a US citizen?
   ☑ yes ☐ no

6. Are you registered to vote in Whatcom County?
   ☑ yes ☐ no

7. Have you ever been a member of this Board/Commission?
   ☑ yes ☐ no
   If yes, dates: 2002-2010

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?
   ☑ yes ☐ no
   If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   Active agronomist serving farmers in Whatcom & Skagit counties.

10. Please describe why you’re interested in serving on this board or commission: I served 2 prior terms, and was asked to reapply.

References (please include daytime telephone number):

Signature of applicant: [Signature]

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: John Heystek
Street Address: 1518 Abbott Rd
City: Lynden WA
Date: 01-06-15
Zip Code: 98264

Mailing Address (if different from street address): _______________________________________________________________________

Day Telephone: (360)354-7021 Evening Telephone: ___________ Cell Phone: ___________
E-mail address: jnheystek@frontier.com

1. Name of board or committee—please see reverse: _______________________________________________________________________

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) ———————————————————————————— ( ) yes ( ) no

4. Which Council district do you live in? ———————————————————————————— ( ) One ( ) Two ( ) Three

5. Are you a US citizen? ———————————————————————————— ( ) yes ( ) no

6. Are you registered to vote in Whatcom County? ———————————————————————————— ( ) yes ( ) no

7. Have you ever been a member of this Board/Commission? ———————————————————————————— ( ) yes ( ) no

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ———————————————————————————— ( ) yes ( ) no

If yes, please explain: _______________________________________________________________________

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

- Electrical Contractor - Northwest Electric, Inc
- previously on Church and School boards

10. Please describe why you’re interested in serving on this board or commission:

    Property we own and live at on Abbott Rd borders the Nooksack River.

References (please include daytime telephone number):

   Mark Heystek (360)354-1828
   Ken Hanks (360)527-463
   Curt DeHaven (360)310-3248

Signature of applicant: __________________________________________________________

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Scott E. Hulse
Street Address: 6911 Holeman Avenue
City: Blaine
Mailing Address (if different from street address):
Day Telephone: 360 243 0745 Evening Telephone: 360 243 0745
E-mail address: scottehulse@att.net

1. Name of board or committee: please see reverse: Flood Control Zone District Advisory Committee

2. You must specify which position you are applying for. Please refer to vacancy list. Special District Representative, Geographic Area Representative

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.)
   (x) yes ( ) no

4. Which Council district do you live in? ( ) One ( ) Two (x) Three

5. Are you a US citizen? (x) yes ( ) no

6. Are you registered to vote in Whatcom County? (x) yes ( ) no

7. Have you ever been a member of this Board/Commission? (x) yes ( ) no
   If yes, dates: ____________________________

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? (x) yes ( ) no
   If yes, please explain: ____________________________

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   Education: BS Mine Engineering, BS Geological Sciences-Geophysics, MS Geological Sciences-Geophysics-Hydrology
   PhD Radiological Health Sciences-Health Physics, Registered Professional Engineer, Colorado Registration Number 22254
   Qualifications Related to Position: 20 years mine/geotechnical engineering, 20 years multidisciplinary project and program management, 8 years research and development characterizing risk from environmental transport and deposition of man-made radionuclides in soil. See attached Curriculum Vitae for Dr. Scott E. Hulse December 2014 for details. Member of Birch Bay Water and Resource Management Committee since February, 2012.

10. Please describe why you’re interested in serving on this board or commission: Our family has lived on Whitehorn Point along the southern boundary of Birch Bay since 1960. Storm water disposition and flooding are issues that affects our quality of life.

References (please include daytime telephone number): Mr. Keats Garman 360 371 3554,
Mr. Jack Westford 360 303 6596, Mr. Peter Winterfeld 360 441 6633

Signature of applicant: ____________________________

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Curriculum Vitae for Dr. Scott E. Hulse  30 December 2014

Dr. Hulse received a Bachelor of Science (Geological Sciences-Geophysics) and Bachelor of Engineering (Mine Engineering) from the University of Washington, a Master of Science (Applied Physics-Geophysics-Hydrology) from the University of Arizona and a Doctor of Philosophy (Radiation Health Sciences-Health Physics) from Colorado State University. Dr. Hulse’s relevant professional experience includes service as a Mine Engineer with ALCOA, a Geophysicist with Gulf Oil Corporation, Principal Engineer with IEG Ltd., Manager of the Advanced Technologies Group with Lockheed Engineering Corporation, Associate Director for Technology with the Colorado Center for Environmental Management and Manager for Aerial Measurement Systems with Lockheed Martin Corporation. Dr. Hulse also served as the Winter Manager of the Amundson Scott South Pole Station in Antarctica during the winter of 1999-2000. Dr. Hulse has served as a member of the Birch Bay Water and Aquatic Resource Management Advisory Committee since February, 2013 and a member of the Whatcom County Surface Mining Advisory Committee since February, 2014. In addition, Dr. Hulse has served as a member of the Boulder County, Colorado, Board of Technical Review, and Solid Waste Advisory Committees, American Society for Testing Materials Down hole Logging Standards Committee (standards for down hole geologic logging and radiation monitoring instrumentation) and The International Radiation Monitoring Working Group (International Atomic Energy Agency). Dr Hulse has also served in numerous other volunteer positions with the American Red Cross, Boy Scouts, Knights of Columbus and other organizations. Dr. Hulse is a registered Professional Engineer (Colorado Registration Number 22254). Dr. Hulse has written numerous technical papers that have been published in refereed Geophysics and Health Physics journals, and has authored several U.S. Environmental Protection Agency technical documents.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Brenda Chapin
Street Address: 4808 Mt. Baker Hwy.
City: Deming
Mailing Address (if different from street address): P.O. Box 937 Deming
Day Telephone: 360.592.5896 Evening Telephone: 360.592.5896 Cell Phone: 360.584.1675
E-mail address: the4chapins@yahoo.com

1. Name of board or committee - please see reverse: Flood Control Zone Dist. Adv. Com.

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) (Y) yes ( ) no

4. Which Council district do you live in? ( ) One (X) Two ( ) Three

5. Are you a US citizen? (Y) yes ( ) no

6. Are you registered to vote in Whatcom County? (Y) yes ( ) no

7. Have you ever been a member of this Board/Commission? ( ) yes (X) no

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) yes ( ) no

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

Bookkeeper

10. Please describe why you’re interested in serving on this board or commission:

As a property owner, I have an interest in knowing how and what decisions are being made in regard to flood control and management.

References (please include daytime telephone number): Nicole Miles 360.162.82

Becky Jordan 441-1930

Signature of applicant: Brenda Chapin

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Ron Bronsema
Street Address: 8135 Northwood Rd.
City: Everson
Mailing Address (if different from street address):
Day Telephone: 360-797-2372 Evening Telephone: Same
Cell Phone: 961-7792
E-mail address: rbdairy@clearwire.net

Date: 11-17-14
Zip Code: 98247

1. Name of board or committee—please see reverse: Flood Control Zone District A
   Special District Representative

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying? (If applicable, please refer to vacancy list.) ☑ yes ( ) no

4. Which Council district do you live in? ( ) One ☑ Two ( ) Three

5. Are you a US citizen? ☑ yes ( ) no

6. Are you registered to vote in Whatcom County? ☑ yes ( ) no

7. Have you ever been a member of this Board/Commission? ☑ yes ( ) no
   If yes, dates: 1992-2010, 2012-2014

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) yes ☑ no
   If yes, please explain:

   You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education. Dairy Farmer, Past Flood Control A.C. Chair, Past Lynden/Everson sub-zone Chair. Education, graduate Lynden High School, Bellingham Tech College.

10. Please describe why you're interested in serving on this board or commission: Return Flood District to a science-based committee to benefit all taxpayers, not just a special interest group.

References (please include daytime telephone number): Frank Abart 676-6707
   Paula Cooper 676-6707

Signature of applicant: Ron Bronsema

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Harry E. Williams

Street Address: 4437 Deming Rd

City: Everson WA

Zip Code: 98247

Date: 1/5/2015

Mailing Address (if different from street address): 

Day Telephone: 360 592-5963 Evening Telephone: 360 592 5963 Cell Phone: N/A

E-mail address: N/A

1. Name of board or committee-please see reverse:
   Flood Control Zone District Advisory Committee

2. You must specify which position you are applying for.
   Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) 
   ( ) Yes ( ) No

4. Which Council district do you live in?
   ( ) One ( ) Two ( ) Three

5. Are you a US citizen?
   ( ) Yes ( ) No

6. Are you registered to vote in Whatcom County?
   ( ) Yes ( ) No

7. Have you ever been a member of this Board/Commission?
   ( ) Yes ( ) No

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?
   If yes, please explain:

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   Blueberry grower/beef cattle rancher in the Deming Valley - Retired Marine Corps Master Sergeant W/30 yr Service Vietnam, Desert Storm, Afghan Veteran (20 yrs as a Combat Engineer, High School Grad, Engineer Chief School, Staff NCO School)

10. Please describe why you’re interested in serving on this board or commission:
    I'm also a commissioner on the Deming Ahlum District, interested in continuing the original intent of the river/flood tax-flood protection/repair/maint of the levees

References (please include daytime telephone number):
   Art Anderson 592-5960
   Gary Van Dyk 592-2011 Chris Hatch 595-0953

Signature of applicant: Harry E. Williams

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Robert Bramley
Street Address: 433 Cherry St
City: Sumas
Zip Code: 98295
Mailing Address (if different from street address): P.O. Box 9, Sumas, WA 98295
Day Telephone: 360-988-4721 Evening Telephone: 360-988-8233 Cell Phone: 360-961-2303
E-mail address: mayorbramley@cityofsumas.com

Date: 11/24/14

1. Name of board or committee: please see reverse: Flood Control Zone District Advisory Comm

2. You must specify which position you are applying for. Please refer to vacancy list: Impacted Cities Rep.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) Yes ( ) no

4. Which Council district do you live in? ( ) One ( ) Two ( ) Three

5. Are you a US citizen? Yes ( ) no

6. Are you registered to vote in Whatcom County? Yes ( ) no

7. Have you ever been a member of this Board/Commission? Yes ( ) no

If yes, dates: Currently a member

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) yes ( ) no

If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

Retail Grocery Owner, Mayor City of Sumas, Citizen of a community that is in a flood area and have dealt with measures from the impacts of flooding. Member of Sumas Chamber & Lions Club, Attended WWU ZUPS.

10. Please describe why you're interested in serving on this board or commission:

To participate and contribute to the solutions of water and flood problems that plague our cities and county.

References (please include daytime telephone number):

Chris Haugen 961-7224
Jim Wright 354-4482 Jim Ackerman 961-2375

Signature of applicant: [Signature]

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: John Perry
Street Address: 132 Birchwood Dr
City: Everson
Mailing Address (if different from street address): P.O. Box 315
Zip Code: 98247
Day Telephone: 360-776-3706 Evening Telephone: 360-966-3189 Cell Phone: 815-5954
E-mail address:

1. Name of board or committee-please see reverse: Flood Control Zone District

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) (X) yes ( ) no

4. Which Council district do you live in? ( ) One ( ) Two ( ) Three

5. Are you a US citizen? (X) yes ( ) no

6. Are you registered to vote in Whatcom County? (X) yes ( ) no

7. Have you ever been a member of this Board/Commission? (X) yes ( ) no

If yes, dates: 1/2010 - 12/2014

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) yes (X) no

If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

Mayor - City of Everson

10. Please describe why you’re interested in serving on this board or commission:

References (please include daytime telephone number):

Signature of applicant: 

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Michael Schoneveld
Street Address: 271 Parkly Way
City: Ferndale
Mailing Address (if different from street address): 
Day Telephone: (360) 410-8998  Evening Telephone: (360) 354-8998  Cell Phone: 
E-mail address: Mschoneveld @comcast.net

Date: 1/4/14
Zip Code: 98248

1. Name of board or committee-please see reverse:
   Flood Control Zone DAC

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.)
   ( ) yes ( ) no

4. Which Council district do you live in?
   ( ) One  ( ) Two  ( ) Three

5. Are you a US citizen? ( ) yes ( ) no

6. Are you registered to vote in Whatcom County? ( ) yes ( ) no

7. Have you ever been a member of this Board/Commission? ( ) yes ( ) no
   If yes, dates:

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) yes ( ) no
   If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions:

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   Farmer

10. Please describe why you’re interested in serving on this board or commission:
    To help bring good ideas to Whatcom County flood issues.

References (please include daytime telephone number):

Signature of applicant: ________________________________

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Peter W. Winterfeld Date: Nov 8 2014
Street Address: 8270 Comox Road
City: Birch Bay Zip Code: 98230
Mailing Address (if different from street address): N/A
Day Telephone: 360 441 6833 Evening Telephone: Same Cell Phone: Same
E-mail address: peterwinterfeld@gmail.com

1. Name of board or committee—please see reverse: Bb Warm
2. You must specify which position you are applying for. Please refer to vacancy list.
3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) (X) yes ( ) no
4. Which Council district do you live in? ( ) One ( ) Two (X) Three
5. Are you a US citizen? (X) yes ( ) no
6. Are you registered to vote in Whatcom County? (X) yes ( ) no
7. Have you ever been a member of this Board/Commission? (X) yes ( ) no
   If yes, dates: My first term expires Jan-2015
8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) yes (X) no
   If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   Civil Engineer until 1969, then mortgage broker/sefenta
   Until my retirement in 2006. I board of directors/pres/vice pres
   Commodore Birch Bay Village Yacht Club
10. Please describe why you’re interested in serving on this board or commission: Grew up in Birch Bay
    Have been on the board in Birch Bay Village for two terms
    and I am highly interested in maintaining the pristine environment that we presently enjoy

References (please include daytime telephone number): Harry Shearer, Pres B.B. Village 360 393 3774, Jerry Lin Bailey 360 305 2246, Dennis Wood 929 675 5563

Signature of applicant:

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Patrick H. Alesse Date: Jan 2, 2015
Street Address: 4825 Alderson Road
City: Birch Bay, WA Zip Code: 98230
Mailing Address (if different from street address): ________________________________
Day Telephone: 360-2070 Evening Telephone: 360-2070 Cell Phone: 233-6571
E-mail address: cshop@birchbay.net

Name of board or committee—please see reverse:
Birch Bay Watershed and Aquatic Resources Management Committee

You must specify which position you are applying for. Please refer to vacancy list.

Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.)

Yes ( ) No ( )

Which Council district do you live in? One ( ) Two ( ) Three ( )

Are you a US citizen? Yes ( ) No ( )

Are you registered to vote in Whatcom County? Yes ( ) No ( )

Have you ever been a member of this Board/Commission? Yes ( ) No ( )

If yes, dates: ___________________________

Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? Yes ( ) No ( )

If yes, please explain: F.B. Alesse Commissioner

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
Teacher, Candy Maker

0. Please describe why you’re interested in serving on this board or commission:

I have a broad background that would get me up to speed quickly. I have things to learn and things to contribute. (I have been in business at Birch Bay for 44 years.)

References (please include daytime telephone number):

Signature of applicant: ________________________

JAN 05 2015

WHATCOM COUNTY

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Donald A Brown
Street Address: 5044 Anderson Rd
City: Blaine
Mailing Address (if different from street address):
Day Telephone: 360-761-3243
Evening Telephone: Same
Cell Phone: Same
E-mail address: bblpops@birchbayleisurepark.com

Date: 1/5/15
Zip Code: 98230

1. Name of board or committee—please see reverse:
   Birch Bay Watershed & Aquatic Resources Management Committee

2. You must specify which position you are applying for.
   Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.)
   Yes ( )
   No ( )

4. Which Council district do you live in?
   ( ) One ( ) Two ( ) Three

5. Are you a US citizen?
   Yes ( )
   No ( )

6. Are you registered to vote in Whatcom County?
   Yes ( )
   No ( )

7. Have you ever been a member of this Board/Commission?
   Yes ( )
   No ( )
   If yes, dates:

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?
   Yes ( )
   No ( )
   If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   I currently serve as the Manager for Birch Bay Leisure Park. Protecting the environment is part of the vision at BBLP. As a 45 year resident of Birch Bay I too share & support strongly this vision.

10. Please describe why you’re interested in serving on this board or commission:
    To be able to contribute back to the community while also serving as a representative of BBLP

References (please include daytime telephone number):
LeRoy Smith (360) 305-4800
Jered Mattson (360) 214-2693

Signature of applicant: Donald A Brown

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WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

<table>
<thead>
<tr>
<th>Originator:</th>
<th>Initial</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>SM</td>
<td>1/5/15</td>
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</tbody>
</table>

Division Head:

Dept. Head:

Prosecutor:

Purchasing/Budget:

Executive:

TITLE OF DOCUMENT: Appointments to Executive’s Boards and Commissions for the year 2015.

ATTACHMENTS: Listing of nominations for appointments and reappointments; Membership applications.

SEPA review required? ( ) Yes ( X ) NO
SEPA review completed? ( ) Yes ( X ) NO

Should Clerk schedule a hearing? ( ) Yes ( X ) NO
Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

County Executive Jack Louws requests confirmation of his new appointments and reappointments to the boards and committees noted on the attached list. These appointments take effect on February 1, 2015.

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
The following vacancies on boards and committees are filled with appointments by the Executive and confirmed by County Council.

**AGRICULTURAL ADVISORY COMMITTEE**
Nominated for reappointment is Lesa Boxx.

**AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE COMMITTEE**
Nominated for reappointment are Debbie Adelstein and Steve Oliver.

**BICYCLE/PEDESTRIAN ADVISORY COMMITTEE**
Nominated for reappointment is Daniel Tepper.

**BOUNDARY REVIEW BOARD**
Nominated for reappointment is Bill Bliss.

**DEVELOPMENT STANDARDS TECHNICAL ADVISORY COMMITTEE**
Nominated for reappointment are Larry Steele, Elizabeth Binney and Dannon Traxler.

**DEVELOPMENTAL DISABILITIES ADVISORY BOARD**
Nominated for reappointment is Sarah Catudio.

**ETHICS COMMISSION**
Nominated for reappointment is Mary Kay Robinson.

**MARINE RESOURCE COMMITTEE**
Nominated for reappointment are Eleanor Hines and Lambert Rubash; and nominated for appointment is Pete Granger.

**NORTHWEST SENIOR SERVICES BOARD**
Nominated for appointment is Bob Bandarra.

**WHATCOM COUNTY LIBRARY SYSTEM BOARD OF TRUSTEES**
Nominated for reappointment is June Hahn.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: LESA BOCK
Street Address: 1010 GROVE ST, SUITE B1
City: LUDE
Mailing Address (if different from street address):
Day Telephone: 3603542975 Evening Telephone: 3
E-mail address: lesa.boxle@countryfinancial.com

Date: 11/4/15

1. Name of board or committee-please see reverse: AG ADVISORY

2. You must specify which position you are applying for.
   Please refer to vacancy list.
   CURRENT SEAT

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying?
   (If applicable, please refer to vacancy list.)
   yes ( ) no

4. Which Council district do you live in?
   ( ) One ( ) Two ( ) Three

5. Are you a US citizen?
   yes ( ) no

6. Are you registered to vote in Whatcom County?
   yes ( ) no

7. Have you ever been a member of this Board/Commission?
   yes ( ) no

   If yes, dates:

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?
   ( ) yes ( ) no

   If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

   Farm, auto/home insurance & financial services.

10. Please describe why you're interested in serving on this board or commission:

    I'm interested in the committee I would like to see the good work continue.

References (please include daytime telephone number):

Signature of applicant:

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Daniel Teppper  Date: 11/19/14
Street Address: 901 18th St. #E10
City: Bellingham, WA  Zip Code: 98225
Mailing Address (if different from street address): 1200 Harris Ave. Suite 408, B’ham 98225
Day Telephone: 360-738-2939  Evening Telephone: Same as cell  Cell Phone: 360-920-0658
E-mail address: dtepper@sthoncross.com

1. Name of board or committee—please see reverse:
Bicycle Pedestrian Advisory Committee

2. You must specify which position you are applying for. Please refer to vacancy list.
Same position I currently fill

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
(If applicable, please refer to vacancy list.)

4. Which Council district do you live in?
( ) One ( ) Two ( ) Three

5. Are you a US citizen?
( ) yes ( ) no

6. Are you registered to vote in Whatcom County?
( ) yes ( ) no

7. Have you ever been a member of this Board/Commission?
( ) yes ( ) no
If yes, dates: Feb 1, 2012 – Jan 31, 2015

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?
( ) yes ( ) no
If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
President - Whatcom Park & Recreation Foundation
Chairman - Nooksack Loop Trail Committee, Board member - WA State Trails Coalition. I am also a partner in a small GIS firm, BA-Bo. Adv.

10. Please describe why you’re interested in serving on this board or commission:
As a long time supporter of trails & bicycle access, I am very interested in bringing creative new ideas in those areas to Whatcom County while continuing to work on implementing & adopting where appropriate county plans.

References (please include daytime telephone number):
Mike McFarlane - Whatcom County Parks Director - 733-2900, Gary Jensen - Ferndale Mayor - 384-4302

Signature of applicant: D.UnTeppper

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December 16, 2014

Jack Louws
Whatcom County Executive
311 Grand Avenue, Suite 108
Bellingham, WA 98225

Dear Executive Louws,

Board member Bill Bliss's current four-year term on the Boundary Review Board for Whatcom County will expire January 31, 2014.

This memo is to confirm Mr. Bliss's willingness to continue to serve on the Boundary Review Board and to request the County reappoint him to another term.

Bill is an excellent member and is currently serving as Chair. On behalf of the other members of the Board, I urge you to reappoint this informed and thoughtful board member. His background and experience will be needed as the Board considers its business.

If you have any questions or would like additional information, please contact me at 360-676-6749 or glassgkm@dshs.wa.gov.

Sincerely,

Kristine Glasgow
Chief Clerk
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: William T Bliss
Street Address: 1834 Northlake Drive
City: Bellingham, WA
Zip Code: 98226
Mailing Address (if different from street address):
Day Telephone: 360-961-9267 Evening Telephone: Same Cell Phone: 
E-mail address: blissbill@hotmail.com

1. Name of board or committee - please see reverse:
   Boundary Review Board
   Chairman - (reappointment)

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying? (If applicable, please refer to vacancy list.)
   (-) yes ( ) no

4. Which Council district do you live in? (-) One ( ) Two ( ) Three

5. Are you a US citizen? (-) yes ( ) no

6. Are you registered to vote in Whatcom County? (-) yes ( ) no

7. Have you ever been a member of this Board/Commission? (-) yes ( ) no
   If yes, dates: 

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? (-) yes ( ) no
   If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   General Director of Business Development - Chem Hill
   Retired - Pres. Lions Club
   Montana State University - BS Chemical Engineering

10. Please describe why you're interested in serving on this board or commission:
    Enjoy the impact and impact we have on Shaping the future.

References (please include daytime telephone number):  Pam Washington 754-7500

Signature of applicant: 

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the above information will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Lawrence W. Steele, P.L.S. (Larry)                      Date: 11/24/14
Street Address: 1334 King Street, Suite 1
City: Bellingham, WA            Zip Code: 98229
Mailing Address (if different from street address):

Day Telephone: 360-676-9350     Evening Telephone: 360-734-6191     Cell Phone: 360-927-4070
E-mail address: lsteele@lsasurvey.com

1. Name of board or committee—please see reverse: Development Standards Technical Advisory Committee

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.)
   (X) yes ( ) no

4. Which Council district do you live in?  (X) One ( ) Two ( ) Three

5. Are you a US citizen?  (X) yes ( ) no

6. Are you registered to vote in Whatcom County?  (X) yes ( ) no

7. Have you ever been a member of this Board/Commission?  (X) yes ( ) no
   If yes, dates: last 2 years, with a 5 year break; late 90's, early 2000's.

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?  (X) yes ( ) no
   If yes, please explain: Owner, Larry Steele & Associates, Inc.

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.  Land Surveyor, have served previously.

10. Please describe why you’re interested in serving on this board or commission: To assist the County & the development community with updated Development Standards.

References (please include daytime telephone number): Bob Morse, P.L.S., 360-778-7842
                      Dale Buys, P.E., 360-354-3687

Signature of applicant:  

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Elizabeth Binney

Street Address: 1833 Summit Street

City: Bellingham Zip Code: 98229

Mailing Address: (If different from street address): 

Day Telephone: 360-671-2317 Evening Telephone: 555-555 Cell Phone: 555-555

E-mail address: ebinney@pacific backyard.com

1. Name of board or committee-please see reverse: Development Standards Technical Advisory Comm.

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.)

4. Which Council district do you live in? (✓ One ( ) Two ( ) Three

5. Are you a US citizen? (✓ yes ( ) no

6. Are you registered to vote in Whatcom County? (✓ yes ( ) no

7. Have you ever been a member of this Board/Commission? (✓ yes ( ) no

If yes, dates: 31 Jan 2013 - 31 Jan 2015

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) yes (✓) no

If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

Biologist, consultant for critical areas decades for over 25 years.

have served private, nonprofit, & city boards on site review, permitting, & permitting.

an assistant professor at Western Washington University of Agriculture & Biology

10. Please describe why you’re interested in serving on this board or commission:

I would like to continue my service from my first term on this committee.

References (please include daytime telephone number):

Michael Miller 360-233-6100

Signature of applicant: Elizabeth Binney

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Dannah Traxler
Street Address: 2011 Young Street, Suite 200
City: Bellingham
Mailing Address (if different from street address):
Day Telephone: (360) 671-6460 Evening Telephone: 
Cell Phone: (360) 510-4412
E-mail address: dtraxler@langabeertraxler.com

Date: 12.23.14

Zip Code: 98225

1. Name of board or committee-please see reverse: Development Standards Technical Advisory Committee

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) Yes ( ) No ( )

4. Which Council district do you live in? ( ) One ( ) Two ( ) Three

5. Are you a US citizen? ( ) Yes ( ) No

6. Are you registered to vote in Whatcom County? ( ) Yes ( ) No

7. Have you ever been a member of this Board/Commission? ( ) Yes ( ) No

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) Yes ( ) No

If yes, please explain: __________________________

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education. I am an attorney, and I practice mainly in the areas of land use, real property, environmental and municipal law. I am also on the Boards of the Building Industry Association of Bellingham Bay Rotary.

10. Please describe why you’re interested in serving on this board or commission: I have served on the TAC for 1½ terms, and I believe I bring a unique perspective to the table when it comes to reviewing development standards. I enjoy the collaboration with other professionals, including County staff, and I learn things at every meeting!

References (please include daytime telephone numbers):
Richard Langabeer 671 6460 Brian Evans 671 5457

Signature of applicant: __________________________

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

Name of board or committee-please see reverse: Developmental Disabilities Board

Which position on this board are you applying for (if applicable)?

Which Council district do you reside in? ( ) One ( ) Two ( ) Three

Are you a US citizen? ( ) yes ( ) no

Are you a registered voter? ( ) yes ( ) no

Name: Sarah Catudio

Street Address: 3928 S Bay Dr 7128 Goodwin Rd.

City: Sedro-Woolley Everson

Zip Code: 98284-98247

Mailing Address (if different from street address):

Day Telephone: 425-785-0153 Evening Telephone:

Fax Number: E-mail address: sarahcatudio@gmail.com

Occupation (If retired, please indicate former occupation): Special Educator for BSD

Professional/Community Activities: 2nd year serving on Bellingham School District's SPED focus group, ongoing training in field of SPED Education: BA Special Education/Elem Ed from WWU/Western

Qualifications related to position: 3 yrs teaching in Primary Life Skills

a SPED program in BSD, parent of 9 yr old child w/auti

Describe why you are interested in serving on this board or commission: As a professional and parent working w/ children w/ special needs daily, I would like the opportunity to advocate for this popul

Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) yes ( ) no

If yes, please explain:

References (please include name and daytime telephone number): Beth Nelson BSD Autism Specialist 360-675-6470 x6510

Signature of applicant: [Signature]

As a candidate to a public board or commission, the above information will be available to the County Council, County Executive, and the public.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Mary Kay Robinson
Street Address: 3603 Spyglass Dr
City: Bellingham
Zip Code: 98226
Mailing Address (if different from street address):
Day Telephone: 360-303-1911 Evening Telephone: same
Cell Phone: same
E-mail address: mkrobinson@windermere.com

1. Name of board or committee - please see reverse:
   Ethics Commission

2. You must specify which position you are applying for.
   Please refer to vacancy list.
   Member

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) ☑ yes ( ) no

4. Which Council district do you live in? ( ) One ( ) Two ( ) Three

5. Are you a U.S. citizen? ☑ yes ( ) no

6. Are you registered to vote in Whatcom County? ☑ yes ( ) no

7. Have you ever been a member of this Board/Commission? ☑ yes ( ) no
   If yes, dates: Jan 2011 to Jan 2015

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ☑ yes ( ) no
   If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   See attached

10. Please describe why you’re interested in serving on this board or commission:
    I enjoy serving on the Committee and am committed to this community. I bring both a private sector and non-profit background to the commission and a commitment to service.

References (please include daytime telephone number): Pete Kremen - County Council - present
       Ward Nelson - Former County Councilman 715-5321

Signature of applicant: Mary Kay Robinson

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MARY KAY ROBINSON
3262 Spyglass Drive
Bellingham, WA 98226
360-303-1911

EXPERIENCE:
Windermere Real Estate – 9/12 to present
Real Estate Broker
- Named “Rookie of the Year” in first year of real estate
- Appointed to Chair Realtor Political Action Committee in second year of real estate and won election to the Board of Directors
- President-Elect Whatcom County Association of Realtors 2015

Banner Bank – 11/08 to 8/12
Vice President and Manager
- Doubled staff referrals through sales coaching and training in first year
- Coached teller line so that entire teller line was eligible for sales referral bonuses the first time that had ever happened in the branch
- Task force member - revised Personal Banker reviews in 2010
- Brought in several million in deposits from business relationships developed through referrals and networking
- Created sales training for staff, 7 steps of sales process and various sales techniques such as Reduce to the Ridiculous, Assumptive Closes etc.
- Originated consumer and mortgage loans and trained staff in all areas of lending
- Presented networking tips and loan training to division sales meeting
- Maintained overall profitability with a combination of expense reduction and revenue generation through budget management

Whatcom Symphony Orchestra - 4/07 to 11/08
Executive Director
- Planned and managed all fundraising events and broke all fundraising records
- Spoke to community groups and concert goers at the Mt Baker Theatre and shared information about the Symphony, its vision and its programs
- Sold Bellingham Herald on idea to publish weekly article about my training for running the first Bellingham Bay Marathon. The run functioned as a fundraiser for Symphony youth music programs.
- Managed advertising, marketing and promotions of all concerts
- Introduced new way of looking at concerts and overall finances. Analyzed each concert as a separate business and looked at the cash flow of each type of program. Made recommendations to the board based on that information.
- Cultivated relationships with individual and business donors
- Developed volunteer base and delegated tasks to them for efficient concert productions
- Wrote largest grant awarded to the symphony and submitted grants to various foundations and government agencies
- Developed curriculum for the Musicians In the School program that aligned with the Essential Academic Learning Requirements for the State of Washington
- Partnered with professors at Western Washington University to create a Fairytale workbook for teachers to coincide with the performance of Hansel and Gretel. The workbooks enhanced the student experience and gave teachers lessons and activities that aligned with the Essential Academic Learning Requirements for the State of Washington.
Washington Mutual Bank - 2/90 to 1/07
Vice President and Branch Manager of the Downtown Bellingham Branch

- Hired, trained, developed and managed staff to achieve sales and service goals
- Cross-trained and developed staff in the largest branch north of Everett for multiple job functions and future promotions
- Developed business contacts and grew sales of deposit and lending products and services
- Lead by example in selling products and services to customers
- Tracked sales and service initiatives to monitor progress towards goals
- Maintained satisfactory regulatory compliance and loan audits
- Produced large business coaching seminar - secured sponsorship from the Bank, Connections Networking Group, Chamber of Commerce and Small Business Development Center. Arranged press releases and seminar announcements at various Chamber functions

Horizon Bank – 7/88 to 2/90
Loan Officer at the Downtown Horizon Branch

- Called on realtors and developed relationships for business referrals
- Originated, processed and closed residential home loans
- Top Mortgage Producer in 1989

Education:
University of Wisconsin – Bachelor of Music
Dean’s List, Music Scholarship Award
University of Northern Colorado – Master of Business Administration
Graduate Dean’s Citation for Excellence

Memberships/Adult Education/Facilitator:

- Member Whatcom County Ethics Commission
- Member of the Women’s Professional Network
- Chair of the Whatcom Community College Nursing Advisory Board
- Ambassador for the Bellingham/Whatcom County Chamber of Commerce
  - Awarded Most Valuable Player Award October 2009
  - Awarded Most Valuable Player Award August 2013
- Board member of LAW Advocates
- Radio Host of “The Whatcom Report” on KGMI 790 AM for Bellingham/Whatcom County Chamber of Commerce
- Committee Member for Blossomtime Grand Parade for Ski-to-Ski
- Past Board member and secretary of City Club
- Past Board member of the Whatcom County Tech Prep Consortium
- Past President of Connections, a business lead referral group
- Past member of Washington State Sovereign Lending Task Force
- Past member of Bellingham Networking International
- Founding Board Member of Communities in Schools
- Washington State Housing Finance Commission Certified Seminar Leader
  - Taught First Time Home Buyer Classes
- Facilitator for the Whatcom County Education Summit held June 26, 2006
TO: The Honorable Jack Louws, County Executive

THROUGH: Frank M. Abart, Director

FROM: Gary S. Stoyka, Natural Resources Manager
       Austin Rose, Planner I

RE: Marine Resources Committee appointment recommendations

DATE: December 22, 2014

The Executive's Office forwarded two applications for the Economic interest position currently open on the Marine Resources Committee (MRC) and one application from Lambert Rubash to fulfill a second term on the MRC in a Citizen-At-Large interest position. A recommendation was requested from the Executive's Office for the most appropriate applicant on file for the open position. The applicants who applied for the Economic interest position were Pete Granger and Thomas Hoats.

It was decided at a previous MRC meeting by the full committee that the Executive Subcommittee would serve as a "Nominations" committee by reviewing applications and submitting recommendations. Public Works staff also participate in these discussions. A matrix has been developed to use in situations where two or more applicants are equally qualified.

The Executive Subcommittee recommends the appointment of Pete Granger to represent the Economic Interest position on the MRC. In this instance, the Executive Subcommittee felt their familiarity with Mr. Granger and his wealth of experience related to the economic issues of Puget Sound was enough to make a recommendation without using the matrix. Mr. Granger's varied roles as an educator, fisherman, and spokesperson for marine environment issues sets the standard for qualifications needed to represent economic interests on the MRC. In addition, his knowledge about commercial fisheries and the economic environment which supports that industry from both a production and consumption viewpoint is specific to Whatcom County.

Mr. Hoats' application reflected his experience and ability to contribute to the mission of the MRC. The MRC would like to consider Mr. Hoats for participation in subcommittee activities or particular projects related to affected economic interests in the marine environment. A letter will be sent to Mr. Hoats inviting him to attend an upcoming MRC meeting in order to get better acquainted with the committee.

The Executive Subcommittee also recommends the reappointment of Lambert Rubash to represent a Citizen-at-Large interest to the MRC. Mr. Rubash has been an
invaluable member of the MRC since 2011. His commitment toward continued education and outreach, monitoring projects, and policy recommendations is an important asset to the committee.

If you have any questions regarding this recommendation, please contact Austin Rose at extension 50259.
Hi Suzanne,

I received your voice mail yesterday. Thank you for checking in about the MRC appointment memo. Yes, the MRC accepts the re-appointment of Eleanor Hines. I apologize for not indicating that in the memo I prepared. I was considering Eleanor’s re-appointment a separate situation as she did not re-apply through the application process - but more informally through an e-mail to you. Bert Rubash actually submitted another application so I thought it was important to recognize that his application was received and reviewed and that the MRC accepts his re-appointment.

I will be on vacation from noon today through Tuesday, January 6. I will back in the office on Wednesday, January 7. However, I will be keeping up with e-mails during this time so please do not hesitate to contact me for any clarifications.

Happy New Year!

Austin Rose
Whatcom County Marine Resources Committee, Coordinator
Natural Resources Planner I
Whatcom County Public Works
322 N. Commercial St.
Bellingham, WA 98225
360-676-6876 x50259
Arose@co.whatcom.wa.us
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Eleanor Hines
Date: April 22, 2014
Street Address: 1017 Bay St. #3
City: Bellingham
Mailing Address (if different from street address):
Day Telephone: Evening Telephone:
Cell Phone: 253-287-0893
E-mail address: eleanorhines@gmail.com

1. Name of board or committee—please see reverse: Marine Resource Committee

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.)

4. Which Council district do you live in? ( ) One ( ) Two ( ) Three

5. Are you a US citizen? ( ) Yes ( ) No

6. Are you registered to vote in Whatcom County? ( ) Yes ( ) No

7. Have you ever been a member of this Board/Commission? ( ) Yes ( ) No

If yes, dates:

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) Yes ( ) No

If yes, please explain:

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

I have lived in Whatcom County for ten years and have become involved with many water resource-related groups having worked for and volunteered with the Surfrider Foundation and Nooksack Salmon Enhancement Association, running water quality and other science programs. I also have a master’s in environmental science with a focus on environmental risk assessment and have worked extensively on projects in fresh and marine water, including projects in Washington State and South Africa. I have volunteered for the MRC before.

10. Please describe why you’re interested in serving on this board or commission: I hope to provide positive energy to guide with scientific expertise and to accomplish projects success.

References (please include daytime telephone number): Rachel Bolas, Surfrider Field Coordinator, phone: 253-442-3743; Rachel Visak, NSC, phone: 360-715-0833. Wayne Landis, WWL volunteer.

Signature of applicant: [Signature]

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Lambert Rubash

Date: 12-8-14

Street Address: 2621 S. Harbor Loop Drive

City: Bellingham

Mailing Address (if different from street address): P.O. Box 1134, Bellingham, WA, 98227

Day Telephone: 733 5540 Even Telephone: 733 5540 Cell Phone:

E-mail address: kilanuba@cooper.net

1. Name of board or committee—please see reverse:
   Marine Resources Committee
   Citizen-at-Large

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.)
   \(\checkmark\) yes ( ) no

4. Which Council district do you live in?
   \(\checkmark\) One ( ) Two ( ) Three

5. Are you a US citizen?
   \(\checkmark\) yes ( ) no

6. Are you registered to vote in Whatcom County?
   \(\checkmark\) yes ( ) no

7. Have you ever been a member of this Board/Commission?
   If yes, dates: January 2006 to Present
   \(\checkmark\) yes ( ) no

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?
   \(\checkmark\) yes ( ) no
   If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   Attached.

10. Please describe why you’re interested in serving on this board or commission:
    I want to continue working with the MRC to advance the marine resource interests of the Whatcom County public.

References (please include daytime telephone number): Carl Weimer, Whatcom County Council 360 676 6690
    Sue Blake, Water Resource Educator, WSU Extension 360 676 6738

Signature of applicant: Lambert J. Rubash

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Lambert (Bert) Rubash
PO Box 1134
Bellingham, WA 98227
(360) 733-5640
kilaruba@copper.net

Education
Geology and Hydrology Graduate Studies  Western Washington University
B.S. Physics  University of Minnesota Institute of Technology
B.S. Economics – Math Emphasis  Univ. of Minn. Carlson School of Management
B.A. French Literature  University of Minnesota

Employment
Raincoast GeoResearch - Physical Oceanographer

Research Interests and Expertise
Scientific data analysis; computer modeling of estuarine and freshwater hydrodynamics; wind and wave modeling; hydrologic computer modeling; scientific instrumentation design and deployment.

Recent Project
Computer modeling of the dispersal of Corbicula fluminea (Asian Clam) in Lake Whatcom for the City of Bellingham, Washington.

Community Service
Whatcom County Marine Resources Committee 2008 – present.
Volunteer Steward Department of Natural Resources 2003 – present.

Professional Organization
American Geophysical Union
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Pete Granger
Date: 12/15/2015
Street Address: 4716 Fir Tree Way
City: Bellingham
Zip Code: 98229
Mailing Address (if different from street address):

Day Telephone: Evening Telephone: Cell Phone: 360-223-3995
E-mail address: petegranger@comcast.net, pgranger@uw.edu (work)

1. Name of board or committee—please see reverse:
   Marine Resource Committee
   Economic Interest

2. You must specify which position you are applying for.
   Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.) (X) yes ( ) no

4. Which Council district do you live in?
   (X) One ( ) Two ( ) Three

5. Are you a US citizen? (X) yes ( ) no

6. Are you registered to vote in Whatcom County? (X) yes ( ) no

7. Have you ever been a member of this Board/Commission?
   ( ) yes (X) no
   If yes, dates:

8. Do you or your spouse have a financial interest in or are you an employee or officer of any
   business or agency that does business with Whatcom County?
   ( ) yes (X) no
   If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community
   activities, and education.
   see attached

   ____________________________________________________________

10. Please describe why you’re interested in serving on this board or commission:
    see attached.
    ____________________________________________________________

References (please include daytime telephone number):
   Sue Blake (676-6736), Dave Hansen (224-6512), Penny Dalton (206-685-9215)

Signature of applicant: Pete Granger

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available to the County Council, County Executive, and the public. All board and commission members are
expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these
expectations may result in revocation of appointment and removal from the appointive position.
Pete Granger

Application for Whatcom Marine Resource Committee

Dec. 15, 2014

Question Responses:

#9. I recently retired from full-time work as Program Leader for the Marine Extension Program at Washington Sea Grant (www.wsg.washington.edu) at the University of Washington Seattle campus. I am continuing part-time as a seafood industry specialist two-days per week with an office at Whatcom County WSU Extension. My work with Sustainable Fisheries includes training tribal skiff fishermen in better seafood handling and processing methods, training seafood retail counter staff, and working with commercial fishers who want to sell their catch to directly to retail, restaurants and the general public.

I also continue to have a commercial reefnet gear at Lummi Island - fishing for sockeye and pink salmon during summer season (late July through August). We fish only certain days during that time and I would be available to attend summer meetings of MRC if necessary.

I also have experience in many aspects of the seafood industry including sales, marketing, processing, and lobbying – at the state (Washington and Alaska) and federal levels.

I have great interest in the viability of the commercial fishing and processing industry in Whatcom County and elsewhere.

My work with Sea Grant has also enabled me to become very familiar with research, education, and outreach in a variety of other marine resource issues in the county and the state. These include: shellfish, water quality, stream and shoreline restoration, tribal interests, waterfront development, marine recreation and tourism.

I have also served on the Nooksack Salmon Enhancement Association Board of Directors and the advisory board for the Bellingham Technical College Fisheries Technology Program.

#10. Now that my wife and I are back in Bellingham full-time and I have some time to serve, I would very much like to volunteer for an organization such as the MRC which has direct impact on the local marine environment and its problems and issues. I believe my background in the commercial fishing and seafood sector as well as other marine business would serve well for this particular “Economic Interest” position vacancy. I’m also interested in the research that the MRC funds and would bring experience with identifying and prioritizing marine research needs.
References:

Sue Blake, WSU Extension  Whatcom County Water Resources Educator, 676-6736
Dave Hansen, commercial fishermen, 224-6512
Penny Dalton, Director, Washington Sea Grant program, 206-685-9215.
PETE GRANGER
Seafood Industry Specialist
Washington Sea Grant Program
1000 N. Forest St., Suite 201
Bellingham, WA 98225
(360) 223-3995
pgranger@uw.edu

EDUCATION
1972    Master of Business Administration, University of Washington
1970    B.S., Oceanography, University of Washington

POSITIONS HELD

June 2014 to present    Seafood Industry Specialist, Washington Sea Grant, Bellingham
2001 to May 2014        Program Leader, Washington Sea Grant Marine Advisory Services,
                         University of Washington, Seattle
1963 to present         Commercial salmon reef net fisherman, Lummi Island, WA.
1992 to 2001            Owner, North Shore Strategies (consulting firm), Bellingham, WA
1999 to 2001            Lobbyist, Washington Fish Growers Association, Bellingham
1993 to 2001            Commercial fishermen, Bristol Bay, Alaska
1993 - 1999             Executive Director, Washington Farmed Salmon Commission,
                         Bellingham, WA
1989 - 1992             Sales Manager, Seafood Producers Cooperative, Bellingham, WA
1987 - 1989             Executive Director, American High Seas Fisheries Association,
                         Seattle, WA
1982 - 1987             Executive Director, West Coast Fisheries Development Foundation,
                         Portland, OR
1981 - 1982             Program Leader, South Carolina Sea Grant Marine Advisory Program,
                         Charleston, SC
1975 - 1980             Marine Field Agent, Washington Sea Grant Marine Advisory Program,
                         Bellingham, WA
1972 - 1975             Office and plant manager, New England Fish Co, Seattle and Alaska

PROFESSIONAL AFFILIATIONS
Pacific Shellfish Institute, Board Member
Pacific Aquaculture Caucus, Board Member
Nooksack Salmon Enhancement Association, Board Member, 1995 to 1999
Washington Agriculture & Forestry Education Foundation, 1997 graduate
January 5, 2015

To: Jack Louws, Whatcom County Executive

From: Dan Murphy, Executive Director

Subject: Recommendation for Whatcom County Northwest Senior Services Board Position

Background
As of the beginning of December 2014, the Northwest Senior Services Board (NWSSB) had two Whatcom County openings to be filled. We were delighted to receive a referral from your office in early December regarding Bob Bandarra who had expressed interest in serving on the NWSSB.

Process
We heard from Mr. Bandarra shortly thereafter and sent him the NWSSB application form and general information about serving on the board. Since that time, Mr. Bandarra has completed the application and indicated his preference to serve on the NWSSB.

Recommendations
Mr. Bandarra would be an effective representative for older adults and other people with disabilities in our region. Mr. Bandarra’s working career was in public service, and he is currently an elected official as a Lynden Regional Parks and Recreation District Commissioner. In addition, Mr. Bandarra has been a lifelong caregiver, and has a deep passion for helping meet the needs of less fortunate people of any age. Mr. Bandarra’s vast experience working with governmental entities, funding sources and regulations also makes him an excellent candidate for NWSSB membership.

Based upon Mr. Bandarra’s service history as well as his continued passion for supporting and assisting others, we are recommending that Whatcom County resident Bob Bandarra be appointed to the NWSSB. His term would be effective immediately and would expire on June 30, 2018.

Attached is a copy of his application. If we can provide you any additional information, please do not hesitate to contact me.

Thank you for your assistance with this Board appointment process.

Enclosures

An Association of County Governments
Serving the People of Island, San Juan, Skagit and Whatcom Counties
600 Lakeway Drive, Suite 100 • Bellingham, WA 98225 • (360) 676-6749 • FAX: (360) 738-2451
Northwest Senior Services Board
MEMBERSHIP APPLICATION

Please return to: Northwest Regional Council
600 Lakeway Drive, Suite 100
Bellingham WA 98225
FAX: 360-738-2451

The information you submit in this application will remain confidential. If you need more space for your answers, please feel free to write on the backs of pages or use additional sheets if necessary. Though not required, you are also welcome to attach any statements, materials, or information that may better indicate your interest or qualifications for serving on the NWSSB. Please feel free to make copies of this application if you know someone else who is interested in applying.

Name: Bob Bandarra

Mailing Address: 8501 Cedar Court

City: Lynden Zip: 98264 County: Whatcom

Phone: (360) 778-1143 (home) (360) 296-3005 (cell)

E-mail: bbandarra@comcast.net

If your home address is different than your mailing address, please list it here:

Questionnaire

Please list educational background and employment experience for most recent five years of work.

Master's in Public Administration – Seattle University 1997

BS Degree Environmental Engineering – Cal Poly University; Pomona, CA 1980

Past five years working for the City of Bellingham as their Superintendent of Operations managing the City's water and wastewater operations including the wastewater plant expansion at Post Point and the Whatcom Falls water filtration plant. I had eight direct reports and a section of sixty-seven employees.

If you have any questions, please call
Kim Boon at the NWRC: 360-676-6749 or 1-800-585-6749
Please list your membership in organizations, boards of directors, advisory councils, or commissions. Give special attention to affiliations with programs serving ethnic minorities age 55 and older and/or those serving people with functional disabilities over the age of 18.

Currently I am an elected official on the Lynden Regional Parks and Recreation District. We work with a variety of citizens, including seniors and the disabled in order to provide recreational opportunities including trails, a senior center and work with organizations such as the YMCA to provide indirect services.

During my time as Mayor and a member of the Bothell City Council, I was affiliated indirectly with other boards and commissions that administer programs to both seniors and the disabled in both King and Snohomish County.

Please list any concerns you have about services to older people, minorities, and people with disabilities 18 years and older. Discuss how your participation on the NWSSB might impact these concerns.

One of my main concerns would be providing an array of diverse programs and opportunities to seniors and the disabled. Creation of policies and programs that facilitate contracts and agreements with agencies providing those important services such as meals on wheels, silver sneaker facilities and other programs. My experience in working with other governmental agencies in the past should be helpful in meeting the NWSSB in fulfilling their goals and objectives of advising the NWRC on senior and long-term care service planning, coordination and management in accordance with the provisions defined in the Older Americans Act of 1973 and the Washington State Senior Citizens Act.

How will your experience and personal interest benefit older people, minorities, and people 18 years and older with a disability? Which population do you feel you can best represent?

My experience in establishing utility funding structures for the disabled and low income populations has provided me with some insight into some of the financial issues that both seniors and the disabled need to address. I believe both populations are important. As a newly retired senior, I would be interested in tracking and creating policies that enhance their opportunities to be active citizens, however programs to accommodate and advocate for the needs of the disabled population would be one of my main interest. My wife and I adopted a disabled child through the DSHS system when she was age 4. Both my wife and I found it necessary to advocated for her rights and needs in order to assure training in basic living skills and education. Our involvement in working with governmental entities who were not always receptive to "doing things differently" provided great insight into the continued needs of the disabled.

Please indicate your willingness to make the time commitment to attend and participate in board meetings, read materials, stay informed about the needs of older people and people with disabilities, and help the board to develop programs to meet those needs. The estimated monthly time commitment is 8-12 hours, including at-home preparation.
time. Meetings are held on the third Thursday of most months, with exceptions during the summer and holidays, and are usually located in Anacortes, Bellingham or Camano Island.

I agree that only through an effective time commitment and education of the issues can I be an effective Board member. Similar to my time commitment on the Lynden Regional Parks and Recreation District and previously the Bothell City Council, I will endeavor to do the best job I can to benefit seniors and people with disabilities. I will attend meetings as an informed Board member by assuring the necessary time commitment and assessment of the issues being brought before the Board for consideration and action. I will start the process by making arrangements to attend the 1.5 hour orientation. I do however, have a previous time commitment that will preclude me from attending the March 2015 meeting.

Please list the names and phone numbers of three references:

1. Bill Cummings; Associate Pastor, Grace Baptist Fellowship, Lynden – (360) 303-3817
2. Ron DeVlois; Lynden City Council member – (360) 354-3409
3. Kevin Burke; Lynden School Board and Commissioner on Lynden Regional Parks and Recreation District, (360) 920-3822

Feel free to make any additional comments on the reverse or on a separate sheet of paper.

Additional comments and information (optional):

Thank you for the opportunity to be a member of this important Board. I look forward to being an active and involved Board member. I have attached a copy of my professional resume.
Northwest Senior Services Board
MEMBERSHIP APPLICATION

Name: Bob Bandarra ___________________________ Date: December 5, 2014

Demographic Information: (Note: State and Federal governments require that we gather this information. It will be held in complete confidence.)

Age 60 or above? X____ Yes ____ No
Gender: X____ Male ____ Female
Individual income below $1,316 per month or $15,792 per year?
____ Yes X____ No
Member of ethnic minority group?
____ Yes X____ No

If yes, please specify: ________________________________

Elected official? X____ Yes ____ No
Functional disability? ____ Yes X____ No
Caregiver of a person with a disability?
____ Yes X____ No

NWSSB representation must include:

- At least one representative from each county within the PSA
- Key "senior advocate" groups
- At least one local elective official
- At least one member of a primary racial minority group who is a participant or is eligible to participate in an AAA service program
- At least one member must be a person with a disability who is a participant or is eligible to participate in an AAA service program
- At least 50 percent of persons must be age 60+
- At least one member of a health care provider organization, including providers of veterans' health care (if appropriate)
- At least one member with leadership experience in the private and voluntary sectors
- At least one member of a supportive services provider organization
- A reasonable male/female mix that matches that for the population served by the AAA
- Older persons in greatest economic or social need
Bob Bandarra, MPA; Retired

NW Senior Services Board Position

Lynden Regional Parks and Recreation District, Lynden, WA

**Commissioner:** Currently one of five Commissioners that oversee the operations and maintenance of the Regional Parks District. I was elected to my current position in 2011.

City of Bellingham, WA

**Superintendent of Operations:** Responsible for the management of the City's water and wastewater utilities including plant operations. I directed a staff of 76 employees; manage a $36 million water and wastewater operating budget.

Clark Regional Wastewater District, Vancouver, WA

**General Manager:** I was the responsible official for all aspects of the District operation overseeing financial planning, operations, engineering, and daily administration of this sewer utility district which provided service to 78,000 people in a 35 square mile area. I oversaw a $13 million operating and a $70 million capital budget and managed 42 employees. Under my direction, the District gained the status of an APWA accredited agency in 2005. It is the only special purpose district to receive accreditation in North America.

Woodinville Water District, WA

**General Manager:** I was the general manager of the Woodinville Water District for 12 years. During my tenure, I directed a staff of 38 employees; managed an $8.3 million operating and a $23.5 million capital budget; and was the responsible official for operations, engineering, and all daily administration of this water and sewer district serving 40,000 people.

City of Redmond, WA

**Utility Manager:** I was responsible for the water, sewer, and recycling departments of the City of Redmond. I acted as the department liaison, representing his department to both the public, and the City Council and Mayors' Office. Regionally, I represented the City on water and sewer issues. I was responsible for preparing and administering an $8.5 million operations budget and a $26.6 million capital budget. I was also operations manager, supervising six maintenance sections which included water, sewer, streets, storm water, building, and fleet maintenance.

City of Bothell, WA

**Mayor and City Council Member:** As an elected official, I reviewed and coordinated policy with City staff. I listened carefully to constituent's needs and worked to facilitate those needs within the City. I was also active in regional politics, building consensus and support with other elected officials and local citizens on a number of projects important to the City and local area in general.
November 20, 2014

Mr. Jack Louws, Whatcom County Executive
311 Grand Avenue, Suite 108
Bellingham, WA 98225

Dear Executive Louws:

As you know, June Hahn has been filling a partial term on the Whatcom County Library System Board of Trustees since April 8 of this year. This term for Position #5 on our board, ends January 31, 2015. She has re-applied for a second term and the Board Personnel Committee and entire Board enthusiastically recommends her re-appointment.

Ms. Hahn has been a positive addition to our board. Although she has only served in an official capacity for eight months, she has already toured most of our community libraries, attended numerous library functions, and completed substantial training as a new board member, including training from the Secretary of State regarding open public meeting law. Ms. Hahn is also co-President of the Friends of the Lynden Library and an active library user. She provides thoughtful, reasoned input and has been using her extensive background in marketing and market research to participate in our Marketing Committee. We are very interested in having her build on what she’s learned about the library system by serving a second, full term as trustee.

Because we had another open position on the library board, the Board Personnel Committee recently interviewed several other candidates. Ms. Hahn remains the preferred person for Position #5.

If confirmed, Ms. Hahn’s second term would run from February 1, 2015 through January 31, 2020. Thank you for considering her re-appointment.

Sincerely,

Christine Perkins, Executive Director
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: June Hahn
Street Address: 1149 E Front St.
City: Lynden
Mailing Address (if different from street address):
Day Telephone: ___________________ Evening Telephone: ___________________
Cell Phone: 513-919-1517
E-mail address: hahn-june@yahoo.com

Date: Nov. 18, 2014

1. Name of board or committee—please see reverse:
   Rural Library Board
   WCIS Board of Trustees

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.)
   ( ) One ( ) Two ( ) Three

4. Which Council district do you live in?

5. Are you a US citizen?
   ( ) yes ( ) no

6. Have you registered to vote in Whatcom County?
   ( ) yes ( ) no

7. Have you ever been a member of this Board/Commission?
   ( ) yes ( ) no
   If yes, dates: April 2014 – present

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?
   ( ) yes ( ) no
   If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

   Ph.D Quantitative Psychology, The Ohio State Univ. 25 years at Proctor & Gamble (see attached for details)
   Board Member for Mental Health Recovery Services of Warren & Clackamas Counties

10. Please describe why you’re interested in serving on this board or commission:

   I believe my background is in line with current needs of the WCIS system. I have enjoyed finishing out the trustee term, and would like to continue the work we have begun.

References (please include daytime telephone number):

   June Skelly 937-736-2089 (EDT)

Signature of applicant:

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the above information will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.
June Hahn
1149 E Front St., Lynden, WA 98264
513-919-1517
hahn_june@yahoo.com

Summary
More than 25 years of experience in consumer and marketing research. Expert in application of broad range of traditional quantitative and qualitative research methodologies. Proven track record in recognizing and incorporating innovative new methods targeted against unmet business questions as well as development of new to world techniques that address emerging business needs. Experienced manager of innovation teams.

Areas of Expertise
- Creating business relevant models of consumer and market behavior
- Quantitative market research techniques including discrete choice, conjoint, segmentation, causal modeling, line optimization, forecasting.
- Experimental design for insights into consumer behavior and decision making.
- Simulations of consumer markets.
- Managing complex innovation projects from conceptualization through proof of concept and first operationalization.
- Presenting highly technical topics in understandable ways that speed their acceptance and applicability in the organization.
- Crafting actionable questionnaires and surveys that reflect the psychological and social realities of interactions with consumers.

Education
The Ohio State University, Ph.D. Quantitative Psychology with Mathematics Minor
The Ohio State University, M.A. Quantitative Psychology
University of Missouri – Rolla B.S. Applied Mathematics

Employment
Consultant
Projects include designing protocol for evaluating the application of biometric/neuroscience measurements to in-store research; Merging behavioral economics principles with virtual test designs for more practical understanding of shopper behavior; creating train-the-trainer modules on discrete choice methods for virtual testing; evaluating quantitative capabilities of candidate acquisition company.

The Procter & Gamble Company, Cincinnati, Ohio
Positions of increasing responsibility in consumer and market research.

Associate Director, Consumer & Market Knowledge
- Managed innovation group responsible for developing and/or seeking out innovations from other industries or disciplines with potential for addressing high-leverage, unmet business questions.
- Partnered with Argonne National Laboratory in development of simulation methods for consumer markets.
- Headed Technical Innovation Lead Team, a cross corporate function team responsible for setting consumer & market knowledge innovation strategy
### WHATCOM COUNTY COUNCIL AGENDA BILL

#### TITLE OF DOCUMENT: 2015 Supplemental Budget Request #1

**ATTACHMENTS:** Ordinance, Memoranda & Budget Modification Requests

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

Should Clerk schedule a hearing? Yes  No

Requested Date:

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Supplemental #1 requests funding from the Emergency Management Fund:

1. To appropriate $58,662 in the Sheriff’s Office- Emergency Management to fund State Homeland Security Program FFY 2014 from grant proceeds.

   From the Real Estate Excise Tax II Fund:
   2. To appropriate $30,000 in Parks to fund Birch Bay Community Park building demolition.

   From the Public Utilities Improvement Fund:
   3. To re-appropriate $780,000 in Non-Departmental to fund Nooksack Water Treatment Plant upgrade.

---

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:
ORDINANCE NO.
AMENDMENT NO. 1 OF THE 2015 BUDGET

WHEREAS, the 2015-2016 budget was adopted November 25, 2014; and,
WHEREAS, changing circumstances require modifications to the approved 2015-2016 budget; and,
WHEREAS, the modifications to the budget have been assembled here for deliberation by the Whatcom County Council.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the 2015-2016 Whatcom County Budget Ordinance #2014-065 is hereby amended by adding the following additional amounts to the 2015 budget included therein:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>Emergency Management</td>
<td>58,662</td>
<td>(58,662)</td>
<td>-</td>
</tr>
<tr>
<td>Real Estate Excise Tax II</td>
<td>30,000</td>
<td>-</td>
<td>30,000</td>
</tr>
<tr>
<td>Public Utilities Improvement</td>
<td>780,000</td>
<td>-</td>
<td>780,000</td>
</tr>
<tr>
<td><strong>Total Supplemental</strong></td>
<td><strong>868,662</strong></td>
<td><strong>(58,662)</strong></td>
<td><strong>810,000</strong></td>
</tr>
</tbody>
</table>

ADOPTED this ___ day of _________________, 2015.

ATTEST:

Dana Brown-Davis, Council Clerk

Chair of the Council

APPROVED AS TO FORM:

Civil Deputy Prosecutor

( ) Approved    ( ) Denied

Jack Louws, County Executive

Date: ____________________
### WHATCOM COUNTY

**Summary of the 2015 Supplemental Budget Ordinance No. 1**

<table>
<thead>
<tr>
<th>Department/Fund</th>
<th>Description</th>
<th>Increased (Decreased) Expenditure</th>
<th>(Increased) Decreased Revenue</th>
<th>Net Effect to Fund Balance (Increase) Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>Emergency Management Fund - Sheriff</td>
<td>To fund State Homeland Security Program FFY 2014 from grant proceeds.</td>
<td>58,662</td>
<td>(58,662)</td>
<td>-</td>
</tr>
<tr>
<td>Real Estate Excise Tax II Fund - Parks</td>
<td>To fund Birch Bay Community Park building demolition.</td>
<td>30,000</td>
<td>-</td>
<td>30,000</td>
</tr>
<tr>
<td>Public Utilities Improvement Fund - Non Dept'1</td>
<td>To re-appropriate funding for Nooksack Water Treatment Plant upgrade.</td>
<td>780,000</td>
<td>-</td>
<td>780,000</td>
</tr>
<tr>
<td><strong>Total Supplemental</strong></td>
<td></td>
<td>868,662</td>
<td>(58,662)</td>
<td>810,000</td>
</tr>
</tbody>
</table>
MEMORANDUM

TO: Jack Louws, Executive
FROM: Michael McFarlane, Director
DATE: January 2nd, 2015
RE: Budget Supplemental- Birch Bay Community Park Building Demolition

Enclosed find a Budget Supplemental Request in the amount of $30,000 for the removal of the buildings on the recently acquired Birch Bay Community Park site. These are in very poor condition and are an attractive nuisance to area youth and homeless. I am recommending removal of these structures prior to the beginning of the summer season from both a public safety and maintenance standpoint. In the interim, we have boarded the doors and windows and installed fencing around the structures. Please let me know if you have any questions or require additional information.

Thank you.
Supplemental Budget Request

Parks & Recreation

Expenditure Type: One-Time  Year 1  2015  Add'l FTE □  Add'l Space □  Priority 1

Name of Request: Birch Bay Community Park Demolition

Department Head Signature (Required on Hard Copy Submission)  Date

X  1-2-15

<table>
<thead>
<tr>
<th>Costs</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>7060</td>
<td>Repairs &amp; Maintenance</td>
<td>$30,000</td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td>$30,000</td>
</tr>
</tbody>
</table>

1a. Description of request:

Funding is being requested to remove two dilapidated buildings on the recently acquired Birch Bay Community Park property. Funding will be used for permitting, building demolition, asbestos abatement, disposal costs and restoration of the building sites. These buildings are currently secured by boards and fencing to restrict public access. The age, location and condition make these buildings hazardous and removal is recommended to reduce risk exposure for the County. Upon removal the area can be repurposed for other public activities and functions.

1b. Primary customers:

These buildings are being removed to reduce risk exposure to the County and accommodate public use of the site for community events and parking.

2. Problem to be solved:

The County acquired this property in November of 2014 which included two old buildings in very poor condition. These are not salvageable and need to be removed to eliminate a hazard and attractive nuisance. These buildings have been heavily vandalized in the past and are currently secured by board and temporary fencing. It is desired that removal occur prior to the 2015 summer tourist season for public safety and use for other purposes.

3a. Options / Advantages:

The buildings have been boarded and fenced to prevent any public access. While temporary secured at this time, the structures will continue to be an attractive nuisance as long as they stand. It is not feasible to repurpose these for other uses due to the poor condition, design and age of the structures. We are requesting funding for removal so work can be completed before the summer tourist season begins. If the buildings are not removed, they will remain boarded and fenced and park staff will continue to monitor the situation. The location of the buildings also limit use of the site for other purposes.

3b. Cost savings:

Removing the structures reduces potential risk for the County and will be a necessary expense in any future development of the site.

4a. Outcomes:

Once removed the site will be available and able to better accommodate other activities.

4b. Measures:

N/A

5a. Other Departments/Agencies:

Permits will be required from Whatcom County Planning and Development Services.

5b. Name the person in charge of implementation and what they are responsible for:

N/A

Friday, January 02, 2015
6. **Funding Source:**
   Requesting REET II funding be used.
MEMORANDUM

To: Whatcom County Council Members  
From: Jack Louws, Whatcom County Executive  
Subject: Supplemental Budget Request for EDI Program funding  
Date: December 23, 2014

In July of 2013 County Council approved the EDI Board's recommendation to fund a grant and loan from the EDI Program for the City of Nooksack's Water Treatment Plant upgrade. The Interlocal Agreement that was signed allowed for a $260,000 grant and a $520,000 loan. The contract was budgeted for in 2013, with a continuing appropriation in 2014.

Due to some project delays, the funds have not yet been utilized, and we are told that funding will be requested in early 2015. Accordingly it is necessary for us to re-budget this contract/funding for the 2015-16 budget, thus we are attaching a new Supplemental Budget request.

The funding source is the Public Utilities Improvement Fund.

If you have any questions on this matter, please feel free to contact me.

/Attachment
Supplemental Budget Request

Executive

Suppl ID # 1925  Fund 332  Cost Center 332226  Originator: Suzanne Mildner

Expenditure Type: One-Time  Year 1 2015  Add'l FTE  Add'l Space  Priority 1

Name of Request: Nooksack Water Treatment Upgrade EDI

12/26/14

Department Head Signature (Required on Hard Copy Submission)  Date

<table>
<thead>
<tr>
<th>Costs:</th>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>7220</td>
<td>Intergov Subsidies-Loans</td>
<td>$520,000</td>
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</tr>
<tr>
<td>7221</td>
<td>Intergov Subsidies-Grants</td>
<td>$260,000</td>
<td></td>
</tr>
<tr>
<td>Request Total</td>
<td>$780,000</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1a. Description of request:
This request is for budget authority on an EDI Program Grant and Loan contract that was initially approved and budgeted for in 2013, with continuing appropriation to 2014. It is for the City of Nooksack in support of their Wate Treatment Plant upgrade. Fund use is expected in early 2015.

1b. Primary customers:
Residents of the Cities of Nooksack and Everson

2. Problem to be solved:
The current wastewater treatment plant in Nooksack has reached its capacity. This proposed WWTP upgrade will make additional capacity available to new commercial and industrial businesses wanting to locate within Nooksack; it will also support expansion of existing businesses. Project delays have resulted in this EDI funding not been utilized during the 2013-14 budget period. New budget authority is now being requested.

3a. Options / Advantages:
N/A

3b. Cost savings:
N/A

4a. Outcomes:
Increased capacity for the WWTP which will result in an updated NPDES permit issued by the Department of Ecology once the project has been complete. Completion of the project is estimated to be in the first quarter of 2015.

4b. Measures:
Written report from the City of Nooksack on project completion

5a. Other Departments/Agencies:
None

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:
Public Utilities Improvement Fund
MEMO

To: Jack Louws, County Executive

From: Sheriff Bill Elfo, Director of Emergency Management

Subject: Supplemental Budget Request ID # 1923

Date: December 22, 2014

The attached Supplemental Budget Request seeks authority to expend $58,662 to be reimbursed from the US Department of Homeland Security State Homeland Security Program Grant for Federal Fiscal Year 2014.

- Background and Purpose
Whatcom County Sheriff's Office Division of Emergency Management (DEM) was awarded $79,998 from the US Department of Homeland Security (DHS) State Homeland Security Program for Federal Fiscal Year 2014 (SHSP-2014). This grant flows from DHS through the Washington State Military Department – Emergency Management Division and Snohomish County to Whatcom County. This is the twelfth year that Whatcom County has received an SHSP award.

DSH provides SHSP funds for projects supporting efforts to build, sustain, and deliver core capabilities across the Prevention, Protection, Mitigation, Response, and Recovery mission areas to achieve the National Preparedness Goal of a secure and resilient Nation.

SHSP-14 funds will be used to support planning, training, and exercise activities, public education and outreach efforts, and supplies and small tools/equipment acquisition.

The performance period for this grant runs from September 1, 2014 through June 30, 2016.

- Funding Amount and Source
$58,662 from a Federal Grant: DHS, SHSP-2014, CFDA# 97.067, per Whatcom County Contract # 201411010.

Please contact Undersheriff Jeff Parks or Frances Burkhart if you have any questions.
Supplemental Budget Request

Name of Request: SHSP-2014

Department Head Signature (Required on Hard Copy Submission) Date

X

12/22/2014

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1a. Description of request:
The US Department of Homeland Security (DHS) FFY2014 State Homeland Security Program (SHSP-2014) grant awarded $79,998 to Whatcom County to support efforts to build, sustain, and deliver core capabilities across the five mission areas of Prevention, Protection, Mitigation, Response, and Recovery to achieve the National Preparedness Goal of a secure and resilient Nation (Whatcom County Contract # 201411010). DEM anticipates expending $58,662 of this award in 2015, with the balance to be fully expended in 2016. This is the 12th year that Whatcom County has received an SHSP award.

1b. Primary customers:
Local emergency management, partner agencies, and the residents of Whatcom County.

2. Problem to be solved:
Whatcom County is at risk from a number of natural and man-made hazards, including floods, earthquakes, volcanoes, tsunamis, severe weather, power outages, hazardous materials releases, epidemics, and terrorist activities. Catastrophic events that are not prevented, prepared for, or responded to quickly and effectively have the potential to inflict great harm on the people, property, economy, and environment of Whatcom County.

3a. Options / Advantages:
SHSP funds are awarded specifically for projects that would otherwise have to be funded with local monies or eliminated.

3b. Cost savings:
$58,662

Monday, December 22, 2014
Supplemental Budget Request

Status: Pending

Sheriff

Suppl ID #: 1923

Emergency Management

Fund 167  Cost Center 16779  Originator: Frances Burkhart

4a. Outcomes:
SHSP-2014 funds will support planning activities (including salaries and benefits for two part-time employees), training and exercise, public information and outreach, and purchase of supplies and small tools/equipment (including additional resources for the Whatcom Unified Emergency Coordination Center EOC and combined hearing protection/two-way radio communication headsets for the Sheriff's Office Special Response Team).

4b. Measures:
DEM will monitor program projects and expenditures against contract deliverables.

5a. Other Departments/Agencies:
In developing plans, training, exercises, and project priorities, DEM works with a number of partner agencies, including municipal jurisdictions, tribes, law enforcement, fire services, public works, health/medical field, transit agencies, schools and colleges, American Red Cross, Volunteer Center, and private industry. This coordination provides a whole community approach to emergency management.

5b. Name the person in charge of implementation and what they are responsible for:
N/A

6. Funding Source:
Federal Grant: DHS, SHSP-2014, CFDA #97.067

Monday, December 22, 2014
Rpt Suppl Regular

396
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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RECEIVED

Jan 06 2015
WHATCOM COUNTY COUNCIL

TITLE OF DOCUMENT:
An Ordinance Amending the Whatcom County Code to Properly Designate the Director of Public Works as the Administrator of the Western Washington Phase II Municipal Stormwater Permit

ATTACHMENTS:
1. Proposed Ordinance (including Findings of the Planning Commission)
2. Staff Memorandum
3. Staff Report

SEPA review required? (X) Yes ( ) NO
SEPA review completed? (X) Yes ( ) NO

Should Clerk schedule a hearing? ( ) Yes (X) NO
Requested Date

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

A proposed ordinance to amend the Whatcom County Code to Properly Designate the Director of Public Works as the Administrator of the Western Washington Phase II Municipal Stormwater Permit.

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:
PLN2014-00021

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
Memorandum

TO: The Honorable Whatcom County Council

FROM: Cliff Strong, Senior Planner

THROUGH: Mark Personius, Long Range Planning Division Manager

DATE: December 29, 2014

SUBJECT: PLN 2014-00021 NPDES Code Amendments

Attached is a proposed code amendment aimed at furthering the County’s ability to implement the National Pollution and Discharge Elimination System (NPDES) Phase II stormwater permit, by clarifying that the Director of Public Works is responsible for implementing the program (with assistance from other departments on some enforcement provisions).

A representative of Department of Public Works will provide an overview presentation on the NDPES permit and actions associated with it.
SPONSORED BY: 
PROPOSED BY: 
INTRODUCTION DATE: 

ORDINANCE NO. 

AN ORDINANCE AMENDING THE WHATCOM COUNTY CODE TO PROPERLY DESIGNATE THE DIRECTOR OF PUBLIC WORKS AS THE ADMINISTRATOR OF THE WESTERN WASHINGTON PHASE II MUNICIPAL STORMWATER PERMIT

WHEREAS, the proposed amendments have been considered by the Whatcom County Planning Commission, the Whatcom County Council Natural Resources Committee, and the Whatcom County Council; and

WHEREAS, legal notice requirements have been met; and

WHEREAS, the County Council finds the amendments in the interest of the public health, safety, and welfare, based on the following findings and conclusions:

FINDINGS OF FACT

1. Whatcom County is subject to a Western Washington Phase II Municipal Stormwater Permit issued by the Washington State Department of Ecology in February 2007. This permit regulates discharges from Small Municipal Separate Storm Sewers, and is part of the National Pollutant Discharge and Elimination System (NPDES) and State Waste Discharge General Permit. It sets forth requirements of municipalities to address stormwater runoff in certain areas of the County. Whatcom County is required to implement various stormwater management strategies to comply with this State permit.

2. Under current code, the Director of Planning and Development Services is the implied responsible party for implementing the permit, given that the authorizing code appears in WCC Title 20 (Land Use). In actuality, it is the Director of Public Works who carries out this work and is responsible for its implementation (with the enforcement provisions overseen by the Director of Planning and Development Services, the Director of Health, and the County Sheriff). These amendments clarify this.

3. Notice of the proposed amendment was sent to the Department of Commerce and other state agencies on October 24, 2014. On October 29, 2014 Commerce notified Whatcom County that notice of the proposed amendment had been received and had been forwarded to other interested parties as required. No comments regarding the proposed amendment have been received from Commerce to date.

4. On October 13, 2014 the Whatcom County State Environmental Policy Act (SEPA) Responsible Official determined that this code amendment is Categorically Exempt from SEPA review, pursuant to WAC 197-11-
800(19)(a)&(b) (Procedural Actions).

5. The Planning Commission held a properly-noticed public hearing on November 13, 2014, and recommended approval of the proposed amendments.

6. Pursuant to Whatcom County Code (WCC) 20.90.050, Whatcom County Planning and Development Services has: evaluated the proposed amendment in relationship to the goals, objectives and policies of the Whatcom County Comprehensive Plan as authorized by the Washington State Growth Management Act (GMA) – RCW 36.70A; and considered possible environmental impacts that have been identified by the lead agency designated SEPA official through the State Environmental Policy Act (SEPA) threshold determination process.

CONCLUSIONS

1. The proposed amendments are consistent with the Comprehensive Plan, and are in the public interest.

2. The proposed amendments will result in no significant environmental impacts, and are intended to result in better implementation of the Western Washington Phase II Municipal Stormwater Permit.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Whatcom County Code is hereby amended as shown on Exhibit A.

Section 2. Adjudication of invalidity of any of the sections, clauses, or provisions of this Ordinance shall not affect or impair the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this ____ day of __________________ 2015.

WHATCOM COUNTY COUNCIL

ATTEST:

WHATCOM COUNTY, WASHINGTON

______________________________
Dana Brown-Davis, Council Clerk

APPROVED as to form:

______________________________
Civil Deputy Prosecutor

______________________________
Carl Weimer, Council Chair

( ) Approved ( ) Denied

______________________________
Jack Louws, Executive

Date:
EXHIBIT A

The following text is proposed to be deleted from WCC Title 20

20.04.076 National Pollution Discharge and Elimination System (NPDES) Phase II Area boundary:

Where provisions of this title refer to NPDES Phase II area boundaries, the location and extent of such boundaries shall include urbanized areas determined by the latest decennial census conducted by the U.S. Bureau of the Census, or designated by the Department of Ecology pursuant to 40 CFR 123.35(b) or 40 CFR 122.26(f), and Bellingham and Ferndale urban growth areas as defined in the Whatcom County Comprehensive Plan (UGA Map Nos. 1 and 4), as referenced in the Western Washington Phase II Municipal Stormwater Permit. The county shall update the maps on a regular and consistent basis as new information becomes available. (Ord. 2010-003 Exh. A, 2010).

The following text is proposed to be added to WCC Chapter 16.40:

WCC 16.40 National Pollutant Discharge Elimination System (NPDES)

16.40.010 Authority.

This chapter is adopted under the authority of the police power granted to political subdivisions of the state by Article XI, Section 11 of the Washington State Constitution. (Ord. 2010-002 Exh. A).

16.40.020 Purpose and intent.

A. The purpose of this chapter is to comply with provisions of the State of Washington Water Pollution Control Law (Chapter 90.48 RCW) and the Federal Water Pollution Control Act (also known as the Clean Water Act, Title 33 United States Code, Section 1251 et seq.).

16.40.030 Applicability.

This chapter applies to the unincorporated areas of Whatcom County within the Department of Ecology’s designated Western Washington Phase II Municipal Stormwater Permit. (Ord. 2010-002 Exh. A).

16.40.050 Administrative provisions.

A. The administrative portions of this chapter shall be overseen by the director of public works or his/her designee. The enforcement provisions of this chapter shall be overseen by the director of planning and development services pursuant to WCC 2.32.030, the director of the department of health pursuant to WCC Title 8, Health and Safety, and Title 24, Health Code, and the county sheriff, or their respective designees.
16.40.060 Penalties and enforcement.

A. Any person who violates any of the provisions of this chapter shall be guilty of a civil offense and may be fined a sum not to exceed $1,000 for each offense. After a notice of violation has been given, each day of site work in conjunction with the notice of violation shall constitute a separate offense.

B. The penalty provided in subsection A of this section shall be assessed and may be imposed by a notice in writing either by certified mail with return receipt requested or by personal service to the person incurring the same. The notice shall include the amount of the penalty imposed and shall describe the violation with reasonable particularity. In appropriate cases, corrective action shall be taken within a specific and reasonable time.

C. Within 30 calendar days after the notice is received, the person incurring the penalty may apply in writing to the county for remission or mitigation of such penalty. Upon receipt of the application, the county may remit or mitigate the penalty upon whatever terms the county in its discretion deems proper. The county's final decision on mitigation or revision shall be reviewed by the hearing examiner if the aggrieved party files a written appeal therewith of said decision within 10 calendar days of its issuance.

D. If work activity has occurred on a site in violation of this chapter, prompt corrective action, restoration or mitigation of the site will be required when appropriate. If this provision is not complied with, the county may restore or mitigate the site and charge the responsible person for the full cost of such an activity. Additionally, any and all permits or approvals issued by the county may be denied for that site for a period of up to six years.

E. In the event any person violates any of the provisions of this chapter, the county may issue a correction notice to be delivered to the owner or operator, or to be conspicuously posted at the site. In a nonemergency situation, such notice may include notice of the intent to issue a stop work order no less than 10 calendar days following the receipt of the correction notice, and provide for an administrative predeprivation hearing within 10 calendar days of the notice. In an emergency situation where there is a significant threat to public safety or the environment, the county may issue a stop work order. The stop work order shall include, in writing, the right to request an administrative predeprivation hearing within 72 hours following receipt of the stop work order. Failure to comply with the order to stop work shall be a gross misdemeanor punishable upon conviction by a minimum fine of $500.00 up to a maximum fine of $1,000 or one year in jail, or both. Under no circumstance may the court defer or suspend any portion of the minimum $500.00 fine for any conviction under this section. Each
day or part thereof of noncompliance with said order to stop work shall constitute a separate offense.

F. The county may suspend or revoke a permit if the applicant violates the conditions or limitations set forth in the permit or exceeds the scope of the work set forth in the permit.

G. The prosecuting attorney may enforce compliance with this chapter by such injunctive, declaratory or other actions as deemed necessary to ensure that violations are prevented, ceased, or abated.

H. Any person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty. (Ord. 2010-002 Exh. A; Ord. 2009-067 Exh. A §4; Ord. 2009-057 Exh. A §4. Formerly 16.36.040).

20.95.010 Severability.

Should any chapter, section, clause or provision of this title be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this title as a whole or any part thereof, other than the part so declared to be invalid.
I. **Background Information**

**File #:** PLN2014-00021

**File Name:** National Pollutant Discharge and Elimination System (NPDES) Zoning Code Amendment

**Applicant:** Whatcom County

**Summary:**
In February of 2007, the Washington State Department of Ecology issued Whatcom County’s Western Washington Phase II Municipal Stormwater Permit. This permit regulates discharges from Small Municipal Separate Storm Sewers, and is part of the National Pollutant Discharge and Elimination System (NPDES) and State Waste Discharge General Permit. It sets forth requirements of municipalities to address stormwater runoff in areas determined to have population densities reaching urban standards. Whatcom County is required to implement various stormwater management strategies to comply with this State permit.

The current Permit is effective from August 1, 2013 through July 31, 2018. The Permit boundary covers approximately 15,000 acres and generally includes the following areas (Figure 1):

- Bellingham Urban Growth Area
- Sudden Valley
- Portions of the Hillsdale and Emerald Lake area
- Portions along North Shore Drive on Lake Whatcom and Lake Whatcom Boulevard
- Ferndale Urban Growth Area
- Portions along Chuckanut Drive and Chuckanut Bay
- Birch Bay Urban Growth Area (*Beginning August 1, 2013*)
- The entire Lake Whatcom watershed is subject to illicit discharge detection and elimination requirements of the Permit.

Figure 1. NPDES Phase II Boundaries
II.  Zoning Code Amendment

The purpose of these proposed amendments is to properly designate the Director of Public Works, or his/her designee, as the administrator of the Western Washington Phase II Municipal Stormwater Permit, with the enforcement provisions overseen by the Director of Planning and Development Services, the Director of Health, the County Sheriff, or their respective designees.

Since the current reference to the Permit is in WCC 20.04.076 National Pollution Discharge and Elimination System (NPDES) Phase II Boundary, it is implied that the Director of Planning & Development Services administers the Permit because it resides in Title 20 Zoning. By amending Title 16 Environment with proposed WCC 16.40 National Pollutant Discharge and Elimination System, it is accurately reflected that Public Works administers the Permit, and Planning and Health are given enforcement authority of the Permit.

These amendments do not create new duties and responsibilities; it just places the authorizing code in the appropriate WCC title and clarifies who’s responsible for implementation.

A.  Proposed Amendment Text

The following text is proposed to be deleted from WCC Title 20

**20.04.076 National Pollution Discharge and Elimination System (NPDES) Phase II Area boundary:**

Where provisions of this title refer to NPDES Phase II area boundaries, the location and extent of such boundaries shall include urbanized areas determined by the latest decennial census conducted by the U.S. Bureau of the Census, or designated by the Department of Ecology pursuant to 40 CFR 123.35(b) or 40 CFR 122.26(f), and Bellingham and Ferndale urban growth areas as defined in the Whatcom County Comprehensive Plan (UGA Map Nos. 1 and 4), as referenced in the Western Washington Phase II Municipal Stormwater Permit. The county shall update the maps on a regular and consistent basis as new information becomes available. (Ord. 2010-003 Exh. A, 2010).

The following text is proposed to be added to WCC Chapter 16.40:

**WCC 16.40 National Pollutant Discharge Elimination System (NPDES)**

**16.40.010 Authority.**

This chapter is adopted under the authority of the police power granted to political subdivisions of the state by Article XI, Section 11 of the Washington State Constitution. (Ord. 2010-002 Exh. A).
16.40.020 Purpose and intent.
A. The purpose of this chapter is to comply with provisions of the State
of Washington Water Pollution Control Law (Chapter 90.48 RCW) and
the Federal Water Pollution Control Act (also known as the Clean
Water Act, Title 33 United States Code, Section 1251 et seq.).

16.40.030 Applicability.
This chapter applies to the unincorporated areas of Whatcom County
within the Department of Ecology's designated Western Washington
Phase II Municipal Stormwater Permit. (Ord. 2010-002 Exh. A).

16.40.050 Administrative provisions.
A. The administrative portions of this chapter shall be overseen by the
director of public works or his/her designee. The enforcement
provisions of this chapter shall be overseen by the director of
planning and development services pursuant to WCC 2.32.030, the
director of the department of health pursuant to WCC Title 8,
Health and Safety, and Title 24, Health Code, and the county
sheriff, or their respective designees.

16.40.060 Penalties and enforcement.
A. Any person who violates any of the provisions of this chapter shall
be guilty of a civil offense and may be fined a sum not to exceed
$1,000 for each offense. After a notice of violation has been given,
each day of site work in conjunction with the notice of violation
shall constitute a separate offense.

B. The penalty provided in subsection A of this section shall be
assessed and may be imposed by a notice in writing either by
certified mail with return receipt requested or by personal service
to the person incurring the same. The notice shall include the
amount of the penalty imposed and shall describe the violation with
reasonable particularity. In appropriate cases, corrective action
shall be taken within a specific and reasonable time.

C. Within 30 calendar days after the notice is received, the person
incurring the penalty may apply in writing to the county for
remission or mitigation of such penalty. Upon receipt of the
application, the county may remit or mitigate the penalty upon
whatever terms the county in its discretion deems proper. The
county's final decision on mitigation or revision shall be reviewed
by the hearing examiner if the aggrieved party files a written
appeal therewith of said decision within 10 calendar days of its
issuance.
D. If work activity has occurred on a site in violation of this chapter, prompt corrective action, restoration or mitigation of the site will be required when appropriate. If this provision is not complied with, the county may restore or mitigate the site and charge the responsible person for the full cost of such an activity. Additionally, any and all permits or approvals issued by the county may be denied for that site for a period of up to six years.

E. In the event any person violates any of the provisions of this chapter, the county may issue a correction notice to be delivered to the owner or operator, or to be conspicuously posted at the site. In a nonemergency situation, such notice may include notice of the intent to issue a stop work order no less than 10 calendar days following the receipt of the correction notice, and provide for an administrative predeprivation hearing within 10 calendar days of the notice. In an emergency situation where there is a significant threat to public safety or the environment, the county may issue a stop work order. The stop work order shall include, in writing, the right to request an administrative predeprivation hearing within 72 hours following receipt of the stop work order. Failure to comply with the order to stop work shall be a gross misdemeanor punishable upon conviction by a minimum fine of $500.00 up to a maximum fine of $1,000 or one year in jail, or both. Under no circumstance may the court defer or suspend any portion of the minimum $500.00 fine for any conviction under this section. Each day or part thereof of noncompliance with said order to stop work shall constitute a separate offense.

F. The county may suspend or revoke a permit if the applicant violates the conditions or limitations set forth in the permit or exceeds the scope of the work set forth in the permit.

G. The prosecuting attorney may enforce compliance with this chapter by such injunctive, declaratory or other actions as deemed necessary to ensure that violations are prevented, ceased, or abated.

H. Any person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty. (Ord. 2010-002 Exh. A; Ord. 2009-067 Exh. A §4; Ord. 2009-057 Exh. A §4. Formerly 16.36.040).

20.95.010 Severability.

Should any chapter, section, clause or provision of this title be declared by a court of competent jurisdiction to be invalid, such
decision shall not affect the validity of this title as a whole or any part thereof, other than the part so declared to be invalid.

III. Comprehensive Plan Evaluation

The Comprehensive Plan contains the following goal and policy, which requires the County to continue all actions to complete and implement the NPDES Phase II permit. The proposed amendment supports this policy by designating the proper Department Director as the one responsible for doing so.

**Goal 11F:** Protect and enhance Whatcom County's surface water and groundwater quality and quantity for current and future generations.

**Policy 11F-4:** Support the completion and implementation of local/state Watershed Action Plans, the Lake Whatcom Management Program, NPDES Phase II Permitting, and the WRIA Watershed Management Projects as some of the means of addressing non-point source pollution.

There are no goals or policies with which this amendment would be inconsistent.

IV. Proposed Findings of Fact and Reasons for Action

Staff recommends the Planning Commission adopt the following findings of fact and reasons for action:

1. Whatcom County is subject to a Western Washington Phase II Municipal Stormwater Permit issued by the Washington State Department of Ecology in February 2007. This permit regulates discharges from Small Municipal Separate Storm Sewers, and is part of the National Pollutant Discharge and Elimination System (NPDES) and State Waste Discharge General Permit. It sets forth requirements of municipalities to address stormwater runoff in certain areas of the County. Whatcom County is required to implement various stormwater management strategies to comply with this State permit.

2. Under current code, the Director of Planning and Development Services is the implied responsible party for implementing the permit, given that the authorizing code appears in WCC Title 20 (Land Use). In actuality, it is the Director of Public Works who carries out this work and is responsible for its implementation (with the enforcement provisions overseen by the Director of Planning and Development Services, the Director of Health, and the County Sheriff). These amendments clarify this.

3. Notice of the proposed amendment was sent to the Department of Commerce and other state agencies on October 24, 2014. On October 29, 2014 Commerce notified Whatcom County that notice of the proposed
amendment had been received and had been forwarded to other interested parties as required. No comments regarding the proposed amendment have been received from Commerce to date.

4. On October 13, 2014 the Whatcom County State Environmental Policy Act (SEPA) Responsible Official determined that this code amendment is Categorically Exempt from SEPA review, pursuant to WAC 197-11-800(19)(a)&(b) (Procedural Actions).

5. Notice of the Planning Commission hearing for the proposed text amendment was published in the Bellingham Herald on November October 31, 2014.

6. Pursuant to Whatcom County Code (WCC) 20.90.050, Whatcom County Planning and Development Services has: evaluated the proposed amendment in relationship to the goals, objectives and policies of the Whatcom County Comprehensive Plan as authorized by the Washington State Growth Management Act (GMA) – RCW 36.70A; and considered possible environmental impacts that have been identified by the lead agency designated SEPA official through the State Environmental Policy Act (SEPA) threshold determination process.

V. Proposed Conclusions

1. The proposed amendments are consistent with the Comprehensive Plan, and are in the public interest.

2. The proposed amendments will result in no significant environmental impacts, and are intended to result in better implementation of the Western Washington Phase II Municipal Stormwater Permit.

VI. Recommendation

Planning and Development Services recommends the Planning Commission forward the proposed amendments to the County Council with a recommendation of approval.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:** Amendments to the mineral resources portion of the comprehensive plan and zoning code

**ATTACHMENTS:**
1) Staff Memo to Council
2) Proposed Ordinance
3) Exhibit A - Applicant Proposed Amendments
4) Option 2 - Surface Mining Advisory Committee and Planning Commission Proposed Amendments
5) Staff report to Planning Commission - PC Findings and Recommendation
6) Surface Mining Advisory Committee proposal for Conditional Use rather than Administrative Approval
7) Comprehensive Plan Map and Zoning Map Amendment - MRL Designation process comparison
8) Permitting process comparison for mineral extraction

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<td>SEPA review completed?</td>
<td>(X) Yes</td>
<td>( ) NO</td>
<td>Requested Date:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Proposed amendments to the Mineral Resources portion of the Comprehensive Plan and Zoning Code. The proposed Comprehensive Plan amendments include changes to general mineral extraction policies that implement Goal 8K (adverse impacts), Goal 8Q (MRL designation), and MRL Designation Criteria. Proposed amendments to the zoning code include altering the permitting process from administrative approval use to a conditional use permit, changing the distance from rural or residential districts that surface mining activities associated with forest practices within the forestry zones trigger a discretionary permit, changing the notification distance for discretionary permits associated with surface mining, and requiring noxious weeds to not be established in buffers of surface mining operations.

**COMMITTEE ACTION:**
11/12/2014: Withdrawn from the Agenda
12/9/2014: Held in Committee

**COUNCIL ACTION:**
11/12/2014: Withdrawn from the Agenda
12/9/2014: Held in Committee

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: **www.co.whatcom.wa.us/council.**
Memorandum

TO:       Whatcom County Council
FROM:     Joshua Fleischmann, Planner
THROUGH:  Mark Personius, Long Range Planning Manager
DATE:     December 31, 2014
SUBJECT:  Comprehensive Plan and Zoning text amendments for Mineral Resource Lands and surface mining; PLN2013-00008

For the December 9th Natural Resources Committee meeting, 2 exhibits were provided to the committee as part of the Agenda Packet. Exhibit A was the proposal as included in the amendment application submitted by councilmembers Weimer and Brenner, while Exhibit B (hereinafter Option 2) was the Surface Mining Advisory Committee recommendation that was forwarded to the County Council by the Planning Commission. The accompanying staff report contained an analysis of Exhibit A and Option 2 and the Planning Commission's Findings of Fact and Reason for Action in support of Option 2.

At the meeting, the committee chose to make Exhibit A the working draft for the January 13th meeting. Included with this packet is a revised Ordinance with findings for Exhibit A.
ORDINANCE NO. 2015-
AMENDING WHATCOM COUNTY CODE TITLE 20 AND THE COMPREHENSIVE
PLAN REGARDING SURFACE MINE PERMITTING, THE MINERAL RESOURCE
LANDS DESIGNATION PROCESS AND MINERAL RESOURCE LANDS
DESIGNATION CRITERIA.

WHEREAS, an application has been submitted to amend the Rural (R),
Agriculture (AG), Rural Forestry (RF), Commercial Forestry (CF) and Mineral
Resource Land (MRL) Special zoning districts to require a conditional use permit for
surface mining subject to Washington State's Surface Mining Act; and

WHEREAS, the proposed amendment has been reviewed under the State
Environmental Policy Act (SEPA); and

WHEREAS, in accordance with RCW 36.70A.106 Whatcom County Planning
and Development Services notified the Department of Commerce of the proposed
zoning text and comprehensive plan amendments; and

WHEREAS, notice of the Whatcom County Planning Commission hearing on
the proposed amendment was published in the Bellingham Herald; and

WHEREAS, the Whatcom County Planning Commission held a work session
on the proposed amendment; and

WHEREAS, the Whatcom County Planning Commission held a public hearing
on the proposed amendment and considered all testimony; and

WHEREAS, the Whatcom County Planning Commission forwarded its findings
and reasons for action to the County Council; and

WHEREAS, the Whatcom County Council has reviewed the Planning
Commission recommendation; and
WHEREAS, the Whatcom County Council held 2 work session in the Natural Resources Committee; and

WHEREAS, the Whatcom County Council held a public hearing on the proposed amendment and considered all testimony; and

WHEREAS, the Whatcom County Council hereby adopts the following findings of fact and conclusions:

FINDINGS
1. An application for Comprehensive Plan and related zoning amendments was received by Whatcom County on December 21, 2012.
2. A revised application for Comprehensive Plan and related zoning amendments was received by Whatcom County on January 23, 2013.
3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on July 5, 2013. The associated comment period ended July 19, 2013 and the appeal period concluded July 29, 2013.
4. The Surface Mining Advisory Committee held work sessions with Whatcom County PDS Staff on March 26, 2014; April 23, 2014; May 28, 2014, June 25, 2014; and July 23, 2014.
5. A press release of the Planning Commission briefing was published in the Bellingham Herald on 09/08/2014.
6. The Planning Commission held a work session on September 11, 2014.
7. The Planning Commission held a public hearing on October 23, 2014.
8. Notice of the proposed amendment was sent to the Department of Commerce on 8/15/2014.
9. On 08/20/2014 the Department of Commerce acknowledged receipt of the notice, and that a copy of the notice had been forwarded to other state agencies.
10. The Growth Management Act (GMA) includes multiple planning goals that are relevant to the proposed comprehensive plan amendments.
11. GMA Planning Goal #7: Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

Through previous MRL designation proposals, it has been affirmed that MRL designation is not a "right-to-mine", insomuch as upon receiving MRL designation, a permit is still required for the act of mineral extraction.

The proposed amendments would require that a site specific environmental analysis, as well as consideration of the maintenance and upgrade of public roads, be conducted on a site prior to MRL designation. If, in keeping with recent decisions, MRL designation does not include a "right-to-mine", subject to the results of the environmental analysis, then a mineral extraction permit applicant would have no assurances that the results of their site specific environmental analysis would result in an approved MRL designation or permit. Further, if designation is predicated on an operating plan, if a mineral extraction company goes out of business or is sold, or if the property is sold, it is unclear if the new owner would be bound to the operating plan, need to complete a new environmental analysis, or risk losing MRL designation based on the lack of an environmental analysis.

12. GMA Planning Goal #11: Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

13. Whatcom County’s County-Wide Planning Policy A-3 states: Citizens shall be notified in a timely manner of opportunities to have input and key decision points in the planning process. This should include actions such as use of telephone hotlines, notification to interest groups, pre-development meetings, early incorporation of public comments and broader notification of property owners and residents during a planning process as well as working more extensively with community and neighborhood groups. The cities shall also develop a public participation process to solicit and incorporate
comments from residents outside city limits but within proposed Urban Growth Areas

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

14. There are no interlocal agreements affecting the proposed amendments.

15. Whatcom County Comprehensive Plan contains goals and policies that are applicable to the proposal.

16. Proposed Policy 8K-2: Consider the maintenance and upgrade of public roads before designating MRLs and approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

The underline represents changed conditions from the present policy. Within the past few years, applications for MRL designation have resulted in a public process where citizens have requested that impacts from mineral extraction be considered as part of MRL designation. Proponents of MRL designation note that the purpose of designation is to protect the resource from incompatible uses, and that designation is not a right-to-mine. Twice since 2006, a Comprehensive Plan map and zoning map amendment application for the expansion of a MRL designation has reached the County Council, and both times the amendment was not approved by Council. Consideration of maintenance and upgrade of public roads may not be possible without a mineral extraction plan, which is not presently required as part of the MRL designation process. Mineral extraction permits are presently reviewed by Public Works – Engineering for potential impacts to public roads, and necessary maintenance and upgrading of the roads may be required for approval.

The proposed amendments alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be).
Through the SEPA process, impacts to public roads are considered through Checklist Item #14 – Transportation as part of the permitting process.

17. Proposed Policy 8K-7: Designate site-specific mineral resource lands only after mineral extraction impacts have been anticipated and evaluated, and potential adverse environmental impacts have been addressed through appropriate mitigation and/or reasonable alternatives.

Within the past few years, applications for MRL designation have resulted in a public process where citizens have requested that impacts from mineral extraction be considered as part of MRL designation. Proponents of MRL designation note that the purpose of designation is to protect the resource from incompatible uses, and that designation is not a right-to-mine. Twice since 2006, a Comprehensive Plan map and zoning map amendment application for the expansion of a MRL designation has reached the County Council, and both times the amendment was not approved by Council. Anticipation and evaluation of potential adverse environmental impacts associated with mineral extraction, and mitigation and/or reasonable alternatives may not be possible without a mineral extraction plan, which is not presently required as part of the MRL designation process.

18. Proposed Policy 8K-8: Expansion of existing MRL designations for a mine site will require that the existing mine is in full compliance with all permits and regulations.

In December 2010, Whatcom County PDS received an application for a Comprehensive Plan map and zoning map amendment to expand an existing MRL designation. The mine associated with the MRL designation has received stop work orders and been assessed penalties as part of a notice of violation. The operation within this MRL is now going through receivership. No work has been done on the Comprehensive Plan MRL expansion amendment for over 2 years, and there is presently no mining activity occurring. The proposed policy would prevent expansion of MRL designations when a mine within the designation is subject to compliance orders.

19. Proposed Policy 8Q-4: Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:
   (1) On-site environmental review, with county as lead agency, and
   (2) application of appropriate site specific conditions, and
   (3) notification to neighboring property owners within 1,000 feet to insure opportunity for written and oral input and/or appeal, and
   (4) access to de novo review by the Hearing Examiner if administrative approval is denied or appealed.
The underlines and strikethroughs represent changed conditions from the present policy. The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Criterion #4 of Policy 8Q-4 would be unnecessary through the conditional use process, since conditional use approval is made by the Hearing Examiner. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. However, it is worth noting that, according to former PDS geologist, Doug Goldthorp:

"Since the inception of the surface mining administrative approval use permit requirement in 1997, 24 surface mining administrative approval use applications (ADMIs), and the 3 amendment applications to those ADMIs have been conditionally approved. There was either a DNS, MDNS, and one DS SEPA determination in each case. Of the 27 combined ADMIs, ADM amendments and associated SEPA determinations, 3 appeals (11%) have been filed and adjudicated by the WC Hearing Examiner. In all 3 cases, the Hearing Examiner has upheld the staff determination. In a few cases, the Hearing Examiner determination has been upheld by the WC Council, and in one case, upheld by the WA Superior Court."

This information indicates that, while the sample size is relatively small, the Technical Administrator’s determinations have been upheld as appropriate, when challenged. However, the purpose of the amendment is to ensure a public process that is presently absent, and this amendment would provide an avenue for a public process.

20. There is no anticipated effect upon the rate or distribution of population growth, employment growth or development of land as envisioned in the Comprehensive Plan, as a result of the proposed Comprehensive Plan amendments. However, lands that have a proven resource may become converted to a use incompatible with surface mining if mineral resource extraction companies don't pursue designation as a result of increased costs and lack of certainty in the designation process.

21. The proposed comprehensive plan amendments may affect the ability of the county and/or other service providers to provide adequate services and public facilities including transportation facilities, though not necessarily
through an increased demand for services. Recent efforts to designate lands for mineral extraction have failed. Mining companies may be hesitant to apply for designation, due to the costs associated with studies to determine potential impacts/mitigation/alternatives, if there are no reassurance that they could recoup the costs through designation and subsequent mineral extraction. Additionally, by limiting MRL designations in forest lands to 20 acres at a time, large areas of potential resources may not be efficiently extracted. This situation may result in increased costs for the resource. If mining companies decide to not apply for new designations in Whatcom County, the costs of mineral resources would likely climb as the local supply diminishes and more costly imports become a primary source of material. If the costs of capital facilities increase, there may be less money throughout the rest of the provider's budget.

22. The proposed amendments may discourage mining companies from applying for designation, due to the costs associated with studies to determine potential impacts/mitigation/alternatives, if there are no reassurances that they could recoup the costs through designation and subsequent mineral extraction. If true, the rate of conversion to mineral resource lands from agriculture and forestry would likely slow, positively impacting the protection of agriculture and forestry lands. However, the proposed amendments would then, necessarily negatively impact the availability of mineral resource lands.

23. The proposed amendment does not change the zoning of any area therefore the amendment does not include nor facilitate illegal spot zoning.

24. Goal 2G: Encourage citizen participation in the decision-making process

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

25. Policy 2D-3: Streamline development regulations to eliminate unnecessary time delays.

Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may
take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. By changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

26. Policy 7D-7: Streamline and coordinate the permit process and sustain a supportive customer service approach towards permitting.

Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. By changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

27. Policy 8K-1: Avoid significant mineral extraction impacts on adjacent or nearby land uses, public health and safety, or natural resources.

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

28. Policy 8N-2: Allow rock crushing, washing and sorting in the forest zones when appropriate as long as conflicts with other land uses can be mitigated.

Rock crushing, washing and sorting are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be).
Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

29. Policy 8N-3: Allow commercial surface mining operations in the forest zones when appropriate as long as conflicts with other land use zones can be mitigated.

Commercial surface mining operations are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

30. Goal 10J: Minimize conflicts between different land uses.

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

31. Policy 11B-5: Process the environmental review of building and development applications within an established time-frame that is predictable and expeditious.

The proposed amendments to Policy 8Q-4 alter the permitting process from
administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Whatcom County Code (WCC) 2.33 – Permit Review Procedures states that unless otherwise exempted in WCC 2.33.020 or 2.33.090(C), the county shall issue a notice of final decision on an administrative approval use or conditional use within 90 days of the date of completeness if the project is exempt from SEPA review. If the project is subject to SEPA review, the county shall issue a notice of final decision within 120 days.

32. The Washington State Department of Natural Resources completed a study entitled *Reconnaissance Investigation of Sand, Gravel, and Quarried Bedrock Resources in the Bellingham 1:100,000 Quadrangle, Washington* (Jan. 2001). This study indicates that the working lifetime of most of the significant pits in the county is 10 to 20 years (p. 5).

33. The *Whatcom County Surface Mining Advisory Committee Final Report and Recommendations* (October 20, 2004) states:

> ... Theoretically, there is enough total supply in existing MRLs to satisfy demand over the first 20 years of the planning period. However, there is an imbalance in the demand and supply of sand and gravel. There is a greater need for gravel resources than sand and, as we approach the end of the 20-year planning period, we can anticipate a shortage of gravel. Additionally, shortly after the 20-year planning period, we will run out of sand and gravel resources if existing MRLs are not expanded. ... (p. 7).

**CONCLUSIONS**

1. The subject Comprehensive Plan amendments are consistent with the approval criteria of WCC 2.160.080. The subject zoning text amendments were processed in accordance with WCC 20.90.050

**NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that the Whatcom County Zoning Code is hereby amended as shown in Exhibit A.

**BE IT FURTHER ORDAINED** that if any section, subsection, sentence, 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. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause or phrase thereof, irrespective of the
fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

**ADOPTED** this ____ day of ________, 2015.

ATTEST:

Dana Brown-Davis, Clerk of the Council

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Carl Weimer, Council Chair

APPROVED AS TO FORM:

Karen N. Frakes
Civil Deputy Prosecutor

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Jack Louws, County Executive

(  ) Approved  (  ) Denied

Date Signed:___________________
EXHIBIT A

Title 20 Zoning Amendments

Chapter 20.36
RURAL (R) DISTRICT

20.36.130 Administrative approval uses
.133 Surface mining subject to Washington State's Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

20.36.150 Conditional uses.
.197 Surface mining subject to Washington State's Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

Chapter 20.40
AGRICULTURE (AG) DISTRICT

20.40.130 Administrative approval uses
.136 Surface mining subject to Washington State's Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations. Site reclamation must be to agricultural use within any MRLs adopted after May 1, 2001. No off-site dust shall be generated from the operation.

20.40.150 Conditional uses.
.197 Surface mining subject to Washington State's Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations. Site reclamation must be to agricultural use within any MRLs adopted after May 1, 2001. No off-site dust shall be generated from the operation.

Chapter 20.42
RURAL FORESTRY (RF) DISTRICT
20.42.050 Permitted uses.
.058 Surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW); provided, that administrative approval a conditional use permit is required for accessory rock crushing activities located within 12,000 feet from a rural or residential district.

20.42.130 Administrative approval uses.
.133 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing, when within a Mineral Resource Land Special-District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

20.42.150 Conditional uses.
.197 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

Chapter 20.43
COMMERCIAL FORESTRY (CF) DISTRICT

20.43.050 Permitted uses.
.055 Surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW); provided, that administrative approval a conditional use permit is required for accessory rock crushing activities located within 12,000 feet from a rural or residential district.

20.43.130 Administrative approval uses.
.133 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing when within a Mineral Resource Land Special-District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

20.43.150 Conditional uses.
.189 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

Chapter 20.73
MINERAL RESOURCE LANDS SPECIAL DISTRICT (MRL)
20.73.130 Administrative approval uses.
The following uses are permitted subject to administrative approval pursuant to WCC 20.84.235.

Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW) and accessory washing and sorting; provided that:

(1) The notification requirements of WCC 20.84.235 shall be expanded to all property owners within 1,000 feet of the external boundaries of the subject property.

(2) At minimum, the activity adheres to the development and performance standards of WCC 20.73.650 and 20.73.700. In addition, no excavation shall occur within the five-year zone of contribution for designated well-head protection areas. Excavations may occur within the 10-year zone of contribution outside of the five-year zone of contribution if they are not within 10 vertical feet of the seasonal high water table. If a fixed radii method is used to delineate a well-head protection area, the surface mining applicant may elect to more precisely delineate the well head protection boundary using an analytical model; provided, that the delineated boundary proposed by the surface mining applicant is prepared by a professional hydrogeologist; and further provided, that the delineated boundary has been reviewed and approved by the Washington State Department of Health. The hydrogeologist shall be selected by mutual agreement of the county, water purveyor, and applicant; provided, if agreement cannot be reached the applicant shall select a consultant from a list of no less than three qualified consultants supplied by the county and water purveyor.

(3) Buffers are established of sufficient size and with sufficient vegetation or berms to ensure that noise, dust, and other impacts to surrounding property owners are within applicable regulations and performance standards. When completing a reclamation segment, buffer may be reduced for a three-month period to establish the final reclaimed topography.

(4) The applicant provides insurance policies or a similar type of protection as appropriate to cover potential liabilities associated with the proposed activity, renewals of bonds or insurance be submitted upon expiration of previous bonds or insurance. The bonding agent shall notify the county on any change of status in the bond.
(5) Application of additional site-specific conditions may be required to mitigate potential impacts that are not otherwise regulated through WCC 20.73.650 and 20.73.700 or through federal, state, or local regulations.

(6) Notice of the decision shall be mailed to all property owners within 1,000 feet of the external boundaries of the subject property within two days of issuance of the decision. The applicant shall provide typed, self-adhering mailing labels with the names and addresses of all property owners within 1,000 feet of the subject property with the application to facilitate the notice.

(7) Appeal to the hearing examiner under WCC 20.84.235 of an administrative permit shall be made by de novo review.

.132 Rock crushing within Commercial and Rural Forestry Districts when located further than 2,000 feet from a rural or residential district.

20.73.150 Conditional uses.
.
.152 Mineral processing facilities including rock crushing, asphalt and concrete batch plants and accessory washing and sorting.

.153 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW); provided that:

(1) The notification requirements of WCC 2.33.060.D.2.b shall be expanded to all property owners within 2,000 feet of the external boundaries of the subject property.

(2) At minimum, the activity adheres to the development and performance standards of WCC 20.73.650 and 20.73.700. In addition, no excavation shall occur within the five-year zone of contribution for designated well head protection areas. Excavations may occur within the 10-year zone of contribution outside of the five-year zone of contribution if they are not within 10 vertical feet of the seasonal high water table. If a fixed radii method is used to delineate a well head protection area, the surface mining applicant may elect to more precisely delineate the well head protection boundary using an analytical model; provided, that the delineated boundary proposed by the surface mining applicant is prepared by a professional hydrogeologist; and further provided, that the delineated boundary has been reviewed and approved by the Washington State Department of Health. The hydrogeologist shall be selected by mutual agreement of the county, water purveyor, and applicant; provided, if agreement cannot be reached the applicant shall select a consultant from a list of no less than three qualified consultants supplied by the county and water purveyor.
(3) Buffers are established of sufficient size and with sufficient vegetation or berming to ensure that noise, dust, noxious weeds and other impacts to surrounding property owners are within applicable regulations and performance standards. When completing a reclamation segment, buffer may be reduced for a three-month period to establish the final reclaimed topography.

(4) The applicant provides insurance policies or a similar type of protection as appropriate to cover potential liabilities associated with the proposed activity, renewals of bonds or insurance be submitted upon expiration of previous bonds or insurance. The bonding agent shall notify the county on any change of status in the bond.

(5) Application of additional site specific conditions may be required to mitigate potential impacts that are not otherwise regulated through WCC 20.73.650 and 20.73.700 or through federal, state, or local regulations.

(6) Notice of the decision shall be mailed to all property owners within 2,000 feet of the external boundaries of the subject property within two days of issuance of the decision. The applicant shall provide typed, self-adhering mailing labels with the names and addresses of all property owners within 2,000 feet of the subject property with the application to facilitate the notice.
Comprehensive Plan Amendments

MINERAL RESOURCES – ISSUES, GOALS, AND POLICIES

General Issues

GOAL 8K: Ensure that mineral extraction industries do not adversely affect the quality of life in Whatcom County, by establishing appropriate and beneficial designation and resource conservation policies, while recognizing the rights of all property owners.

Policy 8K-2: Consider the maintenance and upgrade of public roads before designating MRLs and approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

Policy 8K-3: Avoid adversely impacting water quality. The protection of aquifers and recharge zones should have precedence over surface mining in the event it is determined by the county that adverse impacts cannot be avoided through the standard use of best management practices. Avoid contamination of aquifers by using uncontaminated and inert materials for reclamation or onsite storage.

Policy 8K-7: Designate site-specific mineral resource lands only after mineral extraction impacts have been anticipated and evaluated, and potential adverse environmental impacts have been addressed through appropriate mitigation and/or reasonable alternatives.

Policy 8K-8: Expansion of existing MRL designations for a mine site will require that the existing mine is in full compliance with all permits and regulations.

Goal 8Q: Designate Mineral Resource Lands (MRLs) containing commercially significant deposits throughout the county in proximity to markets in order to avoid construction aggregate shortages, higher transport costs, future land use conflicts and environmental degradation. Balance MRL designations with other competing land uses and resources.

Policy 8Q-4: Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:
(1) on-site environmental review, with county as lead agency, and
(2) application of appropriate site specific conditions, and
(3) notification to neighboring property owners within 1,000 feet to insure opportunity for written and oral input, and/or appeal, and
(4) access to de-novo review by the Hearing Examiner if administrative approval is denial is appealed.
MINERAL RESOURCE LANDS (MRL) – DESIGNATION CRITERIA I. Non-Metallic Mineral Deposits

General Criteria
10. Site-specific MRL Designations shall only be approved after mineral extraction impacts have been anticipated and evaluated, and potential adverse environmental impacts have been addressed through appropriate mitigation and/or reasonable alternatives.

11. MRL Designations must be reviewed for internal consistency with other parts of the comprehensive plan so that the MRL designation does not preclude achievement of other parts of the comprehensive plan.

12. MRL expansions will not be considered if adjoining mine activities are not fully compliant with all permits and county and state regulations regarding mine operations and reclamation.

Additional Criteria for Designated Urban and Rural Areas
103. Abutting parcel size density must not exceed one unit per nominal five acres for more than 25% of the perimeter of the site unless project specific mitigation is created.

Additional Criteria for Designated Forestry Areas
114. Must demonstrate higher value as mineral resource than forestry resource based upon:
   • soil conditions.
   • accessibility to market.
   • quality of mineral resource.
   • sustainable productivity of forest resource.

15. MRL Designation in forestry zones can be no greater than 20 acres. Additional areas can be added only after previously mined areas are returned to sustainable productive forest resource condition and the total MRL Designation remains no more than 20 acres.

Additional Criteria for Designated Agricultural Areas

River and Stream Gravel
137. MRL Designation status applies to river gravel bards possessing necessary permits and containing significant quality reserves.

148. MRL Designation status may apply to those upland sites located in proximity to river gravel sources and used primarily for handling and processing significant amounts of river gravel.

Metallic and Industrial Mineral Deposits
159. For metallic and rare minerals, mineral designation status extends to all patented mining claims.


1721. All other non-patented mineral deposits must meet the non-metallic MRL Designation criteria, numbers 6 through 12 15, as applicable.
Option 2

Title 20 Zoning Amendments

Chapter 20.36
RURAL (R) DISTRICT

20.36.130 Administrative approval uses
.133 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

20.36.150 Conditional uses.
.197 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

Chapter 20.40
AGRICULTURE (AG) DISTRICT

20.40.130 Administrative approval uses
.136 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations. Site reclamation must be to agricultural use within any MRLs adopted after May 1, 2001. No off-site dust shall be generated from the operation.

20.40.150 Conditional uses.
.197 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations. Site reclamation must be to agricultural use within any MRLs adopted after May 1, 2001. No off-site dust shall be generated from the operation.

Chapter 20.42
RURAL FORESTRY (RF) DISTRICT
20.42.050 Permitted uses.
.058 Surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW); provided, that administrative approval a conditional use permit is required for accessory rock crushing activities located within 1,000 feet from a rural or residential district.

20.42.130 Administrative approval uses.
.133 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

20.42.150 Conditional uses.
.197 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

Chapter 20.43
COMMERCIAL FORESTRY (CF) DISTRICT

20.43.050 Permitted uses.
.055 Surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW); provided, that administrative approval a conditional use permit is required for accessory rock crushing activities located within 1,000 feet from a rural or residential district.

20.43.130 Administrative approval uses.
.133 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

20.43.150 Conditional uses.
.189 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

Chapter 20.73
MINERAL RESOURCE LANDS SPECIAL DISTRICT (MRL)
20.73.130 Administrative approval uses.
The following uses are permitted subject to administrative approval pursuant to WCC 20.84.235.

131 Surface mining subject to Washington State’s Surface-Mining Act (Chapter 78.44 RCW) and accessory washing and sorting; provided that:

(1) The notification requirements of WCC 20.84.235 shall be expanded to all property owners within 1,000 feet of the external boundaries of the subject property:

(2) At minimum, the activity adheres to the development and performance standards of WCC 20.73.650 and 20.73.700. In addition, no excavation shall occur within the five-year zone of contribution for designated well head protection areas. Excavations may occur within the 10-year zone of contribution outside of the five-year zone of contribution if they are not within 10 vertical feet of the seasonal high water table. If a fixed radii method is used to delineate a well head protection area, the surface mining applicant may elect to more precisely delineate the well head protection boundary using an analytical model; provided, that the delineated boundary proposed by the surface mining applicant is prepared by a professional hydrogeologist; and further provided, that the delineated boundary has been reviewed and approved by the Washington State Department of Health. The hydrogeologist shall be selected by mutual agreement of the county, water purveyor, and applicant; provided, if agreement cannot be reached the applicant shall select a consultant from a list of no less than three qualified consultants supplied by the county and water purveyor.

(3) Buffers are established of sufficient size and with sufficient vegetation or bermsing to ensure that noise, dust, and other impacts to surrounding property owners are within applicable regulations and performance standards. When completing a reclamation segment, buffer may be reduced for a three-month period to establish the final reclaimed topography:

(4) The applicant provides insurance policies or a similar type of protection as appropriate to cover potential liabilities associated with the proposed activity; renewals of bonds or insurance be submitted upon expiration of previous bonds or insurance. The bonding agent shall notify the county on any change of status in the bond.
(5) Application of additional site-specific conditions may be required to mitigate potential impacts that are not otherwise regulated through WCC 20.73.650 and 20.73.700 or through federal, state, or local regulations.

(6) Notice of the decision shall be mailed to all property owners within 1,000 feet of the external boundaries of the subject property within two days of issuance of the decision. The applicant shall provide typed, self-adhering mailing labels with the names and addresses of all property owners within 1,000 feet of the subject property with the application to facilitate the notice.

(7) Appeal to the hearing examiner under WCC 20.84.235 of an administrative permit shall be made by de novo review.

.132 Rock crushing within Commercial and Rural Forestry Districts when located further than 1,000 feet from a rural or residential district.

20.73.150 Conditional uses.
.152 Mineral processing facilities including rock crushing, asphalt and concrete batch plants and accessory washing and sorting.

.153 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW); provided that:

(1) The notification requirements of WCC 2.33.060.D.2.b shall be expanded to all property owners within 1,000 feet of the external boundaries of the subject property.

(2) At minimum, the activity adheres to the development and performance standards of WCC 20.73.650 and 20.73.700. In addition, no excavation shall occur within the five-year zone of contribution for designated well head protection areas. Excavations may occur within the 10-year zone of contribution outside of the five-year zone of contribution if they are not within 10 vertical feet of the seasonal high water table. If a fixed radii method is used to delineate a well head protection area, the surface mining applicant may elect to more precisely delineate the well head protection boundary using an analytical model; provided, that the delineated boundary proposed by the surface mining applicant is prepared by a professional hydrogeologist; and further provided, that the delineated boundary has been reviewed and approved by the Washington State Department of Health. The hydrogeologist shall be selected by mutual agreement of the county, water purveyor, and applicant; provided, if agreement cannot be reached the applicant shall select a consultant from a list of no less than three qualified consultants supplied by the county and water purveyor.
(3) Buffers are established of sufficient size and with sufficient vegetation or
berming to ensure that noise, dust, noxious weeds and other impacts to surrounding
property owners are within applicable regulations and performance standards. When
completing a reclamation segment, buffer may be reduced for a three-month period
to establish the final reclaimed topography.

(4) The applicant provides insurance policies or a similar type of protection as
appropriate to cover potential liabilities associated with the proposed activity,
renewals of bonds or insurance be submitted upon expiration of previous bonds or
insurance. The bonding agent shall notify the county on any change of status in the
bond.

(5) Application of additional site specific conditions may be required to mitigate
potential impacts that are not otherwise regulated through WCC 20.73.650 and
20.73.700 or through federal, state, or local regulations.

(6) Notice of the decision shall be mailed to all property owners within 1,000 feet of
the external boundaries of the subject property within two days of issuance of the
decision. The applicant shall provide typed, self-adhering mailing labels with the
names and addresses of all property owners within 1,000 feet of the subject
property with the application to facilitate the notice.

(7) Where the underlying zoning is Rural Forestry or Commercial Forestry, prior to
moving on to a new phase, previously mined areas shall meet reclamation criteria as
identified on an approved Department of Natural Resources Surface Mining
Reclamation Permit.
Comprehensive Plan Amendments

MINERAL RESOURCES – ISSUES, GOALS, AND POLICIES

General Issues

GOAL 8K: Ensure that mineral extraction industries do not adversely affect the quality of life in Whatcom County, by establishing appropriate and beneficial designation and resource conservation policies, while recognizing the rights of all property owners.

Policy 8K-2: Consider the maintenance and upgrade of public roads before approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

Policy 8K-3: Avoid adversely impacting water quality. The protection of aquifers and recharge zones should have precedence over surface mining in the event it is determined by the county that adverse impacts cannot be avoided through the standard use of best management practices. Avoid contamination of aquifers by using uncontaminated and inert materials for reclamation or onsite storage.

Policy 8K-7 Expansion of MRL designations to parcels contiguous to, and in common ownership with, an existing mine, may require that the existing mine is in compliance with all operating permits and regulations.

Goal 8Q: Designate Mineral Resource Lands (MRLs) containing commercially significant deposits throughout the county in proximity to markets in order to minimize avoid construction aggregate shortages, higher transport costs, future land use conflicts and environmental degradation. Balance MRL designations with other competing land uses and resources.

Policy 8Q-4: Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:
(1) on-site environmental review, with county as lead agency, and
(2) application of appropriate site specific conditions, and
(3) notification to neighboring property owners within 1,000 feet to insure opportunity for written and oral input and/or appeal, and
(4) access to de novo review by the Hearing Examiner if administrative approval is denial is appealed.

MINERAL RESOURCE LANDS (MRL) – DESIGNATION CRITERIA I. Non-Metallic Mineral Deposits

General Criteria
10. MRL Designations must be reviewed for internal consistency with other parts of the comprehensive plan so that the MRL designation does not preclude achievement of other parts of the comprehensive plan.

11. Expansion of MRL designations to parcels contiguous to, and in common ownership with, an existing mine, may require that the existing mine is in compliance with all operating permits and regulations.

Additional Criteria for Designated Urban and Rural Areas
1210. Abutting parcel size density must not exceed one unit per nominal five acres for more than 25% of the perimeter of the site unless project specific mitigation is created.

Additional Criteria for Designated Forestry Areas
1311. Must demonstrate higher value as mineral resource than forestry resource based upon:
   • soil conditions.
   • accessibility to market.
   • quality of mineral resource.
   • sustainable productivity of forest resource.

Additional Criteria for Designated Agricultural Areas

River and Stream Gravel
1513. MRL Designation status applies to river gravel bards possessing necessary permits and containing significant quality reserves.
1614. MRL Designation status may apply to those upland sites located in proximity to river gravel sources and used primarily for handling and processing significant amounts of river gravel.

Metallic and Industrial Mineral Deposits
1715. For metallic and rare minerals, mineral designation status extends to all patented mining claims.
1917. All other non-patented mineral deposits must meet the non-metallic MRL Designation criteria, numbers 6 through 12 14, as applicable.
I. OVERVIEW

File # PLN2013-00008

File Name: MRL – Application Process

Applicant: Barbara Brenner and Carl Weimer

Summary of Request: In December 2012, an application was submitted proposing changes to the comprehensive plan and zoning code regarding mineral resource land.

There are 2 exhibits associated with this staff report. Exhibit A represents the proposed changes as provided in the application, while Exhibit B represents the proposed changes as recommended by the Surface Mining Advisory Committee (SMAC)

The proposed Comprehensive Plan amendments include changes to general mineral extraction policies that implement Goal 8K (adverse impacts), Goal 8Q (MRL designation), and MRL Designation Criteria.

Both exhibits propose designation criteria requiring internal consistency with other parts of the comprehensive plan. Both exhibits also include policies supporting their respective proposed MRL designation process, changing the permitting process from administrative approval use to conditional use and considering maintenance and upgrade of public roads before mineral extraction.

Exhibit A proposes new MRL designation criteria that provide the public and decision-makers with environmental information prior to MRL lands being designated, require that adjoining mine activities are compliant with permits and regulations prior to MRL expansion, and limit forestry zones within MRLs. Exhibit A also includes policies considering maintenance and upgrading roads prior to designation.

Exhibit B proposes new MRL designation criteria providing discretion whether existing mines must be compliant with permits and regulations prior to adjacent MRL expansion.
Both Exhibit A and Exhibit B propose amendments to the zoning code altering the permitting process from an administrative approval use (staff decision with no public hearing) to a conditional use permit (Hearing Examiner decision with a public hearing). Both exhibits also propose additional changes to include requiring noxious weeds to not be established in buffers of surface mining operations.

Exhibit A proposes changing the distance from rural or residential districts for rock crushing activities that would require a conditional use permit from 1,000 feet to 2,000 ft. Exhibit A proposes the notification requirements for surface mining be expanded to 2,000 from the external boundaries of the subject property and requires conditional use permits for mining and processing activities within forest resource zones when within 2,000 feet of a rural or Residential district.

Exhibit B proposes an additional review criterion that, within forestry zones, prior to moving on to a new phase of mining, previously mined areas shall meet reclamation criteria as approved by DNR.

The specific Comprehensive Plan and zoning code amendments are included with this report as exhibits A and B. Exhibit A shows the amendments as provided by the applicant. Exhibit B shows amendments proposed the SMAC.

**Location:** The proposed zoning text amendments affect portions of the Rural, Agriculture, Rural Forestry and Commercial Forestry zones, and the Mineral Resource Lands overlay.

**II. BACKGROUND**

One of the goals of the Growth Management Act (GMA) is to maintain and enhance resource based industries, including the aggregate and mineral resource industries, with the purpose of assuring the long-term conservation of resource lands for future use. In addition, the Act mandates that each county shall classify mineral resource lands and then designate and conserve appropriate areas that are not already characterized by urban growth and that have long-term commercial significance.

To address the mandates of the GMA, Whatcom County formed a Surface Mining Citizens’ Advisory Committee (SMAC) in the 1990s to produce the issues, goals, and policies found in the Whatcom County Comprehensive Plan. The County Council adopted the original mineral resource provisions in the 1997 Comprehensive Plan. These provisions were updated in 2004-2005 after reviewing the GMA, SMAC recommendations, and new information.

In 2004, there were 24 Mineral Resource Land (MRL) designations throughout the County, covering 4,204 acres. For planning purposes, the SMAC recommended using an annual demand for sand and gravel of 12.2 cubic yards per capita and annual demand for bedrock of 1.3 cubic yards per capita in the 2004-05 Comprehensive Plan update, consistent with the rates in the 1997 Comprehensive Plan.
While urbanization creates demand for sand and gravel resources, it may also encroach upon or build over those same resources, rendering them inaccessible. Strong community opposition to mining near residential, agricultural, or sensitive environmental areas may also limit extractive opportunities. Adequate resource protection could help to assure the long-term conservation of resource lands for future use. It may also help to ensure a competitive market and to guard against inflated land prices by allowing the supply of minerals to respond to the demand of a free market. Helping the aggregate industry and the associated businesses, trades and export markets create jobs and stimulate the economy, to the benefit of the county.

Potential conflicts with other land uses, however, may include increased noise, dust, visual blight, traffic, road wear, and neighboring property devaluation. Unreclaimed mines may affect property values while at the same time nearby residents may use the area for other activities. Controlling trespassing to surface mining may be a significant safety issue for mine operators. Property rights issues range from the right to mine and use the value of mineral resource land to the right to live in an area with a high quality of life and retain home values. Citizens may be generally unaware of the county zoning of surrounding property and the mining uses that area allowed. These and other factors may contribute to a climate of distrust and hostility between aggregate industry and adjacent property owners.

Environmental issues associated with surface mining may include groundwater contamination and disruption of fish and wildlife habitat. Surface mines may have the potential, however, to create wetlands and fish and wildlife habitat, possible productive agricultural land for a limited number of crops, and provide land for parks, housing, industrial and other uses, through mine reclamation.

Associated mining activities such as rock crushing on-site may increase the "industrial atmosphere" experience by nearby property owners. This activity, however, helps to keep material transportation costs down. In addition, accessory uses are a necessary part of most operations, and to carry them out on site is cost-effective.

In October 2006, PDS staff provided a staff report to the Planning Commission for a proposed MRL designation expansion east of the City of Nooksack, off of Breckenridge Road. The staff report recommended approval, subject to conditions, based on designation criteria within the Comprehensive Plan and review criteria within Whatcom County Code. The Planning Commission forwarded their findings for approval to the County Council. The Council Natural Resource committee recommended approval of the proposal to the County Council. At the County Council meeting, partially due to public opposition, the proposal was not adopted.

In December 2008, an application was filed to amend the Comprehensive Plan map and zoning map to expand an MRL designation off of Bowman and Doran roads, south of Acme. The SEPA threshold determination of Mitigated Determination of Non-Significance was appealed by some of the local community and the applicant.
The Hearing Examiner upheld the applicant appeal. The Hearing Examiner decision was appealed to the County Council, which upheld the Hearing Examiner’s decision. In May 2011, PDS staff provided a staff report to the Planning Commission for the proposed MRL designation amendment. The staff report recommended approval based on the designation criteria within the Comprehensive Plan and review criteria within Whatcom County Code. The Planning Commission forwarded their findings for approval to the County Council. On July 26, 2011, the County Council moved to refer the proposal to committee for a work session. At the August 9, 2011 Planning and Development Committee meeting, the Committee was unable to recommend approval for the proposal. That evening, the County Council forwarded the proposal to concurrent review. On February 14, 2012, the County Council motion to adopt the proposed ordinance failed, partially due to public concerns about potential environmental impacts of future mining.

The purpose of the present proposal is to address some of the concerns that have been raised in previous years. As stated in the application for this proposal:

- “The current MRL process fails to provide sufficient information to evaluate the potential impacts of MRL designation proposal. Recent decisions of the hearing Examiner have concluded that the current process limits the initial MRL designation mainly to the value and location of mineral deposits while leaving the determination of the impacts and approval of operations to the administrative approval process that requires appeals in order to gain a public hearing. As noted by the Hearing Examiner, Whatcom County could have chosen a different process with designation criteria that included environmental review of mining impacts at the beginning of the process.”

“This amendment does propose a different process – a process that provides the public and decision-makers with environmental information prior to MRL lands being designated, and then requires a public hearing on surface mining permit applications rather than having such decisions made by staff that must be appealed in order to gain a hearing.”

III. ANALYSIS OF THE PROPOSED AMENDMENT

The proposed amendments include both Comprehensive Plan text amendments, as well as zoning text amendments.

In order to approve the proposed Comprehensive Plan amendments, pursuant to Whatcom County Code (WCC) 2.160, the planning commission and county council must find:

- The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.
- Further studies made or accepted by the department of planning and development services indicate changed conditions that show need for the amendment.
- The public interest will be served by approving the amendment.
A. That the amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.

Growth Management Act

The Growth Management Act (GMA) includes multiple planning goals that are relevant to the proposed comprehensive plan amendments.

GMA planning goal #7 states: “Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability” (RCW 36.70A.020(7)).

**Staff Comment:** Through previous MRL designation proposals, it has been affirmed that MRL designation is not a “right-to-mine” (unlike agricultural and forest lands of long-term commercial significance), insomuch as upon receiving MRL designation, a permit is still required for the act of mineral extraction. Neither Exhibit A nor B proposes to change that.

However, Exhibit A would require that a site specific environmental analysis, as well as consideration of the maintenance and upgrade of public roads, be conducted on a site prior to MRL designation. If, in keeping with recent decisions, MRL designation does not include a “right-to-mine”, subject to the results of the environmental analysis, then a mineral extraction permit applicant would have no assurances that the results of their site specific environmental analysis would result in an approved MRL designation or permit. Further, if designation is predicated on an operating plan, if a mineral extraction company goes out of business or is sold, or if the property is sold, it is unclear if the new owner would be bound to the operating plan, need to complete a new environmental analysis, or risk losing MRL designation based on the lack of an environmental analysis.

Exhibit B includes proposed amendments to Policy 8K-2 that clarify that maintenance and upgrade of public roads take place before approving mineral extraction. This would ensure that any necessary maintenance or upgrades are in direct relationship to an impact from a specific mineral extraction permit. This policy also clarifies that all traffic, not just truck traffic, on county roads is addressed in a fair and equitable fashion.

GMA planning goal #11 states: “Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts” (RCW 36.70A.020(11)).

**Staff Comment:** In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use
processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

**County-Wide Planning Policies**

County-Wide Planning Policy A-3 states that:

Citizens shall be notified in a timely manner of opportunities to have input and key decision points in the planning process. This should include actions such as use of telephone hotlines, notification to interest groups, pre-development meetings, early incorporation of public comments and broader notification of property owners and residents during a planning process as well as working more extensively with community and neighborhood groups. The cities shall also develop a public participation process to solicit and incorporate comments from residents outside city limits but within proposed Urban Growth Areas.

**Staff Comment:** In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

**Interlocal Agreement**

**Staff Comment:** Staff is not aware of any interlocal agreements affecting the proposed amendments.

**B. That further studies made or accepted by the department of planning and development services indicate changed conditions that show the need for the amendment.**

There have been no studies made or accepted by the PDS that indicate changed conditions that show the need for the amendments. However, in recent history
there have been instances documented that may support some of the amendments.

- **Exhibit A – Proposed Policy 8K-2:** Consider the maintenance and upgrade of public roads before designating MRLs and approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

- **Exhibit B – Proposed Policy 8K-2:** Consider the maintenance and upgrade of public roads before approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

**Staff Comment:** The underline represents changed conditions from the present policy. Within the past few years, applications for MRL designation have resulted in a public process where citizens have requested that impacts from mineral extraction be considered as part of MRL designation. Proponents of MRL designation note that the purpose of designation is to protect the resource from incompatible uses, and that designation is not a right-to-mine. Twice since 2006, a Comprehensive Plan map and zoning map amendment application for the expansion of a MRL designation has reached the County Council, and both times the amendment was not approved by Council. Consideration of maintenance and upgrade of public roads may not be possible without a mineral extraction plan, which is not presently required as part of the MRL designation process. Mineral extraction permits are presently reviewed by Public Works – Engineering for potential impacts to public roads, and necessary maintenance and upgrading of the roads may be required for approval.

- **Exhibit A – Proposed Policy 8K-7:** Designate site-specific mineral resource lands only after mineral extraction impacts have been anticipated and evaluated, and potential adverse environmental impacts have been addressed through appropriate mitigation and/or reasonable alternatives.

- **Exhibit B – Proposed Policy 8K-7:**
  The surface Mining Advisory Committee did not recommend approval of this proposed policy.

**Staff Comment:** Within the past few years, applications for MRL designation have resulted in a public process where citizens have requested that impacts from mineral extraction be considered as part of MRL designation. Proponents of MRL designation note that the purpose of designation is to protect the resource from incompatible uses, and that designation is not a right-to-mine. Twice since 2006, a Comprehensive Plan map and zoning map amendment application for the expansion of a MRL designation has reached the County Council, and both times the amendment was not approved by Council. Anticipation and evaluation of potential adverse environmental impacts associated with mineral extraction, and mitigation and/or reasonable alternatives may not be possible without a mineral extraction plan, which is not presently required as part of the MRL designation process.
• **Exhibit A – Proposed Policy 8K-8**: Expansion of existing MRL designations for a mine site will require that the existing mine is in full compliance with all permits and regulations.

• **Exhibit B – Proposed Policy 8K-8**: Expansion of MRL designations to parcels contiguous to, and in common ownership with, an existing mine, may require that the existing mine is in compliance with all operating permits and regulations.

**Staff Comment:** In December 2010, Whatcom County PDS received an application for a Comprehensive Plan map and zoning map amendment to expand an existing MRL designation. The mine associated with the MRL designation has received stop work orders and been assessed penalties as part of a notice of violation. The operation within this MRL is now going through receivership. No work has been done on the Comprehensive Plan MRL expansion amendment for over 2 years, and there is presently no mining activity occurring. The proposed policy in Exhibit B attempts to clarify that non-compliance by a mineral extraction operator would not impact the ability of another landowner to expand an MRL designation.

• **Exhibit A and Exhibit B – Proposed Policy 8Q-4**: Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:
  (1) on-site environmental review, with county as lead agency, and
  (2) application of appropriate site specific conditions, and
  (3) notification to neighboring property owners within 1,000 feet to insure opportunity for written and oral input and/or appeal, and
  (4) access to de novo review by the Hearing Examiner if administrative approval is denied or appealed.

**Staff Comment:** The underlines and strikethroughs represent changed conditions from the present policy. In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. However, it is worth noting that, according to former PDS geologist, Doug Goldthorp:
"Since the inception of the surface mining administrative approval use permit requirement in 1997, 24 surface mining administrative approval use applications (ADMs), and the 3 amendment applications to those ADMs have been conditionally approved. There was either a DNS, MDNS, and one DS SEPA determination in each case. Of the 27 combined ADMs, ADM amendments and associated SEPA determinations, 3 appeals (11%) have been filed and adjudicated by the WC Hearing Examiner. In all 3 cases, the Hearing Examiner has upheld the staff determination. In a few cases, the Hearing Examiner determination has been upheld by the WC Council, and in one case, upheld by the WA Superior Court."

This information indicates that, while the sample size is relatively small, the Technical Administrator’s determinations have been upheld as appropriate, when challenged. However, the purpose of the amendment is to ensure a public process that is presently absent, and this amendment would provide an avenue for a public process.

C. That the public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

1. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the Comprehensive Plan.

   Staff Comment: There is no anticipated effect upon the rate or distribution of population growth, employment growth or development of land as envisioned in the Comprehensive Plan, as a result of the proposed Comprehensive Plan amendments under Exhibit B. However, under Exhibit A, lands that have a proven resource may become converted to a use incompatible with surface mining if mineral resource extraction companies don’t pursue designation as a result of increased costs and lack certainty in the designation process.

2. The anticipated effect upon the ability of the County and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

   Staff Comment: Under Exhibit A, the proposed Comprehensive Plan amendments may affect the ability of the County and/or other service providers to provide adequate services and public facilities including transportation facilities, though not necessarily through an increased demand for services. Recent efforts to designate lands for mineral extraction have failed. Mining companies may be hesitant to apply for designation, due to the costs associated with studies to determine potential impacts/mitigation/alternatives, if there are no reassurances that they could recoup the costs through designation and subsequent mineral extraction.
Additionally, by limiting MRL designations in forest lands to 20 acres at a time, large areas of potential resources may not be efficiently extracted. This situation may result in increased costs for the resource. If mining companies decide to not apply for new designations in Whatcom County, the costs of mineral resources would likely climb as the local supply diminishes and more costly imports become a primary source of material. If the costs of capital facilities increase, there may be less money throughout the rest of the provider's budget.

Staff does not anticipate Exhibit B will affect the ability of the County or other service providers to provide adequate services and public facilities.

3. **Anticipated impact upon designated agricultural, forest and mineral resource lands.**

Staff Comment: Under Exhibit A, the proposed amendments may discourage mining companies from applying for designation, due to the costs associated with studies to determine potential impacts/mitigation/alternatives, if there are no reassurances that they could recoup the costs through designation and subsequent mineral extraction. If true, the rate of conversion to mineral resource lands from agriculture and forestry would likely slow, positively impacting the protection of agriculture and forestry lands. However, the proposed amendments would then, necessarily, negatively impact the availability of mineral resource lands.

Staff does not anticipate Exhibit B will impact designated agricultural, forest or mineral resource lands.

**D. That the amendment does not include nor facilitate illegal spot zoning.**

According to the Official Whatcom County Zoning Ordinance:

"Illegal spot zoning" means a zoning action by which a smaller area is singled out of a larger area or district and specially zoned for a use classification totally different from, and inconsistent with, the classification of surrounding land and not in accordance with the Comprehensive Plan. Spot zoning is zoning for private gain designed to favor or benefit a particular individual or group and not the welfare of the community as a whole (WCC 20.97.186).

Staff Comment: The proposed amendments within Exhibit A and Exhibit B do not change the zoning of any area; therefore the amendment does not include nor facilitate illegal spot zoning.

For zoning text amendments, Planning and Development Services shall conduct environmental review under SEPA and prepare a staff report including recommendations and/or options for the initiated amendment. The report and
result of environmental review to the appropriate hearing body, in this case the Planning Commission. The Planning Commission shall evaluate the merits of each amendment in relationship to the goals, policies and objectives of the Comprehensive Plan and make a recommendation as to whether the amendment should be approved, approved with modifications or denied. The following goals and policies of the Comprehensive Plan apply to the subject zoning text amendments.

**Goal 2G:** Encourage citizen participation in the decision-making process

**Staff Comment:** In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

**Policy 2D-3:** Streamline development regulations to eliminate unnecessary time delays.

**Staff Comment:** Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. In both Exhibit A and Exhibit B, by changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

**Policy 7D-7:** Streamline and coordinate the permit process and sustain a supportive customer service approach towards permitting.

**Staff Comment:** Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. In both Exhibit A and Exhibit B, by changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

**Policy 8K-1:** Avoid significant mineral extraction impacts on adjacent or nearby land uses, public health and safety, or natural resources.

**Staff Comment:** In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case
of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

**Exhibit A – Proposed Policy 8K-2:** Consider the maintenance and upgrade of public roads before designating MRLs and approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

**Exhibit B – Proposed Policy 8K-2:** Consider the maintenance and upgrade of public roads before approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

**Staff Comment:** In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the SEPA process, impacts to public roads are considered through Checklist Item #14 – Transportation as part of the permitting process. Exhibit B proposes that all traffic, not just truck traffic, on county roads be addressed in a fair and equitable fashion.

**Policy 8N-2:** Allow rock crushing, washing and sorting in the forest zones when appropriate as long as conflicts with other land uses can be mitigated.

**Staff Comment:** Rock crushing, washing and sorting are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Both exhibits propose amendments to Policy 8Q-4 that alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.
**Policy 8N-3:** Allow commercial surface mining operations in the forest zones when appropriate as long as conflicts with other land use zones can be mitigated.

**Staff Comment:** Commercial surface mining operations are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Both exhibits propose amendments to Policy 8Q-4 that alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

**Policy 8Q-4:** Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:

1. On-site environmental review, with county as lead agency,
2. Application of appropriate site specific conditions, and
3. Notification to neighboring property owners within 1,000 feet to insure opportunity for written and oral input and/or appeal, and
4. Access to de novo review by the Hearing Examiner if administrative approval or denial is appealed.

**Staff Comment:** In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Criterion #4 of Policy 8Q-4 would be unnecessary through the conditional use process, since conditional use approval is made by the Hearing Examiner. Since conditional use permits undergo a public hearing before the Hearing Examiner, the conditional use permitting process allows for oral input, as opposed to the administrative approval process which has no associated public hearing.

**Goal 10J:** Minimize conflicts between different land uses.

**Staff Comment:** In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing
before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

**Policy 11B-5:** Process the environmental review of building and development applications within an established time-frame that is predictable and expeditious.

**Staff Comment:** In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Whatcom County Code (WCC) 2.33 – Permit Review Procedures states that unless otherwise exempted in WCC 2.33.020 or 2.33.090(C), the county shall issue a notice of final decision on an administrative approval use or conditional use within 90 days of the date of completeness if the project is exempt from SEPA review. If the project is subject to SEPA review, the county shall issue a notice of final decision within 120 days.

**Lack of Goals or Policy:** The following are proposed amendments to the zoning code that are neither supported, nor opposed, by the goals and policies within the comprehensive plan. The present zoning code language is presented first, followed by the proposed amendments within Exhibits A and B.

**WCC 20.42.058 and 20.43.055 – Permitted uses within Rural and Commercial Forestry:** Surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW); provided that administrative approval is required for accessory rock crushing activities located within 1,000 feet from a rural or residential district.
- **Exhibit A:** Proposes changing the permitting process from administrative approval use to conditional use and extending the locational criteria to 2,000 ft.
- **Exhibit B:** Proposes changing the permitting process from administrative approval use to conditional use, but leaving the locational criteria at 1,000 ft.

**WCC 20.73.132 – Administrative Approval uses in the Mineral Resource Lands overlay:** Rock crushing within Commercial and Rural Forestry Districts.
- **Exhibit A:** Proposes adding the following language to the end of the code: "when located further than 2,000 feet from a rural or residential district."
- **Exhibit B:** Proposes adding the following language to the end of the code: "when located further than 1,000 feet from a rural or residential district."

**Proposed WCC 20.73.153(1) – Conditional uses in the Mineral Resource Lands Overlay (note: this language would replace administrative approval use language, if the permitting process is changed from administrative approval use to conditional use):** The notification requirements of WCC
2.33.060.D.2.b shall be expanded to all property owners within 1,000 ft. of the external boundaries of the subject property.

- **Exhibit A**: Proposes expanding the notification area to 2,000 ft.
- **Exhibit B**: Proposes leaving the notification area at 1,000 ft.

**Proposed WCC 20.73.153(6) – Conditional uses in the Mineral Resource Lands overlay (note: this language would replace administrative approval use language, if the permitting process is changed from administrative approval use to conditional use)**: Notice of the decision shall be mailed to all property owners within 1,000 feet of the external boundaries of the subject property within two days of issuance of the decision. The applicant shall provide typed, self-adhering mailing labels with the names and addresses of all property owners within 1,000 feet of the subject property with the application to facilitate the notice.

- **Exhibit A**: Proposes expanding the notification area to 2,000 ft.
- **Exhibit B**: Proposes leaving the notification area at 1,000 ft.

**Exhibit B - Proposed WCC 20.73.153(7) – Conditional uses in the Mineral Resources Lands overlay (note: this language is new and is not proposed in Exhibit A)**: Where the underlying zoning is Rural Forestry or Commercial Forestry, prior to moving on to a new phase, previously mined areas shall meet reclamation criteria as identified on an approved Department of Natural Resources Surface Mining Reclamation Permit.

**State Environmental Policy Act**

**Staff Comment**: A SEPA Determination of Nonsignificance was issued on July 5, 2013. The associated comment period ended on July 19\(^{th}\), 2013 and the appeal period concluded July 29\(^{th}\), 2013.

**IV. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION**

1. An application for Comprehensive Plan and related zoning amendments was received by Whatcom County on December 21, 2012.

2. A revised application for Comprehensive Plan and related zoning amendments was received by Whatcom County on January 23, 2013.

3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on July 5, 2013. The associated comment period ended July 19, 2013 and the appeal period concluded July 29, 2013.

4. The Surface Mining Advisory Committee held work sessions with Whatcom County PDS Staff on March 26, 2014; April 23, 2014; May 28, 2014, June 25, 2014; and July 23, 2014.

5. A press release of the Planning Commission briefing was published in the Bellingham Herald on 09/08/2014
6. The Planning Commission held a work session on September 11, 2014.

7. The Planning Commission held a public hearing on October 23, 2014.

8. Notice of the proposed amendment was sent to the Department of Commerce on 8/15/2014.

9. On 08/20/2014 the Department of Commerce acknowledged receipt of the notice, and that a copy of the notice had been forwarded to other state agencies.

10. The Growth Management Act (GMA) includes multiple planning goals that are relevant to the proposed comprehensive plan amendments.

11. GMA Planning Goal #7: Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

Through previous MRL designation proposals, it has been affirmed that MRL designation is not a "right-to-mine", insomuch as upon receiving MRL designation, a permit is still required for the act of mineral extraction.

Exhibit B includes proposed amendments to Policy 8K-2 that clarify that maintenance and upgrade of public roads take place before approving mineral extraction. This would ensure that any necessary maintenance or upgrades are in direct relationship to an impact from a specific mineral extraction permit. This policy also clarifies that all traffic, not just truck traffic, on county roads is addressed in a fair and equitable fashion.

12. GMA Planning Goal #11: Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts

Exhibit B proposes amendments to Policy 8Q-4 altering the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.
13. Whatcom County’s County-Wide Planning Policy A-3 states: Policy 7D-7: Citizens shall be notified in a timely manner of opportunities to have input and key decision points in the planning process. This should include actions such as use of telephone hotlines, notification to interest groups, pre-development meetings, early incorporation of public comments and broader notification of property owners and residents during a planning process as well as working more extensively with community and neighborhood groups. The cities shall also develop a public participation process to solicit and incorporate comments from residents outside city limits but within proposed Urban Growth Areas

Exhibit B proposes amendments to Policy 8Q-4 altering the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

14. There are no interlocal agreements affecting the proposed amendments.

15. Whatcom County Comprehensive Plan contains goals and policies that are applicable to the proposal.

16. Proposed Policy 8K-2: Consider the maintenance and upgrade of public roads before approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

The underline represents changed conditions from the present policy. Within the past few years, applications for MRL designation have resulted in a public process where citizens have requested that impacts from mineral extraction be considered as part of MRL designation. Proponents of MRL designation note that the purpose of designation is to protect the resource from incompatible uses, and that designation is not a right-to-mine. Twice since 2006, a Comprehensive Plan map and zoning map amendment application for the expansion of a MRL designation has reached the County Council, and both times the amendment was not approved by Council. Consideration of maintenance and upgrade of public roads may not be possible without a mineral extraction plan, which is not presently required as part of the MRL designation process. Mineral extraction permits are presently reviewed by Public Works – Engineering for potential impacts to public roads, and necessary maintenance and upgrading of the roads may be required for approval.
Exhibit B proposes amendments altering the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the SEPA process, impacts to public roads are considered through Checklist Item #14 – Transportation as part of the permitting process. Exhibit B proposes that all traffic, not just truck traffic, on county roads be addressed in a fair and equitable fashion.

17. Proposed Policy 8K-8: Expansion of MRL designations to parcels contiguous to, and in common ownership with, an existing mine, may require that the existing mine is in compliance with all operating permits and regulations.

In December 2010, Whatcom County PDS received an application for a Comprehensive Plan map and zoning map amendment to expand an existing MRL designation. The mine associated with the MRL designation has received stop work orders and been assessed penalties as part of a notice of violation. The operation within this MRL is now going through receivership. No work has been done on the Comprehensive Plan MRL expansion amendment for over 2 years, and there is presently no mining activity occurring. The proposed policy in Exhibit B attempts to clarify that non-compliance by a mineral extraction operator would not impact the ability of another landowner to expand an MRL designation.

18. Proposed Policy 8Q-4: Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:
   1. On-site environmental review, with county as lead agency, and
   2. application of appropriate site specific conditions, and
   3. notification to neighboring property owners within 1,000 feet to insure opportunity for written and oral input and/or appeal, and
   4. access to de novo review by the Hearing Examiner if administrative approval is denied or appealed.

The underlines and strikethroughs represent changed conditions from the present policy. The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Criterion #4 of Policy 8Q-4 would be unnecessary through the conditional use process, since conditional use approval is made by the Hearing Examiner. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed
amendment would result in a public hearing process that is presently absent without the need for an appeal. However, it is worth noting that, according to former PDS geologist, Doug Goldthorp:

"Since the inception of the surface mining administrative approval use permit requirement in 1997, 24 surface mining administrative approval use applications (ADMIs), and the 3 amendment applications to those ADMIs have been conditionally approved. There was either a DNS, MDNS, and one DS SEPA determination in each case. Of the 27 combined ADMIs, ADM amendments and associated SEPA determinations, 3 appeals (11%) have been filed and adjudicated by the WC Hearing Examiner. In all 3 cases, the Hearing Examiner has upheld the staff determination. In a few cases, the Hearing Examiner determination has been upheld by the WC Council, and in one case, upheld by the WA Superior Court."

This information indicates that, while the sample size is relatively small, the Technical Administrator's determinations have been upheld as appropriate, when challenged. However, the purpose of the amendment is to ensure a public process that is presently absent, and this amendment would provide an avenue for a public process.

19. There is no anticipated effect upon the rate or distribution of population growth, employment growth or development of land as envisioned in the Comprehensive Plan, as a result of the proposed Comprehensive Plan amendments under Exhibit B.

20. Staff does not anticipate Exhibit B will affect the ability of the County or other service providers to provide adequate services and public facilities.

21. Staff does not anticipate Exhibit B will impact designated agricultural, forest or mineral resource lands.

22. Goal 2G: Encourage citizen participation in the decision-making process

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.
23. Policy 2D-3: Streamline development regulations to eliminate unnecessary time delays.

Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. By changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

24. Policy 7D-7: Streamline and coordinate the permit process and sustain a supportive customer service approach towards permitting.

Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. By changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

25. Policy 8K-1: Avoid significant mineral extraction impacts on adjacent or nearby land uses, public health and safety, or natural resources.

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

26. Policy 8N-2: Allow rock crushing, washing and sorting in the forest zones when appropriate as long as conflicts with other land uses can be mitigated.

Rock crushing, washing and sorting are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be).
Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

27. Policy 8N-3: Allow commercial surface mining operations in the forest zones when appropriate as long as conflicts with other land use zones can be mitigated.

Commercial surface mining operations are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

28. Goal 10J: Minimize conflicts between different land uses.

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

29. Policy 11B-5: Process the environmental review of building and development applications within an established time-frame that is predictable and expeditious.

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if
certain thresholds are met (which in the case of commercial mineral extraction they would be). Whatcom County Code (WCC) 2.33 – Permit Review Procedures states that unless otherwise exempted in WCC 2.33.020 or 2.33.090(C), the county shall issue a notice of final decision on an administrative approval use or conditional use within 90 days of the date of completeness if the project is exempt from SEPA review. If the project is subject to SEPA review, the county shall issue a notice of final decision within 120 days.

30. The Washington State Department of Natural Resources completed a study entitled *Reconnaissance Investigation of Sand, Gravel, and Quarried Bedrock Resources in the Bellingham 1:100,000 Quadrangle, Washington* (Jan. 2001). This study indicates that the working lifetime of most of the significant pits in the county is 10 to 20 years (p. 5).

31. The *Whatcom County Surface Mining Advisory Committee Final Report and Recommendations* (October 20, 2004) states:

>. Theoretically, there is enough total supply in existing MRLs to satisfy demand over the first 20 years of the planning period. However, there is an imbalance in the demand and supply of sand and gravel. There is a greater need for gravel resources than sand and, as we approach the end of the 20-year planning period, we can anticipate a shortage of gravel. Additionally, shortly after the 20-year planning period, we will run out of sand and gravel resources if existing MRLs are not expanded. . . (p. 7).

V. PROPOSED CONCLUSION

The subject Comprehensive Plan amendments are consistent with the approval criteria of WCC 2.160.080. The subject zoning text amendments were processed in accordance with WCC 20.90.050.

VI. RECOMMENDATION

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends approval of the proposed amendments as shown in Exhibit B. The Whatcom County Planning Commission also strongly recommends that Whatcom County take a lead role in designating mineral resource lands of long-term commercial significance in order to protect the resource from incompatible uses, as opposed to the present process of landowner initiated amendments.
PROPOSAL BY THE WHATCOM COUNTY SURFACE MINING COMMITTEE
TO USE CONDITIONAL USE RATHER THAN ADMINISTRATIVE REVIEW AS
THE PROCESS FOR MINE PERMITTING

Proposal

The Whatcom County Surface Mining Advisory Committee (SMAC) is proposing use of
the conditional use rather than the administrative approval review process for mine
permitting. The Committee is making this recommendation because the majority of
Committee members believe that this will result in a more open, efficient and timely
process.

Introduction

The Whatcom County Planning Commission questioned the Whatcom County Surface
Mining Advisory Committee’s recommendation for using conditional use permits.
Administrative review based on a staff decision without a public hearing is the current
procedure for mine permitting in Whatcom County. The SMAC decision is based on a
review of Comprehensive Plan amendments proposed by Whatcom County Councilman
Carl Weimer and Councilwoman Barbara Brenner, and Whatcom County Planning and
Development Services staff recommendations. Both sets of recommendations are
intended to, “ensure that mineral extraction industries do not adversely affect the quality
of life in Whatcom County...”¹ address the Mineral Resource Land (MRL) approval
process² and identify criteria for designating MRLs³. Membership of the SMAC includes
a citizen who lives close to an existing mine, two representatives from the mining
industry, two geologists, a geotechnical engineer, an ecologist, a forester, and a
representative from the Whatcom Conservation District.

Discussion

A majority of the SMAC believe, as is the current practice, that public hearings should
occur before an MRL designation is made by the County Council, with the understanding
that an MRL designation does not constitute a right to mine nor should the impact of
mining be addressed prior to an MRL designation. Because of the cost, as well as
uncertainty in designation, mining impacts should be addressed in the State
Environmental Policy Act (SEPA) review for a site-specific mining permit. The
estimated costs for an Environmental Impact Statement through SEPA review range from
$50K to $200K. In addition to the SEPA review, site-specific comments by affected
citizens and any site-specific conditions should be considered by a Hearing Examiner
before a decision is made to permit mining.

¹ Whatcom County Comprehensive Plan, Chapter 8 Resource Lands, Section 8K Adverse Impacts
² Whatcom County Comprehensive Plan, Chapter 8 Resource Lands, Section 8P MRL Approval Process
³ Whatcom County Comprehensive Plan, Chapter 8 Mineral Resource Lands (MRL) – Designation Criteria,
Non-Metallic Deposits.
The rationale for changing from an administrative review to a conditional use mine permitting process includes the following:

- Uncertainties and inconsistencies in the approach the Whatcom County Planning and Development Services staff may take when reviewing permit applications,
- Citizens should be encouraged to engage early in the decision making process,
- Citizen participation will provide applicants for mining permits with early identification of perceived as well as real pitfalls, safety concerns and impacts of mining thus enabling applicants to address mitigation before concerns spiral out of control,
- Citizen involvement will result in recognition of conflicts between competing land uses, and
- Early citizen participation in the decision making process may reduce the number of challenges through appeals, thus minimizing time delays during the mine permitting process.

Conclusion

The Whatcom County Surface Mining Advisory Committee recommends the conditional use rather than the administrative approval review process because the Committee believes the conditional use process promotes open decision making, allows citizens to consider and understand alternatives and voice their concerns before any decision is made. Open decision making and early discussion may also shorten the time between application and issuance of a permit to mine. Criteria to be used by a Hearing Officer should be clearly identified when deciding whether a mine should be permitted during the conditional use review process. It is essential that all interested parties have an early understanding of issues influencing a decision so that these can be discussed and understood before a decision is made to assure maximum efficiency.
Comprehensive Plan Map and Zoning Map Amendment - MRL Designation process

**Present/SMAC Recommendation**
- MRL Comprehensive Plan Map and Zoning Map amendment application
  - SEPA (Non-Project Action, historically DNS)
  - Legal notice published in newspaper
  - Staff Report
    - Zoning Review
    - Comp Plan Review
    - GMA Review
  - Planning Commission
    - Public Hearing
    - At least 30 days prior to hearing: Legal notice published in newspaper; notification to neighbors within 1,000 ft; Notice posted on site
  - County Council
    - Concurrent Review
    - Public Hearing**
    - Decision
    - Notification in Herald 10-days prior to hearing

**Applicant Proposal**
- MRL Comprehensive Plan Map and Zoning Map amendment application
  - SEPA (Project-Specific Action; may require RIS if IS is issued)
    - Legal notice published in newspaper
    - Review of SEPA impacts and address potential adverse
  - Staff Report
    - Zoning Review
    - Comp Plan Review
    - GMA Review
  - Planning Commission
    - Public Hearing
    - At least 10 days prior to hearing: Legal notice published in newspaper; notification to neighbors within 1,000 ft; Notice posted on site
  - County Council
    - Concurrent Review
    - Public Hearing**
    - Decision
    - Notification in Herald 10-days prior to hearing

**County Council may deny amendment regardless of whether the application meets designation criteria**
Permitting process for mineral extraction

<table>
<thead>
<tr>
<th>PRESENT</th>
<th>SMAC RECOMMENDATION</th>
<th>APPLICATION</th>
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<tr>
<td>Administrative Approval Use &lt;br&gt;- Notification to neighbors within 1,000 ft. &lt;br&gt;- SEPA (project specific action) if over 500 cu yds &lt;br&gt;- Staff Decision &lt;br&gt;- Notice posted on-site</td>
<td>Conditional Use &lt;br&gt;- Notification to neighbors within 1,000 ft &lt;br&gt;- SEPA (project specific action) if over 500 cu yds &lt;br&gt;- Staff Recommendation &lt;br&gt;- Public Hearing &lt;br&gt;- Hearing Examiner Decision</td>
<td>Conditional Use &lt;br&gt;- Notification to neighbors within 2,000 ft &lt;br&gt;- SEPA (project specific action) if over 500 cu yds (completed as part of designation) &lt;br&gt;- Staff Recommendation &lt;br&gt;- Public Hearing &lt;br&gt;- Hearing Examiner Decision</td>
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FINDINGS OF FACT AND REASONS FOR ACTION

1. An application for Comprehensive Plan and related zoning amendments was received by Whatcom County on December 21, 2012.

2. A revised application for Comprehensive Plan and related zoning amendments was received by Whatcom County on January 23, 2013.

3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on July 5, 2013. The associated comment period ended July 19, 2013 and the appeal period concluded July 29, 2013.

4. The Surface Mining Advisory Committee held work sessions with Whatcom County PDS Staff on March 26, 2014; April 23, 2014; May 28, 2014, June 25, 2014; and July 23, 2014.

5. A press release of the Planning Commission briefing was published in the Bellingham Herald on 09/08/2014.

6. The Planning Commission held a work session on September 11, 2014.

7. The Planning Commission held a public hearing on October 23, 2014.

8. Notice of the proposed amendment was sent to the Department of Commerce on 8/15/2014.

9. On 08/20/2014 the Department of Commerce acknowledged receipt of the notice, and that a copy of the notice had been forwarded to other state agencies.

10. The Growth Management Act (GMA) includes multiple planning goals that are relevant to the proposed comprehensive plan amendments.

11. GMA Planning Goal #7: Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

Through previous MRL designation proposals, it has been affirmed that MRL designation is not a “right-to-mine”, insomuch as upon receiving MRL
designation, a permit is still required for the act of mineral extraction.

Exhibit B includes proposed amendments to Policy 8K-2 that clarify that maintenance and upgrade of public roads take place before approving mineral extraction. This would ensure that any necessary maintenance or upgrades are in direct relationship to an impact from a specific mineral extraction permit. This policy also clarifies that all traffic, not just truck traffic, on county roads is addressed in a fair and equitable fashion.

12. GMA Planning Goal #11: Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts

Exhibit B proposes amendments to Policy 8Q-4 altering the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

13. Whatcom County’s County-Wide Planning Policy A-3 states: Policy 7D-7: Citizens shall be notified in a timely manner of opportunities to have input and key decision points in the planning process. This should include actions such as use of telephone hotlines, notification to interest groups, pre-development meetings, early incorporation of public comments and broader notification of property owners and residents during a planning process as well as working more extensively with community and neighborhood groups. The cities shall also develop a public participation process to solicit and incorporate comments from residents outside city limits but within proposed Urban Growth Areas

Exhibit B proposes amendments to Policy 8Q-4 altering the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.
14. There are no interlocal agreements affecting the proposed amendments.

15. Whatcom County Comprehensive Plan contains goals and policies that are applicable to the proposal.

16. Proposed Policy 8K-2: Consider the maintenance and upgrade of public roads before approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

The underline represents changed conditions from the present policy. Within the past few years, applications for MRL designation have resulted in a public process where citizens have requested that impacts from mineral extraction be considered as part of MRL designation. Proponents of MRL designation note that the purpose of designation is to protect the resource from incompatible uses, and that designation is not a right-to-mine. Twice since 2006, a Comprehensive Plan map and zoning map amendment application for the expansion of a MRL designation has reached the County Council, and both times the amendment was not approved by Council. Consideration of maintenance and upgrade of public roads may not be possible without a mineral extraction plan, which is not presently required as part of the MRL designation process. Mineral extraction permits are presently reviewed by Public Works – Engineering for potential impacts to public roads, and necessary maintenance and upgrading of the roads may be required for approval.

Exhibit B proposes amendments altering the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the SEPA process, impacts to public roads are considered through Checklist Item #14 – Transportation as part of the permitting process. Exhibit B proposes that all traffic, not just truck traffic, on county roads be addressed in a fair and equitable fashion.

17. Proposed Policy 8K-8: Expansion of MRL designations to parcels contiguous to, and in common ownership with, an existing mine, may require that the existing mine is in compliance with all operating permits and regulations.

In December 2010, Whatcom County PDS received an application for a Comprehensive Plan map and zoning map amendment to expand an existing MRL designation. The mine associated with the MRL designation has received stop work orders and been assessed penalties as part of a notice of violation. The operation within this MRL is now going through receivership. No work has been done on the Comprehensive Plan MRL expansion amendment for over 2 years, and there is presently no mining activity occurring. The proposed policy in Exhibit B attempts to clarify that non-compliance by a mineral extraction operator would not impact the ability of
another landowner to expand an MRL designation.

18. Proposed Policy 8Q-4: Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:
   (1) On-site environmental review, with county as lead agency, and
   (2) application of appropriate site specific conditions, and
   (3) notification to neighboring property owners within 1,000 feet to insure opportunity for written and oral input and/or appeal, and
   (4) access to de novo review by the Hearing Examiner if administrative approval is denied or appealed.

The underlines and strikethroughs represent changed conditions from the present policy. The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Criterion #4 of Policy 8Q-4 would be unnecessary through the conditional use process, since conditional use approval is made by the Hearing Examiner. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. However, it is worth noting that, according to former PDS geologist, Doug Goldthorp:

"Since the inception of the surface mining administrative approval use permit requirement in 1997, 24 surface mining administrative approval use applications (ADMs), and the 3 amendment applications to those ADMs have been conditionally approved. There was either a DNS, MDNS, and one DS SEPA determination in each case. Of the 27 combined ADMs, ADM amendments and associated SEPA determinations, 3 appeals (11%) have been filed and adjudicated by the WC Hearing Examiner. In all 3 cases, the Hearing Examiner has upheld the staff determination. In a few cases, the Hearing Examiner determination has been upheld by the WC Council, and in one case, upheld by the WA Superior Court."

This information indicates that, while the sample size is relatively small, the Technical Administrator’s determinations have been upheld as appropriate, when challenged. However, the purpose of the amendment is to ensure a public process that is presently absent, and this amendment would provide an avenue for a public process.

19. There is no anticipated effect upon the rate or distribution of population growth, employment growth or development of land as envisioned in the
Comprehensive Plan, as a result of the proposed Comprehensive Plan amendments under Exhibit B.

20. Staff does not anticipate Exhibit B will affect the ability of the County or other service providers to provide adequate services and public facilities.

21. Staff does not anticipate Exhibit B will impact designated agricultural, forest or mineral resource lands.

22. Goal 2G: Encourage citizen participation in the decision-making process

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

23. Policy 2D-3: Streamline development regulations to eliminate unnecessary time delays.

Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. By changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

24. Policy 7D-7: Streamline and coordinate the permit process and sustain a supportive customer service approach towards permitting.

Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. By changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

25. Policy 8K-1: Avoid significant mineral extraction impacts on adjacent or nearby land uses, public health and safety, or natural resources.
The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

26. Policy 8N-2: Allow rock crushing, washing and sorting in the forest zones when appropriate as long as conflicts with other land uses can be mitigated.

Rock crushing, washing and sorting are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

27. Policy 8N-3: Allow commercial surface mining operations in the forest zones when appropriate as long as conflicts with other land use zones can be mitigated.

Commercial surface mining operations are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.
28. Goal 10J: Minimize conflicts between different land uses.

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

29. Policy 11B-5: Process the environmental review of building and development applications within an established time-frame that is predictable and expeditious.

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Whatcom County Code (WCC) 2.33 – Permit Review Procedures states that unless otherwise exempted in WCC 2.33.020 or 2.33.090(C), the county shall issue a notice of final decision on an administrative approval use or conditional use within 90 days of the date of completeness if the project is exempt from SEPA review. If the project is subject to SEPA review, the county shall issue a notice of final decision within 120 days.

30. The Washington State Department of Natural Resources completed a study entitled Reconnaissance Investigation of Sand, Gravel, and Quarried Bedrock Resources in the Bellingham 1:100,000 Quadrangle, Washington (Jan. 2001). This study indicates that the working lifetime of most of the significant pits in the county is 10 to 20 years (p. 5).

31. The Whatcom County Surface Mining Advisory Committee Final Report and Recommendations (October 20, 2004) states:

    . . . Theoretically, there is enough total supply in existing MRLs to satisfy demand over the first 20 years of the planning period. However, there is an imbalance in the demand and supply of sand and gravel. There is a greater need for gravel resources than sand and, as we approach the end of the 20-year planning period, we can anticipate
a shortage of gravel. Additionally, shortly after the 20-year planning period, we will run out of sand and gravel resources if existing MRLs are not expanded. . . (p. 7).

V.  PROPOSED CONCLUSION

The subject Comprehensive Plan amendments are consistent with the approval criteria of WCC 2.160.080. The subject zoning text amendments were processed in accordance with WCC 20.90.050.

VI.  RECOMMENDATION

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends approval of the proposed amendments as shown in Exhibit B. The Whatcom County Planning Commission also strongly recommends that Whatcom County take a lead role in designating mineral resource lands of long-term commercial significance in order to protect the resource from incompatible uses, as opposed to the present process of landowner initiated amendments.

WHATCOM COUNTY PLANNING COMMISSION

Mary Beth Teigrob, Vice - Chair

Becky Boxx, Secretary

Date

Comments: Commissioners present at the October 23, 2014 meeting when the vote was taken: Gary Honcoop, Ben Elenbaas, Mary Beth Teigrob, Natalie McClendon, Ken Bell.

Vote: Ayes: 5, Nays: 0, Abstain: 0, Absent: 0. Motion carried to recommend approval of Exhibit B.
Regular Meeting

Call To Order: The meeting was called to order, by Whatcom County Planning Commission Chair, David Onkels, in the Northwest Annex Conference Room at 6:30 p.m.

Roll Call
Present: Ben Elenbaas, Jerry Vekved, Gary Honcoop, David Onkels, Mary Beth Teigrob, Ken Bell, Natalie McClendon, David Hunter
Absent: Walter Haugen

Staff Present: Sam Ryan, Erin Osborn, Joshua Fleischmann, Becky Boxx

Department Update
Sam updated the on the following:
- Upcoming commission schedule.
- PDS updates.

Open Session for Public Comment
Clayton Petree, Whatcom County: Stated he was at the Growth Management Coordinating Council meeting earlier in the week. The presentation given addressed the new white paper that is going to be released soon by PDS. Part of the paper addresses growth management tools. He felt the commission would be interested in the rural protection measures. The paper discusses decreased rural densities, rural lot consolidation, a Transfer of Development Rights (TDR) update, Purchase of Development Rights (PDR), rezone of the rural study areas, require agriculture (ag) as a primary use on ag land, ag mitigation, clustering, lot reconfiguration changes, potential permit metering, moratoriums and well limitations. The council mentioned rezoning of 6,000 acres to rural zoning, adding 900 acres to ag and subtracted 3,000 potential units. The rezone rural study areas to ag is a big deal because if you look at the study done there was a lot of acreage involved. A lot of farmers are farming on rural land rather than ag because it is more affordable and easier to finance. Requiring ag as a primary use in the ag zone changes whether or not a farmer can live on his own farm. It seems weird that a farmer can’t live on his farm. There was discussion of ag mitigation which is nebulous now but should be watched at it evolves.

Commissioner Comments
Commissioner Elenbaas stated he spent some time in Okanogan and Douglas Counties last week and met an Okanogan County Planning Commissioner. They recently reviewed their wedding and special events ordinances.

Commissioner Bell let Sam Ryan know what a great staff she has.

Approval of Minutes
July 24, 2014: Commissioner Teigrob moved to approve as written. The motion failed for lack of a second. Commissioner Bell stated he wanted the minutes, regarding attendance at the meetings, to be rewritten to better reflect the discussion.
Regular Meeting

August 14, 2014: Commissioner Honcoop changed page 7, lines 13-14 to read: Vote on the motion to table the proposal until it addresses the 10 percent worst offenders, not the 90 percent best. The motion carried 8-0-1. Commissioner Bell moved to approve as amended. Commissioner McClendon seconded. The motion carried.

File #PLN2014-00016: An amendment to the Official Whatcom County Zoning Ordinance (Title 20), to add new specific provisions for permanent and temporary commercial ‘event type’ uses on private property, such as weddings, receptions, recitals, business or social retreats, fund raisers, wine/food tasting, art exhibits, and festivals. New language is added to WCC 20.80 – Supplemental Requirements to provide for temporary event or permanent event facility parking requirements; new definitions associated with “Temporary Event Facility” and “Permanent Event Facility” are proposed in WCC 20.97 – Definitions. Minor changes to Chapter 20.36 – Rural District and Chapter 20.42 – Rural Forestry District are proposed to clarify intent in regards to occupancy of a recreational vehicle during a “temporary special event or occasion”; and amendments to WCC 20.84.235 to update new procedures, and establish provisions for administrative approval use permit extensions, renewal, and expiration.

Erin Osborn gave an overview of the process to date. The proposal is to amend the text of the zoning code to create new provisions to provide a permit path to obtain approval for commercial event and assembly type uses on private property in the Residential/Rural, Rural/Residential Island, Rural, Agricultural and Rural Forestry districts. These types of uses have typically been permitted as a cottage industry or part of a bed and breakfast operation under the conditional use permit path. The uses typically approved are weddings, receptions, fund raisers, social/business retreats, wine/food tasting, art exhibits, farm/forestry festivals, etc. People don’t think of the cottage industry path when they want to have an event. The process is not very transparent.

Staff has presented two versions. Exhibit C is the more streamlined version. Exhibit F is the more prescriptive version. Exhibit D is the definitions. Exhibit E outlines Rural Forestry and Rural district code. Staff is recommending amendments to provide clarity; amend the administrative approval procedures and add provisions to renew a permit, extend a permit and permit expiration.

Staff stated that zoning text amendments process requires environmental review under the State Environmental Policy Act (SEPA) which has been done. It, and alsoand also requires a review and analysis for consistency with the Whatcom County Comprehensive Plan goals and policies. This has also been done and addressed in the staff report. The goals support this type of permit path and uses.

There are two uses being proposed. One is a temporary event facility. The other is a permanent event facility. The differences are the temporary one is renewable on an annual basis, subject to review, public comment, public review and conditions. The permanent facility is permitted through the conditional use permit process which is heard and approved by the Hearing Examiner. Regarding the permanent facility there is a requirement that the owner of the property live on site. The streamlined version of the proposal states the applicant must outline the type of use they want and number of events. The more prescriptive version states the applicant must submit a proposal that
Regular Meeting

outlines the traffic, buildings, sanitation, etc. Exhibit F limits the temporary events event facility to 250 people and 5 times per year and when camping is proposed requires it to be established on a minimum parcel size of 10 gross acres. Camping would then be allowed with 7 campsites allowed per acre. Both processes require a pre-application meeting. This is very important because there are so many things the applicant may not think of. The noise provisions have been removed from the current versions. This provisions for noise are is addressed in other areas of the zoning code and the state code.

Regarding exemptions, through conversations and input from the public, staff found exemption Exhibit C and Exhibit F. A exemptions, which stated: Private gatherings held at federal, state, or county parks, or on the grounds of legally established commercial or civic facilities did not address things such as garage sales which do not apply to the proposed code needed further clarification. Staff handed out a draft Exhibit C-1 and draft Exhibit F-2 with modifications to the exemption language to clarify when private or public gatherings would be exempt.

The hearing was opened to the public.

Clayton Petree, Whatcom County: Read from the rural lands findings: "The legislature finds that to retain and enhance the job base in rural areas rural counties must have flexibility to create opportunities for business development. Further the legislature finds that rural counties must have the flexibility to retain existing businesses and allow them to expand. The legislature recognizes that not all business development in rural an urban level of service and that many businesses in rural areas fit within the definition of rural character." This is part of how you identify your rural character and what type of businesses you can have. The proposals are pretty restrictive. Unless the county is able to fund some sort of enforcement there will be problems. The county is not able to enforce the rules they have now so it does not make sense to add more rules. One of the most restrictive requirements is the provisions of owner/operator living on the site. It will be very harmful to eco-tourism and lower the well-being of Whatcom County citizens. For example, a growing eco-tourism industry is the farm to table events. It is often done on a farm setting and if successful would likely be in a permanent facility. These events are a good thing. Why would the county restrict this kind of event? Nothing should be adopted that requires the owner/operator to live on the parcel. For larger events, with an unpredictable number of attendees on parking space per three attendees is not only difficult to predict but it is difficult to accommodate. Some events have people stay the entire time while other events have people coming and going. A suggestion would be to exempt any single day events from all of this. Vacation rental units should also be looked at separately. Much more work needs to be done on the proposals. Talk with the Chamber of Commerce, Tourism Bureau, realtors, etc. and form a group of stakeholders.

Mike McKenzie, Whatcom County: He has participated in various fundraising efforts on Lummi Island which were in the form of events on private property. On August 9, 2014 he and a group of stakeholders staged the Lummi Island Reef Net Festival. This has been held for numerous years and is one of the largest events on the island. They spend over $30,000 and meet people from all over the country. The island supports this event 100%. The group met with the County Sheriff, fire department, Coast Guard, etc. Two weeks before the event occurred the group received a phone call from the county stating the
event could not be held because the zoning did not allow it. The concern was the building
the event was to take place in was not permitted and over 1,000 people were expected.
He clarified the event was not taking place in the building but outside and they only
expected 600-700 people. They did get 900 people. In his conversations with the county
he could not understand what was going on. What had happened was there had been a
phone call, from a citizen on the island, complaining about the event. This was not a
formal complaint. He asked who it was but was told that information could not be given
out. A few days before the event a neighbor complained about the amount of people
expected. The issues were mitigated and the event was held but he is concerned about
being able to have the event in the future.

Eric Sundstrom, Whatcom County: He is a farmer who owns land next to Bellewood Acres.
They obtained a conditional use permit in 2011 to operate a farm store. It has morphed
into a lot of other things that has nothing to do with the farm. His main concern is the
noise.

Dick Bosch, Whatcom County: He and his wife operate Glen Echo Gardens on the Y Road.
Eight years ago they developed a seven acre botanical garden which is now considered
the most beautiful tourist attraction north of Seattle and known as Whatcom County’s
hidden secret. It was planned for the purpose of tours, family gatherings, music concerts
and church functions. All of the permits were obtained. A kitchen and restrooms were
built. There is potable water. Four years ago they decided to make the site a wedding
venue as well. They were told they needed a conditional use permit so they applied for it
and started the process. Part of the process was letting the neighbors know the intent of
the business. A good number of the neighbors wrote letters of support. A lot of the
neighbors were very unreasonable and started to complain about everything they were
doing, in particular the amplified music. The neighbor is approximately 1,000 feet away
with a solid buffer of trees to soften the sound. They also complained about the light
coming from their greenhouse. They have grown begonias in their greenhouse for the last
20 years. Every year, for about six or seven weeks they need additional light in order to
get them to bloom. One of the staff in the Planning Department really sided with that
neighbor and wrote the most negative staff report to the Hearing Examiner. As a result
they were slaughtered. First of all the amplified sound was completely banned. They chose
to appeal that restriction and got it back for one hour of amplified music per wedding.
That has cost them $10,000. They have lost a considerable amount of business for
weddings. Three or four years ago they had six or seven weddings per summer. This year
they had only one. They were categorized into three different parts of business. Tours,
small events and weddings. For small events they are only allowed 20 people in the
garden at a time. Therefore they can’t have a bus come for a tour and luncheon. They
were cut back on the hours of business. They have always been open 10 to 6 Monday
through Saturday. The Hearing Examiner cut that back to 10 to 5. This is blatant
discrimination. There is not a single botanical garden, public park or ball field in the United
States with such restrictions. They are also restricted in their religious functions by being
banned from speaking with amplified sound. They have many church functions in the
gardens with elderly people many of who have hearing disabilities. Back to back events
are not allowed. The conditional use permit allows them to expand three more acres of
garden but they are not allowed to employ more than four people. This whole picture is
designed to destroy a most beautiful endeavor. He invited the commission to a free tour of his property.

Pat Hammell, Whatcom County: Both of the proposals sound terribly restrictive. Do these add rules because a few people violated the rules that are already in place? She asked if she had a garage sale, with up to 400 people, on her 20 acre property, does she have to get a permit? (Ms. Osborn asked Ms. Hammell a number of questions including, how often does she have these garage sales, and after considering Ms. Hammell’s response she stated no. That that garage sales would be considered an Accessory use, as it is a use customarily incidental to the residence/residential use of the property.)

Jeremy Spidle, Whatcom County: He has been involved in promoting outdoor music events in the county for 10 years. In the past those uses have been allowed. In the last couple of years the tolerance for these events has really diminished. Do we want to stifle the growth of tourism here? There are too many restrictions. We need to look in the other direction of how to expand outdoor gatherings and attract tourism.

Ms. Osborn clarified that there are other specific provisions in the zoning code that provide an approval process for outdoor music festivals, and she pointed to a large map on the wall, prepared by PDS GIS staff, to show where such uses could be permitted in the Rural District on 10 acre parcels in the R10A zone as a conditional use permit. She passed around a map and the specific code and conditional use permit approval criteria that would apply to gain approval of outdoor music festivals. Staff noted that these uses may also need to be revisited along with WCC 5.40, because WCC 5.40 also has provisions that apply to music festivals, but is silent on the authority of Title 20 as it applies to land use, and so project proponents often don’t understand that if the use is not allowed per zoning, then WCC 5.40 is not going to apply.

Simi Jain, Whatcom County: Representing Triple L, LLC and Linda Haines. They own property at 5129 and 5165 Sand Road. Her client would like to hold medieval pursuit events on their property. They have had these events the last several years but were contacted by the county and told they could no longer have them. Her clients were specifically informed that her client’s medieval pursuit events would not qualify under the cottage industry criteria. There are no provisions currently in the code that would allow these events. The county should specifically allow for these events in the zoning code. It is not necessary to create an entirely new regime to do this. There does not seem to be a lot of difference between the two proposals. Is it necessary to have a permanent and temporary use? Regarding temporary camping her client would like to commission to consider it being exempt, under the Critical Areas Ordinance, as a passive recreational use that is allowed. There is a provision that allows the county to deny almost any application if the applicant continues to create any adverse effects. The criteria is pretty vague. Any event will have noise, traffic, glare, etc. Perhaps qualify it as significant adverse effects.

Gradon Barstad, Whatcom County: Owns Good Times for Good People Productions. He has hosted a music festival titled Worthyfest for the six years. Before this year’s festival they got a call regarding a permit which they knew nothing about. They have never needed a permit before. They were then shut down. They had already spent money and time on the
event which is now wasted. He wants to work with the county but they need to have their
voices heard. They plan to rally all those who may be affected by this issue.

Derek Gavette, Whatcom County: One of the owners of Stoney Ridge Farm. He stated he
was very confused by the rules. Do they apply to him? They sell apples and pumpkins on
their farm about one month out of the year. They never know how many people they will
get. The fees for the permitting process seem to be pretty astounding. Is the county going
to help him get the permit at their expense or does he have to hire an attorney to try to
get through the process?

Tim Herron, Whatcom County: There are times the events he organizes have music
involved. What has not been discussed is the art vendors, the miscellaneous inventors,
food vendors, educational setups, demonstrations, etc. What draws the line between what
is a music festival and what is not? The goal of their events are to get exposure for the
artists. Limiting the number of attendees to 250 is very restrictive. The events aren’t
about making money, it’s about the exposure. One way to find venues is to simply drive
through the rural areas to find good spots and do an impact analysis to make sure it’s
possible. This proposal discourages bringing arts to the community.

Anitra Acceturo, Whatcom County: Noted the staff is trying to balance the county
comprehensive plan goals, rural and agricultural land protection, private property rights,
business opportunities and public safety. That is getting lost in the discussion. It is not
about wanting to restrict business opportunities or expression. The restrictive elements
can be both a blessing and a curse. She is wanting to start some sort of events center and
the rules give her some security knowing that the investment she is making is not going
to be shut down. The tricky part is not making it too restrictive. She questioned where the
proposal of 7 campsites per acre came from and why the requirement for the property
owner/operator. She understands neighbors concern regarding noise, etc. and it should be
clear they receive notification of what is going on.

Elizabeth Gavette, Whatcom County: She was interested in the long term effects of the
proposal. She and her family operate Stoney Ridge Farm. It seems the way the proposal
is currently written it is not clear if the use permit will be transferred when she takes
ownership. There is no stability. She does not see the financial aspect of the proposal
working out for her.

Mike Boxx, Whatcom County: Has a berry farm in the area. The special events on the
farms have evolved over time. They try to do what makes them some money. In the last
three years he has worked with staff to get a conditional use permit for his farm to hold
weddings. They already have a u-pick business so they have a lot of traffic going in and
out of their farm all summer. They are set up for parking, dust, signage, etc. The largest
issue he faced was the requirement that he could not have amplified music. He has 100
acres with 16 adjacent property owners. At the weddings held on the property there have
usually been about 200 people and they all want to have a band. He is allowed 12 events
per summer and only 3 per month. However, he does not have that many because with
no amplified music no one wants to have an event there. Farm noise during the day time
no one pays attention to but music at night travels far and annoys people. Regarding the
farming businesses, such as Bellewood Acres, he understands the neighbors’ concerns.
regularly regarding noise. He understands the parking concerns because of emergency/aid issues that may arise.

Staff clarification: Mr. Boxx’s conditional use permit application narrative (CUP2011-00007) contains a specific request for approval to hold 12 wedding events per year. Conditions of approval allow amplified music, voice, and instrumentation for a period of one hour during the wedding ceremony.

The hearing was closed to the public.

Commissioner Honcoop stated he was surprised this issue was back on the agenda because he thought it was made clear at the previous meeting that the commission wanted this tabled until the proposal addressed the 10 percent worst offenders, not the 90 percent best. It was stated at the meeting the forum should be on the bigger events. What they got back was two more proposals with only the sound issue removed. There is no clarity of the impact this will have to the public. Regarding parking it makes no sense. What is classified as an event? What about farm to market sales? When does that become an event? There is no clarity. Does someone selling Christmas trees need to get a permit?

Ms. Osborn clarified that farm to market and Christmas tree sales are allowed as an accessory use to the property and have nothing to do with the proposal.

Commissioner Honcoop stated there is no clear division.

Ms. Osborn pointed out provisions in the code that address the issue.

Commissioner Bell found it very concerning that events that were already planned were shut down. Because the county did not have its act together they stopped others acts. That is troubling. If we don’t have regulations why are we stopping these things? We need to develop rules before stopping them. Especially those events that have taken place over the last several years and have not affected anyone. He does not see the distinction between commercial and non-commercial events. An impact is an impact. Also it makes no difference who owns or is living on the property. It does not have an impact. What matters is what happens on the day of the event, not who owns it or is making money on it. None of that is relevant yet it is still in the proposal, which is troubling. Acreage size has no relevance to the impact of the event. What is relevant is noise. He is troubled that the Hearing Examiner can tell private business what the hours of operation will be. He thinks they are starting to see a backlash of the restrictions by the Hearing Examiner and
the county. Why the limitation on the number of events? If there is no impact there
should not be a limit. Let’s address what the problems really are.

Commissioner Hunter is troubled by the Planning Commission knee-jerk reaction. What
the commission was told was the same rules are going to apply that already apply. The
function of the proposal is to try and create some clarity. Whether or not that has been
successful is a different question. What happened to the people in the county is not
because of the current regulations. It happened in a system which seems to have too
much whimsy and the ability to react to one complainer. It seems a system of regulations
could be set up to prevent that from happening again. One of the possible benefits of the
proposal is predictability. Once they have gone through the process no one can complain
when the event takes place. He stated it is not clear why some events, which have taken
place in the past, were shut down this time. Maybe people raised questions that hadn’t
been raised before and the Planning Department wasn’t ready to deal with it. This won’t
happen if the regulations are clear. He gets the sense that members of the public would
like that clarity. He has some concern about this creating more problems in enforcement
but there still needs to be clarity. He is curious why the permits don’t go with the land
rather that with the person, so if the land remains unchanged the permit continues. He
would like to know the reasoning for this. He does see a benefit to the regulations even
though they need more clarity. He is inclined to approval of Exhibit F with some changes.

Commissioner Elenbaas stated that to a lawyer or planner the regulations may make
sense but they don’t to him. He was taught that in America there is private property. He is
realizing that isn’t really true. He is baffled by the proposal. All of the different proposals
seem like false choices with a pre-determined middle ground. He does hear people asking
for a clear pathway but this does not seem clear. Anything to do with agriculture should
be taken out. Accessory uses to agriculture are stated as any use on the farm which are
ancillary to the normal primary permitted uses. It seems like it is already covered under
the code. He has a hard time planning away what his neighbor should have a right to do
on their private property.

Commissioner McClendon asked staff some clarifying questions. Were the people shut
down because they did not get the needed permits?

Ms. Osborn stated the event that got shut down on Sand Road, the medieval event, was
because they were about to do a music festival with camping. All land use in the county is
regulated. If it is not a permitted use or an accessory use or cannot be inferred to be
an accessory use, and it is not provided for as an administrative approval use or a
conditional use to the property then all other uses are prohibited. That is why the
proposal specifically includes the rural, agricultural, etc. zones so they aren’t left with
uncertainty to what the rules are. The proposal might not be the best one, secure all fix all
and other jurisdictions have created an agricultural overlay district where they allow in
specific areas agricultural value added uses but it is this would certainly be one step in
the-right direction forward, but again, zoning can change, zoning regulations have the
means for amendment built right into it. Uses such as U-pick and pumpkin patches and
road side stands are a different kind of use than uses that are public gatherings where the
public congregates, celebrates, educates, in typically large numbers, and where there is
live music.
Commissioner McClendon asked on the issue of amplified sound, the reason she brought it up is because the state law is very restrictive, and she asked if the sound issue is in the state law?

Ms. Osborn said "yes" stated amplified noise has been allowed, but usually only for an hour in most cases. The state law is very restrictive and the Hearing Examiner has to follow that law. It's a tough law to comply with.

Commissioner McClendon stated she had the idea to create thresholds that would trigger needing a permit. They included amplified sound within a certain number of feet of a neighbor's residence; having an event more than three times a year, except for farm value added sales; more than 100 cars in a three hour period and past complaints. This looks at the impacts.

Ms. Osborn stated she drafted an Exhibit "XYZ" to outline Commissioner McClendon’s suggestions, and she discussed the options with managementLong Range Planning Manager, Mark Personius. He Ms. Osborn noted she didn't want to speak for Mark because he wasn't in the meeting, that Mark had raised the question of where do the numbers or limits come from? What are the thresholds or triggers?

Ms. Osborn stated, this is not a one size fits all thing. Applications are reviewed through a process, and public input is considered. And Exhibit C allows a process for this application proposal to be reviewed. Going through the administrative review or to the Hearing Examiner may not be transparent enough. Exhibit C puts the use reviews all the various impacts and applies conditions for approval. Management-In short I was told told her to stick with the proposal as modified in Exhibit C and Exhibit F and to only modify it so the exemptions were clearer.

Commissioner McClendon stated-stated what she is looking for is a reason that doesn't include "because "I said so" or "we have never done it before," or that's how we've always done it”.

Commissioner Onkels stated it doesn't seem like they have successfully escaped the one complaining neighbor problem. He doesn't know how to do that. The threshold should be higher.

Sam Ryan stated it's usually not just one person calling. Lummi Island is one of the worst examples of a lot of somebody calling, then somebody else people-calling. Often times one county agency says the event can be held and another county agency says no. People start complaining, the Sheriff gets involved. The fear mongering can grow until it gets out of control. And then by the time PDS gets it we are -looking at the regulations, there is a realization that we don't have a means to deal with this. So, that's really what we are here about, is trying to find some means to provide a clear path way. Looking at the regulations there is no way to deal with what is going on which is why staff is here.

Commissioner Onkels asked Mr. Boxx how expensive the permitting process was for him.
Regular Meeting

Mr. Boxx stated he hired a consultant. The process took about three years and cost about $15,000. After a revision, and an extension, he clarified that parking was allowed on grass in his field.

Commissioner Onkels asked where the provision of three events per month came from.

Mr. Boxx stated he did not know.

Commissioner Onkels asked if that amount seemed arbitrary.

Mr. Boxx stated it did not seem to make sense. There were several people at his hearing that complained about the noise issue. Those people would have no idea if they were holding weddings or doing u-pick because they have cars coming and going all day long. The extra impact from a wedding they would never know about. He does understand the noise concerns.

Commissioner Onkels stated perhaps large events should not be held in rural areas.

Mr. Boxx stated maybe if the neighbors knew it was going to be only an occasional event they would be more accepting.

Commissioner Onkels asked Mr. Boxx if he had considered a building to reduce the noise impact.

Mr. Boxx stated he is prohibited by the Hearing Examiner from doing that now. He may be able to at some point in the future but he can’t justify it. Also when doing a commercial building there are fire flow issues which can be very expensive.

Staff clarification of the record: Mr. Boxx has approval under CUP2011-00007 to construct a Phase 2 permanent structure as part of his cottage industry.

-Commissioner Bell stated he was floored by the revelation that that the code states a use is prohibited if it is not specifically specified. This means that any new idea that someone comes up with is automatically prohibited. He has a problem with the reasons for shutting something down. He understands it’s not always just one complaint. With the windmill and slaughterhouse ordinances they have been regulated to the point where there will be none of those applied for. We can shut down whatever industry we are trying to help. Our goal is to allow these things because they are a benefit to the county. He keeps hearing these regulations are overkill. Part of the commission’s job is to let staff know they are in a bubble. They keep getting the same thing from staff. He does not support the proposal.

The public wants predictability. He likes Commissioner McClendon’s ideas of setting thresholds. 3 years and 15K should never happen if you want to do business in this county, and I think that is one of the biggest complaints I have about the process.

Commissioner Hunter stated setting thresholds is the whole problem. Where do they come from? If you don’t like arbitrariness then you can’t set thresholds. He stated he is tired of hearing about American exceptionalism. There are rules regarding what he can say and
how he manages his property which may impact other people. We can’t imagine that we
get to do whatever we want no matter how it affects other people. So that’s why we have
rules. The rules of the proposal might not be as easy to understand as they might be but
with some changes the public will feel safe. The only significance about the complaints are
that a system was set up and the rules weren’t followed. There is no reason for the
system to be complaint driven. Complaints should be thrown out the window, and should
not be part of the permitting process. Have they followed the rules? That is what is
important. Complaints are valid when the event is approved for 500 but the permittee
holds an event that serves 5000. There is no reason for our regulatory system to be
complaint driven. Commissioner Hunter indicated support for Exhibit “C” with some
changes. We need to figure out a way in “C” so that there is a way to figure which events
get to be approved. Why is the commission even discussing amplified music? That is a
state law that staff has been taken out of the proposal. He sees a reason for attaching the
permit to the property, being inclusive about the types of programs that can be run
under this system so that people aren’t arbitrarily left out of it and complaints need be
taken out of the system entirely. With that done he would be comfortable voting for
Exhibit C, and would be happy to talk to the County Council about it.

Commissioner Vekved stated what a commercial enterprise is is-not well defined. Perhaps
a code definition would be helpful. Regarding stating the number of events a person can
have, how enforceable is that? Who is out there to check other than the neighbors? When
limiting the number of cars, campsites, etc. the site needs to be taken into consideration
and how it would affect others. In Exhibit F reasonable conditions are not defined. There is
a lot of risk with that.

Commissioner Onkels stated that in Exhibit C adverse impacts is not well defined. The
problem with these events is that they have the potential to become nuisances. The
problem is that the Hearing Examiner is sort of incentivized to impose such onerous
conditions that the business evaporates. He does not know a way around that.

Ms. Ryan suggested the commission form a subcommittee or appoint a member to work
with staff to work through the issues. She asked what the statement “Table the proposal
until it addresses the 10 percent worst offenders, not the 90 percent best.” meant.

Commissioner Elenbaas stated it means the commission is not comfortable making a
proposal that will make their neighbors criminals. What they have asked for, at all three
meetings, were stakeholders to be involved in the decision making in order to come up
with something that will work. None of them have all the answers. It is not something that
should be rushed through.

Commissioner Honcoop stated the priorities need to be identified instead of throwing
everything together. Start with the definitions. The 10 percent means the biggest
offenders. Deal with them. Maybe the commissioners can bring their thoughts and ideas
back to a future work session. Going through the conditional use process is expensive and
extremely unpredictable and in the end most likely won’t be financially viable.

Commissioner Teigrob moved to send the proposal back to staff for another
proposal. Commissioner Bell seconded.
Commissioner Honcoop proposed an amendment to the motion to compile staff recommendations and commission recommendations and hold a work session at a later date. The vote on the amendment carried.

The vote on the main motion, as amended, carried 8-0-1.

File #PLN2013-00008: A proposed amendment to the Official Whatcom County Zoning Ordinance (Title 20) and the Whatcom County Comprehensive Plan regarding surface mining permitting processes and mineral resource land (MRL) designation criteria and processes.

Joshua Fleischmann presented the staff report and exhibits. Exhibit A is the proposal as submitted by councilmembers Barbara Brenner and Carl Weimer. Exhibit B is the Surface Mining Advisory Committee (SMAC) recommendation.

Commissioner Bell asked if Exhibit A was written by Brenner and Weimer.

Mr. Fleischmann stated yes and no. The language was drafted by them then staff corrected any inconsistencies.

Commissioner Honcoop asked why this issue is being brought forward to the commission.

Mr. Fleischmann stated the council members did not state what prompted it, but his assumption is that recent MRL projects and proposals prompted the application.

Mr. Fleischmann continued the presentation by stating the proposal addresses three major topics. One is surface mining permitting, one is the designation process and the other is the designation criteria. When it comes to surface mining permitting both Exhibit A and B propose changing the permitting process from administrative approval to a conditional use permit. Exhibit A proposes expanding the distance from rural or residential districts, where a proposed conditional use permit would be required, from 1,000 feet to 2,000 feet when it exists within a Rural or Commercial Forestry zone and is subject to the Forest Practices Act. Exhibit B includes an additional conditional use approval criteria requirement that if the proposed surface mining activity is phased and within one of the forestry zones that prior to moving into the next phase of mineral extraction any reclamation criteria is identified by the Department of Natural Resources reclamation permit.

Commissioner Honcoop asked if that requires them to completely quit mining in an area and reclaim it before they move onto the next area.

Mr. Fleischmann stated the reason the language was crafted this way is so that reclamation does not need to be complete but it has to be shown to be consistent with the reclamation plan.

Commissioner Honcoop stated the most obvious thing to him is in Exhibit A there is a proposed change in distance from rural or residential districts for the rock crushing activities that would require a conditional use permit from 1,000 feet to 2,000 feet. It also
proposes the notification requirements for surface mining be expanded to 2,000 from
external boundaries of the subject property. Not from where the activity is, but from the
external boundaries and requires a conditional use permit for mining and processing
activities within forest resource zones when within 2,000 feet of a rural or residential
district. An example would be the Pole Road area which has active and reclaimed pits. If,
for example, the pit is 1,280 and you add 2,000 feet to each side that is an impact of one
mile. Nobody would be able to mine. Is it correct that the conditional use permit is at the
county level and the mining permits are at the state level?

Mr. Fleischmann referred to a letter that the County Prosecutor sent to him. All surface
mining, that is subject to the Surface Mining Act, or in this case, the Forest Practices Act
is proposed in both Exhibits to go from administrative approval to a conditional use.
When you get into within 2,000 feet of a rural or residential district that is within the
forestry zone. In the Pole Road area it would not be applicable. There are no forestry
zones nearby.

**Commissioner Bell moved to only review Exhibit B and only bring in relevant
issues from Exhibit A. Commissioner Teigrob seconded.**

Commissioner Vekved stated he was not in favor of the motion.

Commissioner Elenbaas stated he was in favor of the motion.

Commissioner Honcoop stated he would like to look at both exhibits.

**The motion failed.**

Mr. Fleischmann stated the MRL designation is a comprehensive plan designation the
purpose of which is to designate areas of long term commercial significance with the
concept that it would protect from incompatible uses. An example, commonly cited is if a
development went on top of a valuable resource then the resource would not be
accessible. Unlike agriculture or forestry it is not a renewable resource. The process for
designating MRLs involves certain criteria the land must meet. In 1993 there was a draft
comprehensive plan with the idea of meeting the requirements of the Growth
Management Act. In 1997 the plan was officially adopted with approximately 4,000 acres
identified as mineral resource lands. That number has not significantly changed in the last
17 years. In order to commercially mine it must be located within one of the designated
MRLs. Presently that requires an administrative approval permit. This proposal changes
that to a conditional use permit.

Commissioner Bell asked what needs fixed. Why is this being done?

Mr. Fleischmann stated his assumption was because of a previous proposal to expand a
MRL designation in the South Fork Valley area. The proposal met the required criteria and
approval was recommended by staff. The Planning Commission recommended approval.
The County Council did not approve the proposal. There were a number of people opposed
to it for fear of how it would impact their drinking water, quality of life, etc. People want to
know the impacts prior to designation.
Regular Meeting

Commissioner Hunter stated those were the concerns of the public which was probably a misunderstanding. Is it staff’s impression that the council members were expressing some unease about the process?

Mr. Fleischmann stated he thought so. They understand that there are two steps, designation then mining. The proposal is their attempt to address the concerns of the public.

Commissioner Honcoop asked if the difference between Exhibit A and B is related to the designation, not permitting.

Mr. Fleischmann stated yes. There are other differences but the main difference is requiring the environmental analysis at the time of designation.

Commissioner Bell asked if that would be at the company’s expense.

Mr. Fleischmann stated yes.

Commissioner Honcoop stated there is no guarantee they would be able to mine.

Commissioner Bell asked why you would do that. It will shut down the industry.

Mr. Fleischmann stated that concern is expressed in the staff report.

Lesa Starkenburg-Kroonjte stated the commission is speaking as if it’s industry’s responsibility to designate MRLs. That is Whatcom County’s responsibility. In Whatcom County it hasn’t been that way. In the last 17 years very few acres have been added. Those few additions have been because of private applications. If the county is going to make an applicant go through all this work just for a designation it should essentially be a contract permit.

Commissioner McClendon asked for clarification on MRLs. Why is the mineral protection needed? Anyone who owns mineral land won’t be putting a house on it.

Mr. Fleischmann stated that is discussions that will be held with the SMAC. Skagit County has 160,000 designated MRL. Snohomish County has 80,000 designated. Whatcom County has 4,000.

Commissioner Vekved asked when an applicant applies for a MRL designation does it only apply to their land or does it overlap surrounding land.

Mr. Fleischmann stated it would only apply to the applicants’ property.

Commissioner Bell stated is it not the county’s job to protect minerals so there is resources to draw on for future generations? This proposal solidifies that it will be on a case by case basis when a company comes in and proves to the county that they can do it.
without an environmental impact and allow them to do what the county should be doing. They are deeming where it's appropriate rather than the county.

Mr. Fleischmann stated the county came up with their acreage in 1997. Snohomish County just finished theirs. It was a 12 year process. When they county designated theirs they looked at where the DNR permits were in 1993. Other counties have looked at where the resources are. We haven’t started that process yet.

Commissioner Elenbaas asked why this is not deemed spot zoning when it is happening on a parcel by parcel basis.

Mr. Fleischmann said it does not fit the definition of spot zoning.

Commissioner Honcoop stated the GMA requires the county to designate land. Doesn’t that need to be taken into consideration regarding the impacts it could have?

Mr. Fleischmann stated the GMA policy states the county’s will “seek” to designate.

Ms. Starkenburg-Kroonjte stated the GMA states county’s shall classify, designate and protect commercially significant resources. It doesn’t say anything about how much it should be. County’s should aim for a minimum of 20 years and at least 50 years. Whatcom County then placed 50 years as a goal in the Comprehensive Plan. After a study was done and it was determined there is a shortage the county then changed the goal to state “seek to designate a 50 year supply”. Nowhere in state law does it say 50 years.

Commissioner Teigrob stated she would not be surprised if the county was sued over this issue because the county is abdicating their role to protect and designate mineral lands.

Commissioner McClendon asked staff for designation criteria in adjoining counties.

Mr. Fleischmann addressed GMA planning goal #7 which states: “Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability”. He questioned whether requiring a large, expensive study to show how a site might be mined without any guarantee of designation or ability to mine would meet requirement #7 of predictability.

Commissioner Bell asked the advantage of increasing the distance to 2,000 feet, as proposed, for rural and residential districts.

Mr. Fleischmann stated the public process gets bigger, which is one of the goals to encourage public process. This could be a good or bad thing. More people usually means more people that are opposed.

Commissioner Elenbaas stated that GMA also calls for consistency in the code and 1,000 is usually what is stated.

Mr. Fleischmann stated this would be the only activity that has 2,000 feet. 1,000 would be consistent with most other permits.
Commissioner Honcoop asked what is meant by the proposal to make an "initial determination". Where in the process does that happen? Does there then have to be a final determination? Why the proposal to go from an administrative to conditional use?

Mr. Fleischmann stated that administrative approvals sometimes get appealed.

Ms. Starkenburg-Kroonjte stated the administrative approval process has worked well in the past. What was good about that process is that people had to submit their comments in writing. That is proposed to be changed. The concerns could be addressed rather than going straight to the Hearing Examiner. Because staff has changed there may be a loss of constancy so the Hearing Examiner may be a more constant process. She has nothing bad to say about the administrative approval process. Before GMA it was a conditional use permit. In one instance it failed because there was no previous contact with the concerned citizens.

The commission asked for previous mining studies. Staff will provide the 2003 Geo-Engineer study, the SMAC final report and recommendations from 2004, the Mineral Resource background document from 1994 and examples of how other counties designate MRLs. One of the things the documents show is there is no shortage of resource. The problem is there are competing uses, buffers, critical areas, agriculture, etc. that prevent MRL designation.

Commissioner Honcoop asked for an estimate of current supply.

Mr. Fleischmann stated the county is going through that process right now. A contract, with Element Solutions, should be approved next week.

Commissioner Bell stated he is not a fan of the industry going through the environmental process and the permit at the same time. It is not only redundant but expensive with no guarantee that they will get to mine.

Mr. Fleischmann noted that Exhibit B states if that process is gone through then there is a land disturbance permit on the back side. You can spend the money, do the report, show how you can mine but it will still be a political decision, there is no guarantee.

Commissioner Vekved asked when forecasting estimated quantities is that as designated or as permitted?

Mr. Fleischmann stated the SMAC Final Report and Recommendations, the DNR background information and the Geo-Engineers 2003 study examined sand and gravel, versus bedrock, so it's not one number. The highest number he has seen is a 35 year supply in designated areas. That report is 11 years old.

Commissioner Hunter asked if there has been a study which provides information about the amount of actual mineable resource. Is there a map as well?
Mr. Fleischmann stated there is. It looks at what is in the ground, not whether it is available or not. It amounts to about one billion cubic yards. Yes. Staff will provide to the commission.

Commissioner Bell moved to table the issue until the public hearing on October 23, 2014. Commissioner Teigrob seconded. The motion carried.

Other Business

Business Rules - Attendance

Commissioner Bell stated the way the business rules are currently written are fine. The commission is smart enough and there are enough reasonable people on it to determine whether someone is abusing the system. They are a volunteer body and further defining them does no service.

Commissioner Vekved stated business can occur remotely. There are resources available for video conferencing which may work for his issue which has him missing every other meeting. He would like to participate if possible.

Commissioner Bell doesn’t think that is necessary. There are three commissioners from each district so they are well represented.

Commissioner McClendon would like to see Commissioner Vekved participate in that way. This may not be allowed in the by-laws.

Commissioner Hunter stated he had concerns regarding Commissioner Vekved’s absences. It is their duty to come to the meetings, informed, participate in the discussion and vote. He was impressed by Commissioner Vekved’s willingness to participate in the stated fashion. He does not think it’s overkill. The by-laws can be changed to make it possible for him to participate.

Commissioner Vekved stated his situation should be the exception, not the rule which may happen if it’s codified.

Staff will look into the technical and legal aspects of the suggestion.

Commissioner Bell went back to the main issue by stating the attendance rules worked as they should have, the issue was brought to their attention, regarding the absences, they decided as a body is was not an issue.

Commissioner Bell moved to leave the rules as they are. Commissioner McClendon seconded. The motion carried.

The meeting was adjourned at 11:17 p.m.

Minutes prepared by B. Boxx.
Regular Meeting

WHATCOM COUNTY PLANNING COMMISSION ATTEST:

David Onkels, Chair
Becky Boxx, Secretary
Regular Meeting

Call To Order: The meeting was called to order, by Whatcom County Planning Commission Vice-Chair, Mary Beth Teigrob, in the Northwest Annex Conference Room at 6:35 p.m.

Roll Call
Present: Ben Elenbaas, Gary Honcoop, Mary Beth Teigrob, Ken Bell, Natalie McClendon
Absent: David Hunter, Gerald Vekved, David Onkels

Staff Present: Mark Personius, Joshua Fleischmann, Becky Boxx

Department Update
Mark updated the commission on the following:
- Upcoming commission schedule.
- Items before the County Council.
- PDS staff updates.
- Conversations between staff and the commission regarding weddings, special events and music events.

Open Session for Public Comment
There was no public comment.

Commissioner Comments
There were no commissioner comments.

Approval of Minutes
July 24, 2014: Commissioner Bell moved to approve as written. Commissioner McClendon seconded. The motion carried.

September 11, 2014: Commissioner Bell moved to approve as written. Commissioner McClendon seconded. The motion carried.

September 25, 2014: Commissioner Elenbaas moved to approve as written. Commissioner McClendon seconded. The motion carried.

File #PLN2013-00008: A proposed amendment to the Official Whatcom County Zoning Ordinance (Title 20) and the Whatcom County Comprehensive Plan regarding surface mining permitting processes and mineral resource land designation criteria and processes.

Joshua Fleischmann presented the staff report. The amendments address three topics. Surface mining permitting, the designation process and designation criteria. Both Exhibits A and B propose changing the permitting process from administrative approval to a conditional use. Exhibit A proposes extending the distance of notification to 2,000 feet.
Exhibit B proposes keeping it at 1,000 feet. Exhibit A proposes the SEPA project specific action be reviewed as part of the designation process. Exhibit B does not propose any changes to the present designation process. Regarding the designation criteria both Exhibit A and B propose that expansion of an existing MRL designation will require that existing mines are in full compliance with permits and regulations. Exhibit B clarifies that an expansion area and the existing mine must be in contiguous and common ownership so that one mining operation will not prevent another mining operation from expanding. Exhibit A proposes that site-specific designations shall be only be approved after mineral extraction impacts are anticipated and it also proposes that designations in the forestry zones are limited to 20 acres. Additional areas can be added once previously mined areas are returned to sustainable productive forestry and that the total designated area remains no more than 20 acres.

The hearing was opened to the public.

Meredith Moench, Whatcom County: She supports Exhibit A. She has had experience with the MRL designation applications, the administrative approval permitting applications and hearings before the Hearing Examiner. She owns property on Lummi Island. She has lived there for 11 years and she lives approximately 1,850 feet north of the Lummi Island quarry. Regarding Exhibit A designation criterion #10 for site-specific MRL designations to anticipate and evaluate impacts prior to approval the current process for MRL designations has been fraught with conflict and has been difficult. In her opinion that is because of the use of the phased SEPA process. According to that process, with a so-called non-project application, the SEPA is required but not taken seriously. The only information required at that point is the environmental checklist that the applicant submits. This checklist is filled out by the applicant to the best of their knowledge. This checklist tends to be very incomplete and may include inaccurate information. It is used for a decision on potential impacts for the site. This checklist is entered into the process and a decision is made based on it. Typically a SEPA is a determination of non-significance so based on little or no information it is declared to not have any significant impacts however maybe it does. Her experience with the Lummi Island quarry shows there were significant impacts that were very obvious on the ground and yet they still received the determination of non-significance. There needs to be environmental review upfront that is substantial. This then gets passed down through the process. She supports the conditional use permitting. This is used by Skagit and Snohomish counties. It increases public participation. With the 1,000 feet notification she lives just beyond that so she has not been notified regarding the Lummi Island quarry mining process. There is only a 15 day comment period associated with the process. Legal errors have to be pointed out in the appeal process so it is intimidating to the average citizen and the process is expensive. During the 2007 permitting process she and others did not appeal because of this. Participating in front of the Hearing Examiner provides an opportunity for citizen input and it clearly impartial. The Hearing Examiner has the opportunity to keep the record open to get additional information. This is a much better and fairer process. At her property she hears noise from crushing, excavating, loading, backup alarms, and trucks going by her house. She has dust come onto her property. There is heavy metal residue in this dust. There are also groundwater and visual impacts that extend more than 1,000 feet so extending it to 2,000
feet seems reasonable. It would also help citizens feel more included. Snohomish County
has a 2,000 feet notice requirement.

Leslie Dempsey, Whatcom County: She is a member of the Surface Mining Advisory
Committee (SMAC). She is available for any questions the commissioners may have
regarding the proposal.

The hearing was closed to the public.

Commissioner Honcoop asked Ms. Moench about the 15 day comment period. Is that
related to the MRL designation or the permit to mine?

Ms. Moench stated she was referring to the permitting to mine.

Commissioner Honcoop asked Ms. Moench what process she was referring to regarding
Skagit and Snohomish counties.

Ms. Moench stated she was referring to the use permit process. In 2010 the quarry
applied to expand an additional 27 acres. She does not know anyone who was notified.
They almost missed the comment period.

Commissioner Honcoop stated there seems to be a lot of confusion regarding the
designation and mining. They are two separate issues. What is important to know is that
aggregate is the foundation of every manmade structure. In 2004 Whatcom County
commissioned a study on what the current reserves were at that time. The conclusion was
that there was approximately a 19 year supply of resources in the existing MRLs. It also
stated Whatcom County has 10 years or less of measured permit gravel resources in the
MRLs. We are already starting to feel the shortage of aggregate products. For the
commission it is important when evaluating the two proposals and what is currently in
place that they carefully separate the discussion of designation versus permitting. It is
very clear that since the report written in 2004 very little additional ground has been
designated MRL. His opinion is that the MRL designation is to protect future resources, it’s
not for immediate use. The sooner it gets protected the less conflict there will be. What
the commission needs to encourage is the designation of the MRL lands not discourage it.
The current designations occurred a long time ago. The Comprehensive Plan used to state
there was to be a 50 year supply of aggregate. That is important to be stated. In some
other counties the counties themselves have taken the role of doing the designation. In
Whatcom County the designation occurs when private owners come to the county for a
MRL designation. This is the opposite of what should be happening. He feels that the
designation of MRLs need to be encouraged in any way possible in order to protect the
resource. He has a hard time with some of the requirements in Exhibit A. It seems staff
has some of the same concerns he has. For example on page 9, item 2 of the staff report
some of the items stated have already happened and the environmental impact of
trucking material from Skagit County has a very significant impact and is very inefficient.
Regarding the study done in 2004 some of the sands that were designated in that study
are unavailable. If a proponent has to go through the process outlined in Exhibit A they
are going to mine immediately. There is no other way to recover the money they have put
out. This will raise the price of aggregate. You can’t move the resource but you can have things put on top of it. That is a critical fault in Exhibit A which fails to protect the resource.

Commissioner Bell asked if the county does have a 50 year supply.

Mr. Fleischmann stated no.

Commissioner Bell asked what is broken in the process that has to be fixed.

Carl Weimer (one of the applicants) stated there were concerns from citizens. They find out too late what is going on. In many cases designating land MRL is almost the same as permitting it. Companies don’t go for the designation if they don’t plan on mining. Citizens don’t know this upfront. There is no environmental analysis. Often times these mineral lands are on top of other protected natural resource lands. How can you protect both if the intent is to mine there? The intent is to move some of that impact analysis to earlier in the process so the impacts would be known at the time of designation.

Commissioner Bell asked why the county waits for an applicant to designate MRLs rather than the county protecting the resources.

Mr. Personius showed a map of the MRL resources in the county. Most of those areas are in the agricultural zone. Part of the designation criteria for MRLs is that they cannot be in the agricultural zones. The county made that choice between the competing resources. There is also a strong desire to maintain forest lands and not convert them to mining. What is left is the rural area. People are living out there so that creates the conflicts. What the other counties did was designate ahead of time, but a lot of what they designated was hard rock which is in the mountainous areas. They went through the same process in the sand and gravel process in the lower lands and they too favored agriculture over mining.

Commissioner Bell stated what that does is tell the current mining operations they have a cash cow because of the limited resources.

Mr. Personius stated that the SMAC, as part of the Comprehensive Plan update, are looking at the designation criteria. There was discussion and preliminary recommendations to state that the 50 year supply is not only not required by GMA it’s only supposed to look 20 years out. The county does have a consultant doing a study on what the supply is.

Commissioner Bell stated the Hearing Examiner is an adversarial environment. What is basically being said is the applicant’s attorney has to be present to fight against the citizen. That is a very unhealthy dynamic. He likes the idea of having an arbitrator of some kind. It makes sense that it would be a planning commission so issues can be worked out.
Regular Meeting

Commissioner McCleland stated it seems to her there is a problem with failure to designate MRLs. Was there any attempt to designate MRLs after the other resource lands were taken out?

Mr. Fleischmann stated that as part of the original designation process the county looked at sites that had existing Department of Natural Resources (DNR) mines. Staff did not know of any other designation attempts.

Commissioner McCleland asked if the study currently being done is to help identify new lands to designate.

Mr. Personius stated the consultants work is to identify the supply not new areas.

Commissioner McCleland stated there needs to be a tradeoff. Lands in other resource status need to be designated MRLs. She asked if the process for permitting was changed from an administrative to conditional use how is a decision made by the Hearing Examiner appealed?

Mr. Fleischmann stated it is appealed to the County Council within 10 days of the decision.

Commissioner Bell asked the appeal process for administrative approval.

Mr. Fleischmann stated it is appealed to the Hearing Examiner then further on if necessary.

Commissioner Honcoop commented on the appeal process history outlined in the staff report. It seems the method used is very good. All administrative approvals that have gone through the appeal process have been upheld. If it isn't broke don't fix it. Regarding the white paper put out by the SMAC when you go through the process of a conditional use, as outlined in the rationale, the exact opposite happens of what is being encouraged in the recommendation. With the administrative approval format all of the parties can communicate. When it's quasi-judicial that can't happen. Conflicts can be dealt with before the hearing. Before the Hearing Examiner the public can speak but they are limited in time. They can't have a dialog. The proponent may also bring along professionals that the average citizen doesn't have access to. This does not encourage participation. He supports the current process of administrative approval.

Mr. Personius added that a third option was discussed with the SMAC. Staff suggested the EIS be done at the time of designation which would then run with subsequent permits. The committee did not recommend this because this is money the applicant has to put up front with no guarantee of approval of the designation.

Commissioner Teigrob stated that doing it that way seems to be a way to shut down mining. The financial risk is not worth it.

Commissioner Honcoop stated that what is missing in that scenario is that the permit to mine is not just from Whatcom County. There are also permits from the state that are required. If the EIS is done at the time of designation and the rules change by the time
they apply for the permit they will have to go back and readdress those issues. There
would be very little flexibility to meet the current requirements.

Commissioner Elenbaas stated requiring an EIS before a land is even designated seems
like putting the cart before the horse. For that reason he does not support Exhibit A. It will
stop all mining in the county. Designating the area is done through the council which is a
political thing. Politics don’t care much about what science says. Designation of MRLs is
going to happen based on the political environment. The EIS should be done at the time
of permitting.

Commissioner Bell stated that upfront environmental work entrenches the people that are
already in the business. They have the ability and the money to spend. It decreases the
amount of competition. This is creating monopolies for the gravel industrial for the people
that already have it. Huge corporations, which may have different influences, will be the
only ones to benefit from that.

**Commissioner Bell moved to recommend approval of Exhibit B. Commissioner Honcoop seconded.**

Commissioner Elenbaas stated he does not like the size limitation, of 20 acres, in Exhibit
A. He asked if Exhibit B has any size limitations.

Mr. Fleischmann stated it does not.

Commissioner Elenbaas stated that mining in the agricultural district isn’t always a bad
thing for the farmer. Farming flat land is easier, safer and more productive.

Commissioner Honcoop commented on 20.73.153(7). Is a revision to the permit required
before moving on to the next mining phase?

Mr. Fleischmann stated he did not know.

Commissioner Honcoop asked if reclamation of a site needs to be complete before moving
on to the next phase.

Ms. Dempsey stated it is up to DNR and the specifics of the mine. The initial reclamation
permit is approved before mining starts.

Mr. Fleischmann stated reclamation before moving on to the next phase may not always
make sense. They just have to be consistent with the reclamation plan. The SMAC
approved the language suggested in 20.73.153(7).

Commissioner Elenbaas asked if the comprehensive plan amendments, in Exhibit B, will
be reviewed again in the 2016 update.

Mr. Fleischmann stated they will be reviewed in the 2016 update.
Commissioner Honcoop asked if the verbiage to have a 50 supply of aggregate is still in the comprehensive plan.

Mr. Fleischmann stated it is in the plan but it now states "seek to designate" a 50 year supply.

Roll call vote on the motion to recommend approval of Exhibit B: Ayes – Bell, Honcoop, Elenbaas, Teigrob; Nays – McClendon; Abstain – 0; Absent – Hunter, Vekved, Onkels. The motion failed.

Commissioner Honcoop moved to table the issue until the next meeting. The motion failed for lack of a second.

Commissioner Bell asked Commissioner McClendon the reason for her vote.

Commissioner McClendon stated she wished to propose something different.

Commissioner McClendon moved to recommend approval of Exhibit A with the addition of 20.73.153(7) from Exhibit B; and a statement that the requirement for the SEPA project specific action requiring an EIS is a stop gap and that the county needs to move directly on directly more MRL land and pays for any environmental assessments upfront. The motion failed for lack of a second.

Commissioner Teigrob agrees that the county has really fallen down on their responsibility to designate MRLs. However, that is not an issue the commission can address at this time. Perhaps a suggestion the council needs to designate MRLs could be part of the findings.

Commissioner Bell stated that the idea of the SEPA and EIS being paid for by the proponent is not abhorrent to him at the time of permit application. He agrees that at some point the county needs to designate MRLs and at that time the county needs to do some type of environmental review. Is it unheard of for the county to do a SEPA on its own project?

Mr. Personius stated that in this instance it would become the county’s action so they would be obligated to do SEPA. It would be a non-project action so the review may not be at the level that the applicants are asking for. However, a lot of the issues may be dealt with up front so the proponent can then rely on that analysis.

Commissioner Bell stated he liked the idea of recommending Exhibit B with the recommendation to the council to designate MRLs and do the environmental studies.

Commissioner Elenbaas doesn’t have a problem with corporate America paying for their own EIS. He has a hard time asking the county to spend tax dollars on it. An MRL designation is basically changing a color on a map. He doesn’t see that an EIS is necessary when changing a map.
Regular Meeting

Commissioner McClendon stated the concern she sees is that they want public notice and involvement closer to the front which is why proposal in Exhibit A is to do SEPA at the beginning when the resource land is designated. It is the county’s responsibility to designate and pay for the cost of the EIS up front.

Commissioner Elenbaas agreed but it doesn’t take an EIS to designate the land because no action is taking place on the ground.

Commissioner McClendon stated there should be community input up front when the designation is being made.

Commissioner Bell stated the market will decide things. Gravel will get to be so expensive they will eat up the farm land to mine gravel at some point.

Commissioner Honcoop cited RCW 36.70A.06. It states lands next to MRL shall not interfere with the continued use of the designated MRLs. He does not see that it is practical to do an EIS at the time of designation. There are other requirements that concurrently need to be met related to the DNS and the state agencies. The county is not the entity that is going to mine the gravel so they won’t be in the position to be able to put all the pieces together. He supports the statement that the county needs to designate MRLs.

Mr. Fleischmann reminded the commission that SEPAs don’t expire. If one is done at the designation process and mining doesn’t take place for 75 years, for example, that SEPA is still valid.

Commissioner McClendon responded by saying no mine owner is going to apply for the designation if they don’t intend to mine in the near future. They won’t sit on it for 75 years. That would be a waste of their money.

Commissioner Elenbaas stated that if doing the EIS up front particular elements may be missed that should be addressed.

Commissioner Honcoop stated the most important thing is the GMA requires protection of this resource which is being missed. The longer it takes for that to happen the more loss of the resource is going to happen. He disagreed with the statement that when a SEPA is done it’s good for a long time. When you apply for the SEPA you then have to conform to it, but things change dramatically. Things may not fall under the original SEPA that was done.

Commissioner McClendon stated no new designations have occurred because of public opposition at the end of the process. She doesn’t see doing the SEPA at the beginning of the process as a road block. It’s putting the public on notice at the beginning.

Commissioner Bell stated he would like to see the county go through the MRL designation and making it a public process but not a full blown SEPA. He would like this recommendation sent to the council.
Commissioner Bell moved to recommend approval of Exhibit B and make a recommendation to the council to designate MRLs for a 50 year supply through a public process. Commissioner Honcoop seconded.

Commissioner Elenbaas asked if an EIS is done when the county designates resource lands.

Mr. Personius stated the process would go through a non-project SEPA and if necessary an EIS.

Roll Call Vote on motion to recommend approval of Exhibit B and make a recommendation to the council to designate MRLs for a 50 year supply through a public process. Ayes – Honcoop, McClendon, Elenbaas, Teigrob, Bell; Nays – 0; Abstain – 0; Absent – Onkels, Hunter, Vekved. The motion carried.

Other Business

Commissioner McClendon asked to have Old Business on the agenda so items don’t get forgotten about. The commission agreed to this.

The meeting was adjourned at 9:00 p.m.

Minutes prepared by B. Boxx.

WHATCOM COUNTY PLANNING COMMISSION ATTEST:

Mary Beth Teigrob, Vice-Chair

Becky Boxx, Secretary