# WHATCOM COUNTY COUNCIL AGENDA BILL

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<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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<tr>
<td>Originator: Peter Gill</td>
<td>RG</td>
<td>5/23/2013</td>
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<td>04/09/2013</td>
<td>Natural Resources Committee</td>
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<tr>
<td>Division Head: Mark Personius</td>
<td>W/P</td>
<td>5-23-13</td>
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<td>Natural Resources Committee</td>
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<td>Dept. Head: Sam Ryan</td>
<td>TJ/SUM</td>
<td>5/23/13</td>
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<td>5/21/2013</td>
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<td>Prosecutor: Royce Buckingham</td>
<td>PE.</td>
<td>5-23.13</td>
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<td>Introduction</td>
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<td>Executive: Jack Louws</td>
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<td>NR Committee</td>
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**TITLE OF DOCUMENT:**
Proposed Whatcom County Code Chapter 20.51, Lake Whatcom Watershed Overlay District; and related Comprehensive Plan Amendments

**ATTACHMENTS:** Memo to Council, Findings and Ordinance
Exhibit A – Updated 20.51 based on Council’s Natural Resource Committee recommendations, Exhibit B – Removal of Lake Whatcom from existing code sections, Exhibit C – Definitions, Exhibit D – Comprehensive Plan Language changes

<table>
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<tr>
<th>SEPA review required?</th>
<th>( X ) Yes</th>
<th>( ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( X ) Yes</th>
<th>( ) NO</th>
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<td>SEPA review completed?</td>
<td>( X ) Yes</td>
<td>( ) NO</td>
<td>Requested Date:</td>
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**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.)

Discuss proposed amendments to Whatcom County Code, Title 20 – Zoning to adopt Chapter 20.51, Lake Whatcom Watershed Overlay District and corresponding definitions in 20.97; amend Title 20 – Zoning, to remove Lake Whatcom from Chapter 20.71, and applicable sections of 20.80.600; Amend the text of Whatcom County Comprehensive Plan, Land Use Chapter policies relating to water quality and stormwater management in the Lake Whatcom Watershed.

**COMMITTEE ACTION:**
6/04/2013: Introduced
6/18/2013: Referred to Natural Resources Committee 6-1, Weimer opposed

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:** PLN2011-00015

**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](http://www.co.whatcom.wa.us/council).
Memorandum

TO: Whatcom County Council

THROUGH: Mark Personius, Long Range Planning Manager

FROM: Peter Gill, Senior Planner

DATE: June 4, 2013

SUBJECT: Introduction of an ordinance to add a new chapter to the Zoning code, Lake Whatcom Watershed Overlay District; and amend the applicable references in the Whatcom County Comprehensive Plan


This chapter modifies the stormwater management rules for new development. These changes are needed in order to protect Lake Whatcom from water quality degradation that can result from an imbalance of nutrients and bacteria in the runoff that gets into the lake.

At the May 21, 2013 Natural Resource Committee meeting staff were asked to prepare an ordinance based on the code recommended by Planning Commission and updated by the Committee. This code is being introduced on June 4th.

In your packet you will find:

- **Ordinance** adopting the Lake Whatcom Watershed Overlay District and amending the Whatcom County Comprehensive Plan, Land Use chapter.


  - Exhibit B – Removal of Lake Whatcom from existing land use and stormwater regulations in WCC 20.71, WCC 20.80.635, and WCC 20.80.735

  - Exhibit C – New definitions (WCC 20.97)

  - Exhibit D – Comprehensive Plan Amendments to Policy 2DD – 2.C. This amendment is necessary to maintain consistency between the Comprehensive Plan and implementing development regulations.
SPONSORED BY: 
PROPOSED BY: 
INTRODUCTION DATE: 

ORDINANCE NO. 

AMENDING THE WHATCOM COUNTY ZONING CODE TITLE 20 - TO CREATE CHAPTER 20.51, LAKE WHATCOM WATERSHED OVERLAY DISTRICT and corresponding definitions in 20.97; amend Title 20 – Zoning, to remove Lake Whatcom from Chapter 20.71, and applicable sections of 20.80.600; AMENDING THE TEXT OF WHATCOM COUNTY COMPREHENSIVE PLAN, Land Use Chapter policies relating to water quality and stormwater management in the Lake Whatcom Watershed.

WHEREAS, Lake Whatcom is the drinking water source for approximately half the residents of Whatcom County; and

WHEREAS, the preservation and protection of drinking water is a high priority for Whatcom County; and

WHEREAS, Erosion, sedimentation, phosphorus and other pollutants associated with increased land clearing and development are of concern for a number of reasons including their impacts on water quality and beneficial uses, such as drinking water.

WHEREAS, Whatcom County recognizes the need to address phosphorus loading into Lake Whatcom through land use management; and

WHEREAS, in 1998, Whatcom County, the City of Bellingham, and the Lake Whatcom Water and Sewer District formalized their joint commitment to protect and manage the lake through the adoption of an interlocal agreement concerning the joint management of the lake creating the Lake Whatcom Management Program (LWMP); and

WHEREAS, Lake Whatcom Management Program, 2010 five year work plan included updating stormwater regulations to address phosphorus loading from new development in the Lake Whatcom watershed; and

WHEREAS, Whatcom County council adopted the 2010 five year work plan in Resolution 2010-031; and

WHEREAS, the Washington State Department of Ecology has listed Lake Whatcom as an impaired waterbody and placed Lake Whatcom on the Federal Clean Water Act 303(d) list fecal coliform and low dissolved oxygen level; and
WHEREAS, the Washington State Department of Ecology has released the draft Lake Whatcom TMDL calling for significant reductions in phosphorus runoff from current conditions; and

WHEREAS, Whatcom County has addressed land use and stormwater in the Lake Whatcom watershed through Whatcom County Code (WCC) 20.71 Water Resource Protection Overlay, WCC 20.80.635 Stormwater Special Districts, and WCC 20.80.735 Water Resource Special Management Areas; and

WHEREAS, Whatcom County is combining land use and stormwater regulations from WCC 20.71, 20.80.635, and 20.80.735, along with updated criteria, to develop Chapter 20.51 Lake Whatcom Watershed Overlay District; and

WHEREAS, in 2008, the Whatcom County Council adopted Resolution 2008-048 declaring its intention to create a stormwater utility pursuant to RCW 36.89, and requesting the Executive to investigate various geographic limitations and funding options; and

WHEREAS, the Whatcom County Planning Commission held public hearings on November 17, 2011, January 12, 2012, and March 8, 2012 on the proposed zoning text amendment. The written public comment period was additionally held open between November 17, 2011, January 12, 2012, and March 8, 2012; and

WHEREAS, Whatcom County staff conducted a presentation on the proposed regulations to the Building Industry Association of Whatcom County on December 8, 2011; and

WHEREAS, Whatcom County staff facilitated a technical review of the proposed regulations with attendance by local engineering firms, City of Bellingham staff, and Department of Ecology staff on December 19, 2011; and

WHEREAS, on January 9, 2012, the Whatcom County Planning Commission held a special work session with presentations on the Lake Whatcom Total Maximum Daily Load (TMDL) and the National Pollutant Discharge Elimination System (NPDES) Phase II Permit by staff from the Department of Ecology; and

WHEREAS, Between March 23, 2011 and October 26, 2011, Whatcom County staff held (5) coordination meetings with the Department of Ecology to update and refine proposed regulations based on Whatcom County’s letter of commitment dated March 10, 2011 to the Department of Ecology to expedite amending Title 20 to address criteria affecting development in the Lake Whatcom watershed.

WHEREAS, Whatcom County staff facilitated a technical review of the proposed regulations with attendance by local engineering firms on March 15, 2012; and

WHEREAS, Whatcom County Comprehensive Plan Goal 11G identifies protection of water resources and natural drainage systems by controlling the quantity and quality of stormwater runoff as an objective of Whatcom County; and


WHEREAS, in August of 2012 new state NPDES stormwater standards came into effect, and sections of proposed code needed to be modified to meet the stormwater design, protection, and maintenance standards of the 2012 Stormwater Management Manual for Western Washington; and

WHEREAS, In August of 2012, Whatcom County Ordinance 2012-023 added County development regulations by reference to the rural element section of the county comprehensive plan.

WHEREAS, the Washington Growth Management Act (GMA) requires county comprehensive plans to include a rural element that protects the county’s established rural character by containing or otherwise controlling rural development.

WHEREAS, GMA requires that the rural element of a county comprehensive plan provide measures governing rural development that protect the rural character by protecting critical areas, as provided in RCW 36.70A.060, and surface and ground water resources; and

WHEREAS, the Whatcom County Council finds the amendments to be in the best interest of the public health, safety and welfare; and

WHEREAS, the Council makes the following findings of fact to justify its actions as required by RCW 36.70.795;

1. The Lake Whatcom Watershed Overlay District amendments were docketed by Whatcom County Council on March 15, 2011.

2. Public Workshops were held on November 1, 2011 at the Whatcom County Council Chambers, and on November 2, 2011 at Bloedel-Donovan Park Facility.


5. Public comments, questions and concerns received were recorded in the public record and addressed in subsequent draft code as appropriate.


7. A determination of non-significance was issued under the State Environmental Policy Act (SEPA) on November 2, 2011.

8. An addendum to the May 1, 2009 determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on May 21, 2013.

9. GMA requires that the rural element of a county comprehensive plan provide measures governing rural development that protect the rural character by protecting critical areas, as provided in RCW 36.70A.060, and surface and ground water resources; and

10. Amendments to the Whatcom County Comprehensive Plan are proposed in response to the Washington State Growth Management Hearings Board’s January 4, 2013 Compliance Order (GMHB No. 11-2-0010c).

11. Whatcom County Comprehensive Plan policy 2DD – 2.C contains the required measures to protect critical areas and surface and groundwater resources. These measures reference Whatcom County code provisions on critical areas and water resources. The proposed amendments to Policy 2DD – 2.C reflect the new stormwater regulations within the Lake Whatcom Watershed by adding reference to WCC 20.51.

12. The new chapter protects water resources by requiring new development in the watershed to meet NPDES stormwater requirements and implement permanent best management practices that prevent and/or treat phosphorus to match the natural vegetated condition.

13. The Comprehensive Plan text amendments are being proposed pursuant to WCC 2.160.010.D.

14. The zoning text amendments are consistent with the processing requirements of WCC 20.90.050 and serve the public interest.

15. The amendments will not create an undue burden under section 1.11 of the County Charter.

16. The proposed amendments are consistent with the Comprehensive Plan, the Washington State Growth Management Act, and are in the public interest.
NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Whatcom County zoning code (WCC Title 20) is hereby amended as shown in Exhibit A, B, and C.

Section 2. The Whatcom County Comprehensive Plan is hereby amended as shown in Exhibit D.

Section 3. 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 _______________ 2013.

ATTEST: WHATCOM COUNTY COUNCIL

Dana Brown-Davis, Council Clerk WHATCOM COUNTY, WASHINGTON

Kathy Kershner, Council Chair

APPROVED as to form:

Civil Deputy Prosecutor

Jack Louws, County Executive

( ) Approved ( ) Denied

Date Signed: __________________
EXHIBIT A-Whatcom County Code Proposed Chapter 20.51

1

Chapter 20.51

2

LAKE WHATCOM WATERSHED OVERLAY DISTRICT

3

4 20.51.010 Purpose.

5 The Lake Whatcom Watershed Overlay District is intended to manage and treat stormwater
6 runoff and establish more stringent standards on clearing activities and reduce the
7 phosphorus loading into Lake Whatcom, in order to preserve and protect a unique and
8 important water resource, Lake Whatcom. This district is designed to protect the long-term
9 viability of Lake Whatcom as a drinking water source, and to comply with the requirements
10 set forth by the Washington State Department of Ecology through the pending Lake
11 Whatcom Total Maximum Daily Load (TMDL) by limiting the phosphorus loading into Lake
12 Whatcom that results from land disturbing or conversion projects and work, and reduces
13 phosphorus loading from existing sources.

14 20.51.030 Area and Applicability.

15 (1) The Lake Whatcom Watershed Overlay District is an overlay zone that covers the entire
16 geographic area of the Lake Whatcom watershed within Whatcom County’s jurisdiction, and
17 applies to all land disturbing or conversion projects, work or activities within the overlay
18 zone.

19 (2) In the event that the provisions of this chapter conflict with the provisions of the
20 Shoreline Management Program (WCC Title 23), Chapter 16.16 WCC, Critical Areas, the
21 Whatcom County Development Standards, the provisions of the underlying zoning district or
22 other applicable county policies or regulations, then the most restrictive shall apply;
23 provided, that the minimum setback provisions established in WCC 20.51.340 shall prevail.

27 20.51.040 Conformance.

28 The provisions of this chapter overlay other permit and approval requirements of the
29 Whatcom County Code. All use and development shall conform to all relevant requirements
30 and standards of:

31 (1) Whatcom County Code, Title 20, Zoning, except as modified by this chapter;
32 (2) The International Building and Fire Codes;
33 (3) Whatcom County Critical Area Ordinance 16.16;
34 (4) Flood Damage Prevention, Title 17;
35 (5) Subdivision, Title 21, except as modified by this chapter;
36 (6) Whatcom County Development Standards - Stormwater, Chapter 2, except as
37 modified by this chapter;
9

EXHIBIT A-Whatcom County Code Proposed Chapter 20.51

(7) Whatcom County Development Standards, Stormwater Special Districts, Chapter 2-
Section 221, except as modified by this chapter;
(8) Whatcom County Code, Title 23, Shoreline Management Program;
(9) Whatcom County Code, Title 24 Health Code; and
All other applicable official controls

20.51.050 Permitted Uses.

All permitted uses in the underlying zone districts are permitted except as expressly
prohibited, made conditional, or further conditioned by this chapter.

.051 Private noncommercial greenhouses less than 250 square feet. (Ord. 2009-009 Exh.
§ 1, 2001; Ord. 99-086, 1999).

20.51.060 Accessory uses.

All accessory uses in the underlying zone districts are permitted except as expressly
prohibited or made conditional, or further conditioned by this chapter. (Ord. 2009-009 Exh.
§ 1, 2001; Ord. 99-086, 1999).

20.51.070 Conditional Uses.

All conditional uses in the underlying zone districts shall remain conditional uses unless
expressly prohibited, made conditional, or further conditioned by this chapter. In addition,
the following uses shall only be conditionally permitted:

.071 On-site storage facilities for hazardous wastes associated with outright permitted uses
or approved conditional uses, other than cottage industries as defined in WCC 20.51.095,
subject to the most current siting criteria under Chapter 173-303 WAC within the Rural,
Rural Forestry, Commercial Forestry, Neighborhood Commercial and Resort Commercial
Zone Districts only.

.072 Retail or wholesale plant nurseries or greenhouses for storage, propagation and
culture of plants, provided:

(1) Greenhouses shall not be larger than 1,000 square feet.

(2) Greenhouses and cultivated ground shall not be located within 250 feet of Lake
Whatcom or streams subject to the Shoreline Management Program; 200 feet from fish-
bearing streams; or 150 feet from other streams and their tributaries that flow into Lake
Whatcom.

(3) A monitoring program has been established to ensure that chemical and pesticide
quantities in stormwater runoff do not exceed state water quality standards. Complete
control of drainage from the operation shall be in effect. Such runoff will be tested for
EXHIBIT A-Whatcom County Code Proposed Chapter 20.51

1 pollutants bimonthly by a licensed water quality testing agency. All requirements will be met
2 at the owner's expense.
3 (4) No person shall apply a commercial fertilizer, either liquid or granular, that is labeled as
4 containing more than zero percent phosphorous or other compound containing
5 phosphorous, such as phosphate; provided, that such fertilizers may be used for
6 establishment of new vegetation in the first growing season.
7 .073 Type I solid waste handling facilities, except:
8 (1) Moderate risk waste facilities; and
10 2005-085 § 1, 2005; Ord. 2004-014 § 2, 2004; Ord. 2004-007 § 1, 2004; Ord. 2003-049
13 20.51.080 Prohibited Uses.
14 In addition to the uses prohibited in the underlying zone districts, the following uses are
15 prohibited, except as per Chapter 20.83 WCC:
16 .081 Dry cleaning establishments.
17 .082 Gas stations, service stations, combustion engine repair garages and automotive
18 wrecking yards.
19 .083 Sod farming.
20 .084 Aquaculture and mariculture projects.
21 .085 Operation of fur farms.
22 .086 Confinement feeding operations.
23 .087 Asphalt and concrete batch plants.
24 .088 Gravel bar scalping projects within the jurisdiction of the Shoreline Management
25 Program.
26 .089 Utilization of sewage sludge on land.
27 .090 On-site treatment facilities for hazardous wastes.
28 .091 Type I solid waste handling facilities, except those specified in WCC 20.51.073.
29 .092 Type II, Type III, and Type IV solid waste handling facilities.
30 .093 Golf courses.
EXHIBIT A-Whatcom County Code Proposed Chapter 20.51

.094 Cemeteries.

.095 Cottage industries that would require on-site hazardous waste storage facilities.

.096 Surface mining outside of designated Mineral Resource Lands (MRL) Special Districts; provided, that surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW) are permitted.

.097 Major passenger intermodal terminals.

.098 Freight railroad switching yards and terminals.

.099 Agriculture, including animal husbandry, horticulture, viticulture, floriculture, and the cultivation of crops.

.100 Animal hospitals and accessory kennels and stables.


20.51.300 Open space.

.301 Open space requirements shall be as follows:

(1) Open space areas shall be maintained in natural vegetation or landscaped per WCC 20.80.325.

(2) For properties within the jurisdiction of the Shoreline Management Program (WCC Title 23), submerged lands and/or tidal lands within the boundaries of any waterfront parcel that are located waterward of the ordinary high water mark shall not be used in open space calculations.

20.51.310 Cluster subdivisions.

The purpose of cluster subdivision is to provide a method of creating building lots with spatially efficient sizes. Clustering is intended to consolidate development and associated infrastructure, reduce development costs, and increase infrastructure efficiency. Clustering is also intended to help preserve open space and the character of areas, reduce total impervious surface area, and minimize development effects on critical areas and associated buffers, as defined in Chapter 16.16 WCC, and resource lands. Preservation of open space is thereby intended to reduce potential stormwater runoff and associated impacts while assuring protection of viable, undeveloped, and naturally vegetated corridors for wildlife habitat, protection of watersheds, preservation of critical areas, preservation of aesthetic values including view corridors, and preservation of trail and/or recreation areas. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2005-048 Exh. A, 2005; Ord. 2004-
EXHIBIT A—Whatcom County Code Proposed Chapter 20.51


20.51.320 Cluster design standards.
The creation of new building lots within the Lake Whatcom Watershed Overlay District shall be subject to the following design standards:

(1) Cluster subdivisions shall be required for all land divisions resulting in lots less than five acres in size, with the exception of boundary line adjustments.

(2) A cluster subdivision shall include a permanent open space reserve area meeting the criteria established in WCC 20.51.330.

(3) The minimum cluster lot size requirements of the underlying zone district shall apply.

(4) The maximum number of building lots in a lot cluster shall be 10.

(5) Clusters containing two or more lots of less than one acre within a proposed development shall be separated by at least 80 feet.

(6) Clustered building lots may only be created through the subdivision, short subdivision or binding site plan process pursuant to WCC Title 21.

(7) Building lots shall be designed and located to be compatible with, and avoid disturbance of, critical areas or known archaeological sites, as well as physical constraints of the site.

(8) Building lots shall be arranged in a cluster/concentrated pattern.

(9) A cluster subdivision shall have no more than two common encroachments on existing county roads unless site constraints require additional road access. The arrangement of clustered building lots shall be designed to avoid development forms commonly known as linear, straight line or highway strip patterns.

(10) As applicable, interior streets shall be designed to allow future vehicular access to any portion of the reserve tract which may be divided into future building lots; provided, that the required permanent open space reserve area, pursuant to WCC 20.51.330, shall not be further subdivided. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2005-048 Exh. A, 2005; Ord. 2004-007 § 1, 2004; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002).

20.51.330 Open space reserve area.

(1) For purposes of this title, an “open space reserve area” shall be defined as that portion of a subdivision or short subdivision set aside in accordance with this chapter, and permanently dedicated for active or passive recreation, critical area protection, natural resource or archaeological site preservation, wildlife habitat and/or visual enjoyment, and shall be consistent with the definition of “open space” pursuant to WCC 20.97.275.

(2) The open space reserve area shall be subject to the following provisions:
EXHIBIT A-Whatcom County Code Proposed Chapter 20.51

(a) The minimum open space reserve area shall be determined by the minimum
cluster subdivision reserve area requirements of the underlying zone district.

(b) A permanent open space reserve area shall be protected using one of the following
mechanisms:

(i) Placement in a separate nonbuilding tract owned in common by all lots within
the subdivision; or

(ii) Covered by a protective easement which protects at least the minimum
required cluster reserve area specified in the underlying zone district; or

(iii) Preserved through an appropriate permanent protective mechanism that
provides the same level of permanent protection as subsection (2)(b)(i) of this
section as determined by the county zoning administrator or hearing examiner
which applies to at least the minimum required cluster reserve area specified in
the underlying zone district.

(c) The boundaries of the open space portion of the reserve area may be altered only
if the county finds that in dedicating adjacent reserve areas it would further the
objectives listed in WCC 20.51.310 by altering the reserve area and increasing the
area of reserve proportionately on the adjacent land being subdivided so that there is
no net reduction in open space reserve area.

(d) The purpose of the open space reserve area as defined in subsection (1) of this
section shall be recorded on the face of the final plat or short plat.

(e) The remaining unused development density and/or impervious surface allowances
remaining on the parcel containing the open space reserve area, based on the gross
density of the parent parcel, may be assigned to that portion of the reserve tract not
subject to the minimum area requirements of subsection (2)(b) of this section. The
density shall be recorded on the face of the final plat or short plat. The development
rights assigned to the reserve tract in accordance with this subsection may not be
transferred if the area associated with the reserve tract has been transferred to the
other building lots within the subdivision.

(f) The requirements stated in subsections (2)(c) and (d) of this section shall be
recorded as a restriction on the face of the final plat or short plat, and shall constitute
an agreement between Whatcom County and the current/future owner(s) of record
that shall run with the land. Said restriction(s) may be amended by mutual agreement
between said parties after review for consistency and compliance with the official
Whatcom County Zoning Ordinance, the Whatcom County Subdivision Ordinance, and
the Whatcom County Comprehensive Plan.

20.51.340 Building setback buffer areas.
.341 Setbacks for all properties within the overlay district shall be as follows: Class I and
Class II roads shall have a minimum setback of 30 feet; and Class III, IV and V roads shall

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EXHIBIT A—Whatcom County Code Proposed Chapter 20.51

have a minimum setback of 20 feet; provided, that the road right-of-way meets the
minimum standard for road rights-of-way pursuant to the Whatcom County Development
Standards.

.342 Roof overhangs or other overhanging architectural features shall not project further
than 18 inches into the side or rear yard setbacks. Such overhangs may extend three feet
into the front yard setback; however, in no case shall they extend more than one-half the
2002-075, 2002; Ord. 2002-034, 2002; Ord. 2001-062 § 1, 2001; Ord. 2001-021 § 1,

20.51.350 Development criteria.
2002; Ord. 2001-021 § 1, 2001).

20.51.360 Parking space dimensions.
A standard parking space shall have the rectangular dimensions of 10 feet in width and 20
feet in length; provided, that for any parking area of six or more spaces, 50 percent of all
spaces may have the rectangular dimensions of eight feet in width and 15 feet in length;
and further provided, that these spaces are marked for use by compact automobiles. Except
in single-family residential areas, all dimensions shall be inclusive of driveways, aisles and
other circulation areas required under WCC 20.80.560 and 20.80.570. (Ord. 2009-009 Exh.
§ 1, 2001; Ord. 99-086, 1999).

20.51.370 Parking requirements.
Parking shall conform to the requirements of WCC 20.80.500 through 20.80.590 unless
otherwise specified in this section. Minimum parking requirements may be reduced through
any of the following methods:

1. A shared parking agreement has been filed with the county auditor establishing a shared
parking lot for land uses with noncompeting hours of operation, or for multitenant retail and
commercial facilities; provided, the parking lot is not located further than 700 feet from any
of the uses it is intended to serve.

2. The minimum required parking in shared facilities shall be based on the land use
with the highest parking demand.

3. Mixed use developments with similar operating hours may be required to submit a
parking demand study to determine if parking can be combined.

2. A 20 percent reduction may be approved if an establishment is located within 1,000 feet
of any regularly scheduled bus stop.
EXHIBIT A—Whatcom County Code Proposed Chapter 20.51


20.51.390 Vehicular access.
Driveways and curb cuts shall be minimized along all arterial and collector roads. Each existing lot shall be allowed only one driveway or curb cut; adjacent lots are encouraged to share access points. In new developments, lots or leased sites shall be oriented toward internal driveways, parking areas, or roads with limited access to arterial or collector roads. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2004-007 § 1, 2004; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002; Ord. 2001-021 § 1, 2001; Ord. 99-086, 1999).

20.51.400 Roads, curbs, gutters and sidewalks.
The intent of this section is to reduce impervious surfaces and stormwater runoff. Innovative street sections, which do not compromise public safety, shall be encouraged in the watershed. Narrow streets and reduced sidewalk standards that satisfy pedestrian and vehicular circulation requirements may be implemented with the approval of the Whatcom County public works department. Unless specifically required, roads shall not be wider than the minimum applicable standard. A rural road standard may be approved by the Whatcom County public works department for urban density residential areas where the developer provides adequate off-street parking and pedestrian walkways. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2004-007 § 1, 2004; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002; Ord. 2001-021 § 1, 2001; Ord. 99-086, 1999).

20.51.410 Seasonal Clearing Activity Limitations
The intent of seasonal clearing activity limitations is to establish a more stringent standard for clearing activity in highly valued water resource areas, environmentally sensitive areas, or areas where natural conditions are so unstable that clearing activity in the areas can result in hazardous conditions. Implementation of best management practices, including phased clearing, tree retention and seasonal clearing limitations, is intended to limit the amount of exposed soils on site that are susceptible to erosion at any one time, thereby improving site stability during development and reducing potential for transport of dissolved pollutants and sediments off site. Preservation of existing trees on site also reduces the quantity and maintains the quality of stormwater leaving a site during and after development activities by encouraging interception, infiltration and evapotranspiration of rainfall and surface runoff.
EXHIBIT A-Whatcom County Code Proposed Chapter 20.51

(1) County review and approval shall be required for all clearing activities associated with a fill and grade permit, building permit or other development proposal.

(2) Clearing activity, as defined in WCC 20.97.054, that will result in exposed soils exceeding 500 square feet shall not be permitted from October 1st through May 31st; provided, that:

(3) The zoning administrator may approve an exemption to this requirement for the following activities:

(a) Routine maintenance and repair of erosion and sediment control measures;

(b) Activities located at or waterward of the ordinary high water mark subject to state, federal, and/or local (per Chapter 16.16 WCC and/or WCC Title 23) conditions of approval requiring commencement of clearing activity between October 1st and May 31st for purposes of minimizing surface water disturbance and site inundation by high water or wave action;

(c) Activities necessary to address an emergency that presents an unanticipated and imminent threat to public health, safety or the environment that requires immediate action within a time too short to allow full compliance with this section. Upon abatement of the emergency situation, the clearing activity shall be reviewed for consistency with this chapter and may be subject to additional permit requirements; provided, that the applicant shall make a reasonable attempt to contact the zoning administrator prior to the activity. When prior notice is not feasible, notification of the action shall be submitted to the zoning administrator as soon as the emergency is addressed and no later than two business days following such action. Emergency construction does not include development of new permanent protective structures where none previously existed.

(d) The proposed activity does not involve the conversion of forest land, is outside critical areas and associated buffers, and is exclusively related to agriculture as defined in this title; or

(e) The proposed activity consists of non-conversion forest practices, other than Class IV-General forest practices on platted land, and other than those with an approved COHP regulated under Chapter 76.09 RCW; or

(4) To ensure compliance with subsection (2) of this section, Whatcom County planning and development services shall not issue development permits requiring more than 500 square feet of land disturbance located within the Lake Whatcom watershed within two weeks prior to the watershed seasonal closure on October 1st.

(5) Soil disturbance associated with an exempt clearing activity shall be minimized to the maximum extent practicable. The zoning administrator shall have the authority to condition an exempt activity to ensure that temporary erosion and sediment control measures will be implemented.
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(6) An exemption from the seasonal land clearing requirements of this section does not grant authorization for any work to be done in a manner that does not comply with other provisions of this chapter or other applicable development regulations.

(7) Within the Lake Whatcom Watershed Overlay District, clearing activity must conform to the following conditions:

(a) Temporary erosion and sediment control shall be installed and inspected prior to any clearing activity. The technical administrator shall conduct periodic inspections to ensure the integrity of temporary erosion and sediment controls. Temporary erosion and sediment control measures include, but are not limited to, installation of silt fencing, installation of check dams, covering of excavation piles, and mulching of exposed soils, as specified in the Whatcom County Development Standards.

(b) Phased Clearing. Construction activities and clearing activities shall be phased to limit the amount of exposed soil that occurs at any one time, if determined to be appropriate by the technical administrator, based on site characteristics or constraints including, but not limited to, slopes, proximity to shorelines and wetlands. A phased clearing plan may be required. A phased clearing plan, if required, shall be submitted for review and approval by the technical administrator prior to any clearing activity and shall contain a detailed construction schedule or timeline.

(c) Soil Stabilization. All disturbed areas shall be provided with soil stabilization within two days of the time of disturbance. The technical administrator may approve an exemption to this requirement when a tree canopy area retention plan includes a soil stabilization plan. This plan component must specifically detail erosion and sediment control and stormwater runoff measures that provide runoff control equal to or greater than the protection provided by the standard two-day soil stabilization requirements of this section.

20.51.420 Permanent Stormwater Management Systems

(1) Exemptions. This section does not apply to any of the following projects, work, or activities (which does not necessarily exempt them from other stormwater related titles and/or standards that might otherwise apply; see WCC 20.51.040(6), WCC 20.51.040(7) and WCC 20.80.630(3)) within the Lake Whatcom Watershed Overlay District:

(a) Installations of, and/or repairs to, and/or replacements of, any of the following facilities:

1. Below grade:
   i. Pipe,
   ii. Conduit,
   iii. Ductwork,
iv. Cabling and wiring (direct burial or conduit encased),

2. Above grade:
   i. Utility or light poles,
   ii. Communication and/or data transmission systems pedestals,

3. Below grade, at grade, and/or above grade appurtenances to any of the above respective facilities.

(b) Roof replacements and/or conversions at the same, or less, surface area. Conversions to metal roofs require coatings with inert non-leachable materials.

(c) Deck, porch, and/or other raised surfaces area replacements at the same, or less, surface area.

(d) Land disturbing activities (per WCC 20.97 definition) of less than 5,000 square feet in total area, excluding any impervious surface area work within the land area disturbed.

(e) Projects, work, or activities that will create less than:

   1. 501 square feet of previously nonexistent impervious surface area and/or permeable pavement area (per WCC 20.97 definitions), and/or
   2. 1,501 square feet of replaced impervious surface area and/or replaced permeable pavement area (per WCC 20.97 definitions).

(f) Maintenance (e.g., debris, moss, and/ or mildew removal) of existing impervious surface areas and/or permeable pavement areas. Pre-existing nonconforming impervious surfaces may be routinely maintained/repaired.

(g) If a legal nonconforming structures are destroyed, the nonconforming use may be reconstructed using the pre-existing footprint. Damage repairs (e.g., from fire, wind, falling trees or limbs, flooding) to existing impervious surface areas and/or permeable pavement areas within their same respective existing footprints. Expansion of nonconforming impervious surfaces shall be subject to this ordinance.

(h) For a Single Family Dwelling that meets all of the following:

   1. To be located within the platted boundaries of, and in general belonging to, an incorporated homeowners association; and
   2. Which association has a stormwater runoff management and phosphorus mitigation plan that provides at least the same level of overall protection from and/or treatment of phosphorus runoff to Lake Whatcom as would the application of WCC 20.51.420(2) to any of the individual parcels therein that may be developed; and
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3. Ongoing implementation program, applicable to all newly developed parcels within that association's boundaries, as well as to the association as a whole; and

4. Which plan and program have been agreed to by a memorandum of agreement between Whatcom County and the Incorporated Homeowners Association; and


(2) Best Management Practices.

(a) Unless otherwise exempt per WCC 20.51.420(1), or unless a standard land use vesting determination concludes otherwise, all projects, work, or activities, including subdivisions, binding site plans, and non-exempt new short subdivision parcels, proposed to occur within the Lake Whatcom Watershed Overlay District shall incorporate presumptive BMPs and/or demonstrative BMPs, per WCC 20.51.420(2)(c) and/or WCC 20.51.420(2)(d), respectively, to:

(1) All project, work, or activity affected:

i. Net land area disturbed (per WCC 20.97 definition, and/or

ii. Newly created and/or replaced:

A. Net new impervious surface area (per WCC 20.97 definition), and/or

B. Net replaced impervious surface area (per WCC 20.97 definition), and/or

C. Net new permeable pavement area (per WCC 20.97 definition), and/or

D. Net replaced permeable pavement area (per WCC 20.97 definition), and/or

(2) Existing off-parcel phosphorus-unmitigated areas and/or on-parcel phosphorus-unmitigated areas within the entire Lake Whatcom Watershed at a 2:1 ratio of phosphorus-unmitigated area to the corresponding project, work, or activity affected area(s) that WCC 20.51.420(2)(a)(1)(i) – (ii) outlines.

(3) The developable areas and infrastructure as required for long and short subdivision approval. A stormwater management plan for developable areas and required infrastructure, consistent with the 2012 Stormwater Management Manual for Western Washington is required prior to primarily plat approval. Installation of required BMPs for infrastructure is required prior to final plat approval.

(b) The development stormwater runoff (per WCC 20.97 definition) phosphorus loading profile from each phosphorus-mitigated area noted in WCC 20.51.420(2)(a)(1) & (2) shall not exceed the corresponding natural stormwater runoff (per WCC 20.97
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... phosphorus loading profile from each respective phosphorus-mitigated area.

(c) Presumptive BMPs (per WCC 20.97 definition). Presumptive BMPs, which are combinable with each other and with demonstrative BMPs, follow:

1. Full infiltration and downspout full infiltration. See the 2012 Stormwater Management Manual for Western Washington BMP T5.10A Volume III Section 3.1.1 and Volume III Chapter III Section 3.3.9(A). Use of these BMPs may require an engineered design (per WCC 20.97 definition).

2. Full dispersion:
   i. See current Stormwater Management Manual for Western Washington Volume V Chapter 5 BMP T5.30. This BMP might, but does not necessarily, require an engineered design. See the 2012 Stormwater Management Manual for Western Washington Volume V, Chapter 5, pages 5-30 through 5-38 for further design requirements and infeasibility criteria.

(d) Demonstrative BMPs (per WCC 20.97 definition). Demonstrative BMPs, which are combinable with each other and with presumptive BMPs, use engineered designs that, once constructed or installed, and presuming that system preservation activities occur as prescribed by the design engineer, will satisfy the 2012 Stormwater Management Manual for Western Washington Minimum Requirements numbers 3 through 9, disregarding any Minimum Requirement applicability thresholds therein, while also conforming to at least one of the following:

1. The engineered design limits the estimated phosphorus loading in development stormwater runoff to less than 0.1875 lb of P/acre/year. Engineered designs shall cite and use only WSDOE-approved references for estimated phosphorus loading information and criteria.

2. The monthly development stormwater runoff volume does not exceed the monthly natural stormwater runoff volume of the project, work, or activity affected areas, as determined by a WSDOE-approved continuous runoff model.

3. Development stormwater runoff does not occur

(3) System Recording, Protection, and Maintenance. A declaration of covenant shall be recorded for each property where permanent stormwater BMPs exist. The covenant is used to protect the stormwater management facilities from cover by structures or impervious material, soil compaction, and damage by soil removal and grade alteration. A draft of the proposed covenant must be reviewed and approved by Whatcom County prior to recording. All required covenants must be recorded prior to final permit issuance for the proposed project.

(a) Notice on Title: For all permanent stormwater facilities, the type of stormwater system and location shall be recorded with the County Auditor real estate records in a format similar to the recording documents in Whatcom County Development
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Standards, Chapter 2, Section 221. The recording document provides notice to future owners of the presence of stormwater system on the lot, and shall contain:

(i) A site plan to scale, showing the location and descriptions of stormwater facilities, treatment BMPs, terrain features, Protective Native Growth Areas, and stormwater flowpaths.

(ii) Notice of the property owner’s responsibility to retain, uphold, and protect the devices, features, pathways, Protective Native Growth Areas, and operate and maintain BMPs at the owner’s expense.

(b) Protected Native Growth Area (PNGA): For projects that utilize dispersion for their stormwater system, a Protected Native Growth Area covenant shall be required to:

(i) Include native plant species including, but not limited to, those on approved lists provided by Whatcom County common to this region.

(ii) Be described in the recorded documents as “a Protected Native Growth Area established for the purposes of dispersing and treating stormwater flows.”

(iii) Retain all vegetation and trees within the PNGA at the time of permit application aside from approved timber harvest activities and the removal of hazardous and diseased trees (as defined in Chapter 20.97 WCC), an evaluation and determination by an ISA licensed arborist may be required.

(iv) The PNGA can include onsite critical areas and its buffer,

(v) Limit uses in the PNGA to those specified in WCC 16.16.

(vi) Provide a Notice of Activity consistent with WCC 16.16.235, to remove trees within a PNGA when a permit is not required by 20.51.420(1), under the following circumstances:

1. Fire prevention methods when supported by the county fire marshal;
2. Hazard trees, as defined in Chapter 20.97 WCC, are identified (an evaluation and determination by a licensed arborist may be required);
3. Encroachments where the trunk, branches, or roots would be, or are in contact with main or accessory structures; or
4. Where installation and/or maintenance of roads or utilities would unavoidably require removal or cutting through the root system.
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

Chapter 20.71
WATER RESOURCE PROTECTION OVERLAY DISTRICT*

Sections:

- **20.71.010** Purpose.
- **20.71.020** Application.
- **20.71.021** Area and applicability.
- **20.71.050** Permitted uses.
- **20.71.100** Accessory uses.
- **20.71.150** Conditional uses.
- **20.71.200** Prohibited uses.
- **20.71.300** Open space and impervious surfaces.
- **20.71.350** Cluster subdivisions.
- **20.71.351** Cluster design standards.
- **20.71.352** Open space reserve area.
- **20.71.400** Building setback/buffer areas.
- **20.71.600** Development criteria.
- **20.71.601** Parking space dimensions.
- **20.71.602** Parking requirements.
- **20.71.603** Alternative surfacing methods.
- **20.71.604** Vehicular access.
- **20.71.700** Roads, curbs, gutters and sidewalks.

*Prior legislation: Ord. 2008-035, which expired March 20, 2009, was formerly codified in this chapter.

**20.71.010** Purpose.

The Water Resource Protection Overlay District is an overlay zone that is intended to impose additional controls to preserve and protect unique and important water resources within Whatcom County. This district is designed to protect the long-term viability of the Lake Whatcom, Lake Samish and Lake Padden watersheds while creating a regulatory framework to address the needs of these watersheds that are not otherwise provided for in the underlying zone districts. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2004-007 § 1, 2004; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002; Ord. 2001-021 § 1, 2001; Ord. 99-086, 1999).

**20.71.020** Application.


**20.71.021** Area and applicability.
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

(1) The Water Resource Protection Overlay District is an overlay zone that covers the entire geographic area of the Lake Whatcom, Lake Samish and Lake Padden watersheds within Whatcom County’s jurisdiction. For purposes of this title, the Lake Samish watershed shall consist of that portion of the Friday Creek subbasin of the Samish River watershed that lies within Whatcom County.

(2) This district may be expanded to include other areas through the annual zoning text amendment process.

(3) The Lake Whatcom, Lake Samish and Lake Padden watersheds are also designated as stormwater special districts pursuant to WCC 20.80.635 and water resource special management areas pursuant to WCC 20.80.735.

(4) In the event that the provisions of this chapter conflict with the provisions of the Shoreline Management Program (WCC Title 23), Chapter 16.16 WCC, Critical Areas, the Whatcom County Development Standards, the provisions of the underlying zoning district or other applicable county policies or regulations, then the most restrictive shall apply; provided, that the minimum setback provisions established in WCC 20.71.401 shall prevail. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2004-007 § 1, 2004; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002; Ord. 2001-021 § 1, 2001; Ord. 99-086, 1999).

20.71.050 Permitted uses.
All permitted uses in the underlying zone districts are permitted except as expressly prohibited, made conditional, or further conditioned by this chapter.


20.71.100 Accessory uses.

20.71.150 Conditional uses.
All conditional uses in the underlying zone districts shall remain conditional uses unless expressly prohibited, made conditional, or further conditioned by this chapter. In addition, the following uses shall only be conditionally permitted:

.151 On-site storage facilities for hazardous wastes associated with outright permitted uses or approved conditional uses, other than cottage industries as defined in WCC 20.71.215, subject to the most current
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

siting criteria under Chapter 173-303 WAC within the Rural, Rural Forestry, Commercial Forestry, Neighborhood Commercial and Resort Commercial Zone Districts only.

.152 Retail or wholesale plant nurseries or greenhouses for storage, propagation and culture of plants, provided:

(1) Greenhouses shall not be larger than 1,000 square feet.

(2) Greenhouses and cultivated ground shall not be located within 250 feet of Lake Whatcom, Lake Samish, Lake Padden or streams subject to the Shoreline Management Program; 200 feet from fish-bearing streams; or 150 feet from other streams and their tributaries that flow into Lake Whatcom, Lake Samish or Lake Padden.

(3) A monitoring program has been established to ensure that chemical and pesticide quantities in stormwater runoff do not exceed state water quality standards. Complete control of drainage from the operation shall be in effect. Such runoff will be tested for pollutants bimonthly by a licensed water quality testing agency. All requirements will be met at the owner’s expense.

(4) No person shall apply a commercial fertilizer, either liquid or granular, that is labeled as containing more than zero percent phosphorous or other compound containing phosphorous, such as phosphate; provided, that such fertilizers may be used for establishment of new vegetation in the first growing season.

.185 Type I solid waste handling facilities, except:

(1) Moderate risk waste facilities; and


20.71.200 Prohibited uses.
In addition to the uses prohibited in the underlying zone districts, the following uses are prohibited, except as per Chapter 20.83 WCC:

.201 Dry cleaning establishments.

.202 Gas stations, service stations, combustion engine repair garages and automotive wrecking yards.

.203 Sod farming.

.204 Aquaculture and mariculture projects.
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

.205 Operation of fur farms.

.206 Confinement feeding operations.

.207 Asphalt and concrete batch plants.

.208 Gravel bar scalping projects within the jurisdiction of the Shoreline Management Program.

.209 Utilization of sewage sludge on land.

.210 On-site treatment facilities for hazardous wastes.

.211 Type I solid waste handling facilities, except those specified in WCC 20.71.185.

.212 Type II and Type III solid waste handling facilities.

.213 Golf courses.

.214 Cemeteries.

.215 Cottage industries that would require on-site hazardous waste storage facilities.

.216 Surface mining outside of designated Mineral Resource Lands (MRL) Special Districts; provided, that surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW) are permitted.

.217 Major passenger intermodal terminals.

.218 Freight railroad switching yards and terminals.

.219 Agriculture, including animal husbandry, horticulture, viticulture, floriculture, and the cultivation of crops.

.220 Animal hospitals and accessory kennels and stables.


20.71.300 Open space and impervious surfaces.

.301 Open space requirements shall be as follows:

(1) For uses in the TC and NC Zones, at least 25 percent of the parcel shall be reserved as open space.
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

(2) For uses in the RC Zone, at least 40 percent of the parcel shall be reserved as open space.

(3) Open space areas shall be maintained in natural vegetation or landscaped per WCC 20.80.325.

(4) For properties within the jurisdiction of the Shoreline Management Program (WCC Title 23), submerged lands and/or tidelands within the boundaries of any waterfront parcel that are located waterward of the ordinary high water mark shall not be used in open space calculations.

.302 Impervious surface requirements shall be as follows:

(1) For uses in the UR, URM and RR Zone Districts, at least 80 percent of the lot or parcel shall be kept free of structures and impervious surfaces.

(2) For uses in the R Zone District, at least 90 percent of the lot or parcel shall be kept free of structures and impervious surfaces.

(3) Where subsection (1) or (2) of this section does not allow 2,500 square feet of total impervious surface area, 2,500 square feet shall be allowed.

(4) Two or more lots of record consolidated pursuant to the provisions of WCC 20.83.070 shall be treated as one undivided parcel for the purpose of calculating total allowable impervious surface. Where two or more lots or parcels are consolidated; are not subject to the provisions of WCC 20.83.070; and are not subject to a permanent restrictive covenant that precludes development of buildings, structures or other improvements not otherwise identified by said covenant, 4,000 square feet of impervious surface shall be allowed.

(5) Preexisting nonconforming impervious surfaces may be routinely maintained/repaired or redeveloped; provided, that if 50 percent or greater of the preexisting nonconforming impervious area is to be redeveloped, then the applicable impervious surface limitations of subsections (1), (2) and (3) of this section shall apply. However, if a legal nonconforming structure is destroyed, the nonconforming use may be reconstructed using the pre-existing footprint. Expansion of nonconforming impervious surfaces shall be prohibited.

(6) A mobile home within an existing mobile home park may be replaced with a larger mobile home (not to exceed a maximum of 1,500 square feet), provided there is not an increase in the overall number of mobile homes in the park or any increase in other impervious surfaces beyond the new mobile home footprint.

(7) For properties within the jurisdiction of the Shoreline Management Program (WCC Title 23), submerged lands and/or tidelands within the boundaries of any waterfront parcel that are located waterward of the ordinary high water mark shall not be used in impervious/pervious surface calculations,
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

(8) Any portion of a roof overhang or other overhanging architectural feature which projects further than three feet from the footprint of a structure shall be calculated as impervious surface.


20.71.350 Cluster subdivisions.
The purpose of cluster subdivision is to provide a method of creating building lots with spatially efficient sizes. Clustering is intended to consolidate development and associated infrastructure, reduce development costs, and increase infrastructure efficiency. Clustering is also intended to help preserve open space and the character of areas, reduce total impervious surface area, and minimize development effects on critical areas and associated buffers, as defined in Chapter 16.16 WCC, and resource lands. Preservation of open space is thereby intended to reduce potential stormwater runoff and associated impacts while assuring protection of viable, undeveloped, and naturally vegetated corridors for wildlife habitat, protection of watersheds, preservation of critical areas, preservation of aesthetic values including view corridors, and preservation of trail and/or recreation areas. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2005-048 Exh. A, 2005; Ord. 2004-007 § 1, 2004; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002; Ord. 2001-021 § 1, 2001; Ord. 99-086, 1999).

20.71.351 Cluster design standards.
The creation of new building lots within Water Resource Protection Overlay Districts shall be subject to the following design standards:

(1) Cluster subdivisions shall be required for all land divisions resulting in lots less than five acres in size, with the exception of boundary line adjustments.

(2) A cluster subdivision shall include a permanent open space reserve area meeting the criteria established in WCC 20.71.352.

(3) The minimum cluster lot size requirements of the underlying zone district shall apply.

(4) The maximum number of building lots in a lot cluster shall be 10.

(5) Clusters containing two or more lots of less than one acre within a proposed development shall be separated by at least 80 feet.

(6) Clustered building lots may only be created through the subdivision, short subdivision or binding site plan process pursuant to WCC Title 21.
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

(7) Building lots shall be designed and located to be compatible with, and avoid disturbance of, critical areas or other valuable or unique natural resources or known archaeological sites, as well as physical constraints of the site.

(8) Building lots shall be arranged in a cluster/concentrated pattern.

(9) A cluster subdivision shall have no more than two common encroachments on existing county roads unless site constraints require additional road access. The arrangement of clustered building lots shall be designed to avoid development forms commonly known as linear, straight line or highway strip patterns.

(10) As applicable, interior streets shall be designed to allow future vehicular access to any portion of the reserve tract which may be divided into future building lots; provided, that the required permanent open space reserve area, pursuant to WCC 20.71.352, shall not be further subdivided. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2005-048 Exh. A, 2005; Ord. 2004-007 § 1, 2004; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002).

20.71.352 Open space reserve area.

(1) For purposes of this title, an “open space reserve area” shall be defined as that portion of a subdivision or short subdivision set aside in accordance with this chapter, and permanently dedicated for active or passive recreation, critical area protection, natural resource or archaeological site preservation, wildlife habitat and/or visual enjoyment, and shall be consistent with the definition of “open space” pursuant to WCC 20.97.275.

(2) The open space reserve area shall be subject to the following provisions:

(a) The minimum open space reserve area shall be determined by the minimum cluster subdivision reserve area requirements of the underlying zone district.

(b) A permanent open space reserve area shall be protected using one of the following mechanisms:

(i) Placement in a separate nonbuilding tract owned in common by all lots within the subdivision; or

(ii) Covered by a protective easement or public or private land trust dedication which protects at least the minimum required cluster reserve area specified in the underlying zone district; or

(iii) Preserved through an appropriate permanent protective mechanism that provides the same level of permanent protection as subsection (2)(b)(i) of this section as determined by
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

the county zoning administrator or hearing examiner which applies to at least the minimum required cluster reserve area specified in the underlying zone district.

(c) The boundaries of the open space portion of the reserve area may be altered only if the county finds that in dedicating adjacent reserve areas it would further the objectives listed in WCC 20.71.350 by altering the reserve area and increasing the area of reserve proportionately on the adjacent land being subdivided so that there is no net reduction in open space reserve area.

(d) The purpose of the open space reserve area as defined in subsection (1) of this section shall be recorded on the face of the final plat or short plat.

(e) The remaining unused development density and/or impervious surface allowances remaining on the parcel containing the open space reserve area, based on the gross density of the parent parcel, may be assigned to that portion of the reserve tract not subject to the minimum area requirements of subsection (2)(b) of this section. The density shall be recorded on the face of the final plat or short plat. The development rights assigned to the reserve tract in accordance with this subsection may not be transferred if the pervious surface area associated with the reserve tract has been transferred to the other building lots within the subdivision.

(f) The requirements stated in subsections (2)(c) and (d) of this section shall be recorded as a restriction on the face of the final plat or short plat, and shall constitute an agreement between Whatcom County and the current/future owner(s) of record that shall run with the land. Said restriction(s) may be amended by mutual agreement between said parties after review for consistency and compliance with the official Whatcom County Zoning Ordinance, the Whatcom County Subdivision Ordinance, and the Whatcom County Comprehensive Plan.


20.71.400 Building setback/buffer areas.
.401 Setbacks for all properties within the overlay district shall be as follows: Class I and Class II roads shall have a minimum setback of 30 feet; and Class III, IV and V roads shall have a minimum setback of 20 feet; provided, that the road right-of-way meets the minimum standard for road rights-of-way pursuant to the Whatcom County Development Standards.

.402 Roof overhangs or other overhanging architectural features shall not project further than 18 inches into the side or rear yard setbacks. Such overhangs may extend three feet into the front yard setback;
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735


20.71.600 Development criteria.

20.71.601 Parking space dimensions.
A standard parking space shall have the rectangular dimensions of 10 feet in width and 20 feet in length; provided, that for any parking area of six or more spaces, 50 percent of all spaces may have the rectangular dimensions of eight feet in width and 15 feet in length; and further provided, that these spaces are marked for use by compact automobiles. Except in single-family residential areas, all dimensions shall be exclusive of driveways, aisles and other circulation areas required under WCC 20.80.560 and 20.80.570. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2004-007 § 1, 2004; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002; Ord. 2001-021 § 1, 2001; Ord. 99-086, 1999).

20.71.602 Parking requirements.
Parking shall conform to the requirements of WCC 20.80.500 through 20.80.590 unless otherwise specified in this section. Minimum parking requirements may be reduced through any of the following methods:

(1) A shared parking agreement has been filed with the county auditor establishing a shared parking lot for land uses with noncompeting hours of operation, or for multitenant retail and commercial facilities; provided, the parking lot is not located further than 700 feet from any of the uses it is intended to serve.

(a) The minimum required parking in shared facilities shall be based on the land use with the highest parking demand.

(b) Mixed use developments with similar operating hours may be required to submit a parking demand study to determine if parking can be combined.

(2) A 20 percent reduction may be approved if an establishment is located within 1,000 feet of any regularly scheduled bus stop.

(3) The zoning administrator determines that a reduced requirement will reduce overall impervious surfaces while maintaining consistency with this title. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1,
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735


20.71.603 Alternative surfacing methods.
Alternative surfaces including, but not limited to, bark or wood mulch, washed gravel, grid/lattice systems, permeable interlocking pavers, pervious concrete, porous asphalt, and other similar approved materials are encouraged. Alternative surfacing methods may be approved for fringe or overflow parking areas; emergency parking areas, private roads, fire lanes, road shoulders, bike paths, walkways, patios, driveways, and easement service roads in residential or commercial zones unless site constraints make use of such materials detrimental to water quality. Utilization of alternative surfacing methods shall be subject to review and approval by the Whatcom County public works department, the fire marshal and/or the county ADA coordinator for compliance with other applicable regulations and development standards. Surfaces shall be considered impervious surfaces under WCC 20.71.300 unless the following conditions are met:

(1) Bark, wood mulch, and washed gravel shall be designed and installed so that all rain water falling upon the alternative surface will be infiltrated directly beneath the alternative surface without generating surface runoff based on the one-year, 24-hour storm event.


20.71.604 Vehicular access.
Driveways and curb cuts shall be minimized along all arterial and collector roads. Each existing lot shall be allowed only one driveway or curb cut; adjacent lots are encouraged to share access points. In new developments, lots or leased sites shall be oriented toward internal driveways, parking areas, or roads with limited access to arterial or collector roads. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2004-007 § 1, 2004; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002; Ord. 2001-021 § 1, 2001; Ord. 99-086, 1999).

20.71.700 Roads, curbs, gutters and sidewalks.
The intent of this section is to reduce impervious surfaces and stormwater runoff. Innovative street sections, which do not compromise public safety, shall be encouraged in the watershed. Narrow streets and reduced sidewalk standards that satisfy pedestrian and vehicular circulation requirements may be implemented with the approval of the Whatcom County public works department. Unless specifically
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735


20.80.735 Water resource special management areas.
The purpose of a water resource special management area is to establish a more stringent standard for clearing activity in highly valued water resource areas, environmentally sensitive areas, or areas where natural conditions are so unstable that clearing activity in the areas can result in hazardous conditions. Implementation of best management practices, including phased clearing, tree retention and seasonal clearing limitations, is intended to limit the amount of exposed soils on site that are susceptible to erosion at any one time, thereby improving site stability during development and reducing potential for transport of dissolved pollutants and sediments off site. Preservation of existing trees on site also reduces the quantity and maintains the quality of stormwater leaving a site during and after development activities by encouraging interception, infiltration and evapotranspiration of rainfall and surface runoff.

Whatcom County shall establish the following geographic areas as water resource special management areas:

• Lake Whatcom watershed;

• Drayton Harbor watershed;

• Lake Padden watershed;

• Lake Samish watershed; and

• Birch Bay watershed.

(1) Water Resource Special Management Area Review Thresholds. County review and approval shall be required for clearing activities which exceed the following thresholds. If the clearing activity does not meet the threshold criteria, county review is not required. However, the owner is still subject to, and must comply with, the minimum requirements established in this chapter and in the Whatcom County Development Standards.

(a) Lake Whatcom, Lake Samish and Lake Padden Watersheds. County review and approval shall be required for all clearing activities associated with a fill and grade permit, building permit or other
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735


20.80.635 Stormwater special districts.
(1) Whatcom County shall establish the following geographical areas as stormwater special districts:

(a) Drayton Harbor watershed.

(b) Lake Whatcom watershed.

(c) Lake Samish watershed.

(d) Birch Bay watershed.

(e) Lake Padden watershed.


20.80.636 Stormwater special district requirements.
In areas designated as stormwater special districts (per WCC 20.80.635), permanent on-site stormwater quality and quantity facilities shall be required on all lots less than five acres in size for projects that meet either of the following criteria:

(1) New construction or remodels that increase impervious surfaces by more than 500 square feet; or

(2) Renovation projects where the estimated cost of the work exceeds 50 percent of the assessed value of the existing structure. Interior remodels, nonpolluting roof replacements, house maintenance and energy upgrades shall be exempt from this requirement.

If stormwater quality and quantity facilities are required based on either of these criteria, the provisions of the Whatcom County Development Standards, Chapter 2, Section 221, shall apply to the entire property, unless it can be demonstrated that off-site facilities would provide better treatment, or unless common detention and water quality facilities meeting the standards of the 1996 Whatcom County Development Standards or the 1992 Department of Ecology Stormwater Management Manual for the Puget Sound.
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

development proposal. Clearing activities which are not associated with a development permit shall require county review if they are:

(i) Five thousand square feet or greater during the dry season, June 1st through September 30th; or

(ii) Five hundred square feet or greater during the wet season, October 1st through May 31st.

(2) Within water resource special management areas, clearing activity must conform to the following conditions:

(a) Temporary erosion and sediment control shall be installed and inspected prior to any clearing activity. The technical administrator shall conduct periodic inspections to ensure the integrity of temporary erosion and sediment controls. Temporary erosion and sediment control measures include, but are not limited to, installation of silt fencing, installation of check dams, covering of excavation piles, and mulching of exposed soils, as specified in the Whatcom County Development Standards.

(b) Phased Clearing. Construction activities and clearing activities shall be phased to limit the amount of exposed soil that occurs at any one time, if determined to be appropriate by the technical administrator, based on site characteristics or constraints including, but not limited to, slopes, proximity to shorelines and wetlands. A phased clearing plan may be required. A phased clearing plan, if required, shall be submitted for review and approval by the technical administrator prior to any clearing activity and shall contain a detailed construction schedule or timeline.

(c) Soil Stabilization. All disturbed areas shall be provided with soil stabilization within two days of the time of disturbance. The technical administrator may approve an exemption to this requirement when a tree canopy area retention plan includes a soil stabilization plan. This plan component must specifically detail erosion and sediment control and stormwater runoff measures that provide runoff control equal to or greater than the protection provided by the standard two-day soil stabilization requirements of this section.

(d) Tree Canopy Area Retention. In the Lake Whatcom, Lake Samish and Lake Padden watersheds, in addition to compliance with all other requirements of this title and other titles of the Whatcom County Code, clearing activities on any lot or parcel, with the exception of nonconversion forest practices occurring on lands platted after January 1, 1960, shall comply with the following provisions:

(i) Existing tree canopy areas, as defined by the dripline of the tree(s), may be removed for purposes of a building site, driveways, parking areas, and areas to be landscaped, but such
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

areas shall not exceed a cumulative total of 5,000 square feet or 35 percent of the existing tree canopy area, whichever is greater.

(ii) The following criteria shall be used to determine which tree canopy areas are to be prioritized for retention:

(A) Stands of mature native trees;

(B) Trees on sensitive slopes, on lands classified as having landslide hazards, or high erosion hazards, as defined under the critical areas ordinance;

(C) Trees within critical areas or their associated setback and/or buffer areas as defined under WCC Title 16 or 23; or

(D) Trees with significant habitat value as identified by a qualified wildlife biologist or by the technical administrator, per WCC Title 16.

(iii) Existing trees and vegetation may be used to meet all or part of the landscaping requirements of this title.

(iv) The county shall require that tree canopy areas to be retained are identified on a site plan and clearly flagged, or delineated, on the site. A tree canopy area retention plan must accompany a project or clearing permit application and be approved by the technical administrator before clearing activity takes place. The plan shall contain the following components:

(A) A scaled drawing identifying the following:

1. North arrow;

2. Property boundaries;

3. Existing structures;

4. Site access;

5. Tree canopy areas to be removed;

6. The outer dripline of tree canopy areas to be retained;

7. Critical areas including, but not limited to, slopes, wetlands, and habitat conservation areas;
8. Protection measures to be utilized for areas that will be undisturbed; and

9. Areas to be replanted pursuant to subsection (2)(d)(vii) of this section;

(B) A planting schedule that indicates the time frame for replanting of trees as applicable; and

(C) Provisions for maintenance and monitoring.

(v) Prior to any clearing activity or development activity, any tree canopy area designated for retention shall be delineated by temporary fencing, tape, or other indicators around the outer dripline of the trees. Temporary fencing, tape, or other indicators shall be clearly visible and shall be maintained for the duration of the proposed clearing or development activity. Any tree canopy areas designated for retention shall be field verified by the technical administrator before clearing activities begin. Trees within canopy areas designated for retention shall not be damaged by clearing, excavation, ground surface level changes, soil compaction, or any other activities that may cause damage to roots or trunks. Machinery, impervious surfaces, fill and storage of construction materials shall be kept outside of the dripline of the tree canopy areas designated for retention.

(vi) Tree canopy areas may be removed when limited to those canopy areas affected under the following circumstances:

(A) Fire prevention methods when supported by the county fire marshal;

(B) Hazard trees, as defined in Chapter 20.97 WCC, are identified (an evaluation and determination by a licensed arborist or forester may be required);

(C) Encroachments where the trunk, branches or roots would be, or are, in contact with main or accessory structures; or

(D) Where installation and/or maintenance of roads or utilities would unavoidably require removal or cutting through the root system.

(vii) In the event that tree canopy areas in excess of the applicable threshold must be removed to facilitate reasonable use of the site, or to eliminate hazard trees, not less than two replacement trees shall be planted for every tree removed. Replacement trees shall:

(A) Be of the same, or similar, native species as those trees removed from site;

(B) Be planted to re-establish tree clusters where they previously existed, or to enhance protected tree clusters;
(C) Be planted in locations appropriate to the species’ growth habitat and horticultural requirements; and

(D) Be located away from areas where damage is likely.

(viii) If any trees within canopy areas designated for retention are damaged or destroyed through the fault of the applicant, agent or successor, the applicant, their agent or successor shall restore the site pursuant to a restoration plan approved by the county.

(ix) The county may require a bond or other security in an amount not to exceed 125 percent of the merchantable timber to guarantee retention of existing trees within designated canopy areas during construction. In the event of a dispute between the landowner and the county over the established value, an assessment will be made by a professional forester or arborist whose selection will be made by mutual agreement between the county and the landowner. The fee for the services of the professional forester or arborist shall be paid by the landowner or responsible party. In the event any trees designated to be retained are removed, the county shall require that sufficient trees be re-planted to replace those previously in existence. In the event that replanting does not occur, the county may enforce upon any bond posted. Each tree removed or destroyed shall constitute a separate violation.

(e) Seasonal Clearing Activity Limitations. In the Lake Whatcom, Lake Samish and Lake Padden watersheds, clearing activity, as defined in WCC 20.97.054, that will result in exposed soils exceeding 500 square feet shall not be permitted from October 1st through May 31st; provided, that:

(i) In addition to the clearing activities exempted under WCC 20.80.733, the zoning administrator may approve an exemption to this requirement for the following activities:

(A) Routine maintenance and repair of erosion and sediment control measures;

(B) Activities located at or waterward of the ordinary high water mark subject to state, federal, and/or local (per Chapter 16.16 WCC and/or WCC Title 23) conditions of approval requiring commencement of clearing activity during the wet season, as defined in subsection (1)(a)(ii) of this section, for purposes of minimizing surface water disturbance and site inundation by high water or wave action;

(C) Activities necessary to address an emergency that presents an unanticipated and imminent threat to public health, safety or the environment that requires immediate action within a time too short to allow full compliance with this section. Upon abatement of the emergency situation, the clearing activity shall be reviewed for consistency with this chapter and may be subject to additional permit requirements; provided, that the
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

applicant shall make a reasonable attempt to contact the zoning administrator prior to the activity. When prior notice is not feasible, notification of the action shall be submitted to the zoning administrator as soon as the emergency is addressed and no later than two business days following such action. Emergency construction does not include development of new permanent protective structures where none previously existed.

(ii) To ensure compliance with subsection (2)(e) of this section, Whatcom County planning and development services shall not issue development permits requiring more than 500 square feet of land disturbance located within the Lake Whatcom, Lake Samish or Lake Padden watersheds within two weeks prior to the watershed seasonal closure on October 1st.

(iii) Soil disturbance associated with an exempt clearing activity shall be minimized to the maximum extent practicable. The zoning administrator shall have the authority to condition an exempt activity to ensure that temporary erosion and sediment control measures will be implemented.

(iv) An exemption from the seasonal land clearing requirements of this section does not grant authorization for any work to be done in a manner that does not comply with other provisions of this chapter or other applicable development regulations.

EXHIBIT C- Planning Commission Recommended definitions for WCC 20.97

**Current Stormwater Manual**: The Washington State Department of Ecology (WSDOE) Stormwater Management Manual for Western Washington edition that is in effect on the date that the County receives a complete application for the project, work, or activity.

**Demonstrative BMPs**: Those BMPs that do not otherwise qualify as presumptive.

**Development stormwater**: Stormwater that results from non-native vegetated areas.

**Development runoff**: Runoff that results from non-native vegetated areas.

**Development stormwater runoff**: Stormwater runoff that originates from non-native vegetated areas.

**Engineered design**: A design performed, and/or supervised, by a Washington State licensed professional engineer.

**Forested Area** – The area encompassed by the tree canopy and any native vegetation that occurs within the boundaries of the tree canopy.

**Hazard Tree** – Any tree that is susceptible to immediate fall due to its condition (damaged, diseased, or dead) or other factors, and which because of its location is at risk of damaging permanent physical improvements to property or causing personal injury.

**Interflow**: The portion of precipitation that infiltrates into the soil and moves laterally through the upper soil horizons until intercepted by a stream channel or until it returns to the surface, e.g., in a roadside ditch, a wetland, a spring, or a seep. Interflow is a function of the soil system depth, permeability, and water-holding capacity.

**Land disturbing activity**: Activity that results in a movement of earth or a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to clearing, grading, filling, and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land-disturbing activity.

**May**: Permissive action.

**Native Vegetation** – Vegetation comprised of plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been
EXHIBIT C- Planning Commission Recommended definitions for WCC 20.97

expected to naturally occur on the site. Examples include trees such as Douglas Fir, Western Hemlock, Western Red Cedar, Alder, Big-leaf Maple, and Vine Maple; shrubs such as willow, elderberry, salmonberry and salal; and herbaceous plants such as sword fern, foam flower, and fire weed. (From Department of Ecology Stormwater Manual)

Natural runoff- Runoff that originates from native vegetated areas.

Natural stormwater- Stormwater that originates from native vegetated areas.

Natural stormwater runoff- Stormwater runoff that originates from native vegetated areas.

Net land area disturbed- The quantity of disturbed native vegetated land area minus the quantity of any non-native vegetated land area converted to native vegetation by a proposed project, work, or activity.

Net new impervious surface area- The quantity of new minus the quantity of any existing impervious surface area converted to native vegetation by a proposed project, work, or activity.

Net new permeable pavement areas- The quantity of new permeable pavement area minus the quantity of any existing permeable pavement area converted to native vegetation by a proposed project, work, or activity.

Net replaced impervious surface area- The quantity of replaced impervious surface area minus the quantity of any existing impervious surface area converted to native vegetation by a proposed project, work, or activity.

Net replaced permeable pavement areas- The quantity of replaced permeable pavement area minus the quantity of any existing permeable pavement area converted to native vegetation by a proposed project, work, or activity.

Permeable pavement- Pervious concrete, porous asphalt, permeable pavers, or other forms of pervious or porous paving material intended to allow passage of water through the pavement section. It often includes an aggregate base that provides structural support and acts as a stormwater reservoir.

Phosphorus-mitigated- Areas where the development stormwater runoff phosphorus loading profile does not exceed the corresponding natural stormwater runoff phosphorus loading profile.
EXHIBIT C- Planning Commission Recommended definitions for WCC 20.97

**Phosphorus neutral**- Areas where the development stormwater runoff phosphorus loading profile does not exceed the natural stormwater runoff phosphorus loading profile from that area.

**Phosphorus-unmitigated**- Areas where the development stormwater runoff phosphorus loading profile exceeds the corresponding natural stormwater runoff phosphorus loading profile.

**Presumptive BMPs**- Those BMPs that will require no additional development stormwater runoff flow control or treatment per current Stormwater Manual declaration once physically established in compliance with all current Stormwater Manual criteria.

**Replaced impervious surface** – For structures, the removal and replacement of impervious surfaces down to the foundation. For other impervious surfaces, the removal down to bare soil or base course and replacement. (From Draft-2012 DOE Stormwater Manual)

**Replaced impervious surface area**- For structures, the removal and replacement of impervious surfaces down to the foundation. For other impervious surfaces, the removal down to bare soil or base course and replacement.

**Replaced permeable pavement area**- The removal and replacement of permeable pavement areas down to bare soil or base course and replacement.

**Runoff**- The portion of precipitation that does not evaporate or naturally percolate into the ground, but flows via one or more of the following means:
- surface or overland flow,
- interflow,
- shallow ground water,
  into one or more of the following:
- stormwater drainage facilities,
- defined surface waterbodies (e.g., rivers, streams, creeks, sloughs, ponds, lakes),
- springs,
- seeps,
- wetlands

**Shall**- Mandatory action.

**Should**- Recommended action, but not mandatory or required.
EXHIBIT C- Planning Commission Recommended definitions for WCC 20.97

Stormwater- The portion of precipitation that does not evaporate or naturally percolate into the ground, but flows via one or more of the following means:
- surface or overland flow,
- interflow,
- pipes and other features of a stormwater drainage system,
  into one or more of the following:
- defined surface waterbodies (e.g., rivers, streams, creeks, sloughs, ponds, lakes),
- constructed infiltration facilities.

Stormwater runoff- The portion of precipitation that does not evaporate or naturally percolate into the ground, but flows via one or more of the following means:
- surface or overland flow,
- interflow,
- shallow ground water,
- pipes and other features of a stormwater drainage system,
  into one or more of the following:
- defined surface waterbodies (e.g., rivers, streams, creeks, sloughs, ponds, lakes),
- springs,
- seeps,
- wetlands.
Exhibit D

Whatcom County Comprehensive Plan, Chapter 2: Updates to reflect the addition of the Lake Whatcom Watershed Overlay District

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:

C. Measures to protect critical areas and surface and groundwater resources:

3. Preserve and protect unique and important water resources through development standards in WCC 20.71 Water Resource Protection Overlay District and WCC 20. 51 Lake Whatcom Watershed Overlay District 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, WCC 20. 51, and 12.08.035 and referenced in the following Zoning Code provisions, adopted herein by reference:

   a. 20.32.656 Drainage, Residential Rural District;
   b. 20.34.659 Drainage, Rural Residential-Island District;
   c. 20.36.656 Drainage, Rural District;
   d. 20.37.655 Drainage, Point Roberts Transitional District;
   e. 20.44.652 Drainage, Recreation and Open Space District;
   f. 20.59.704 Drainage, Rural General Commercial District;
   g. 20.60.655 Drainage, Neighborhood Commercial District;
   h. 20.61.704 Drainage, Small Town Commercial District;
   i. 20.63.654 Drainage, Tourist Commercial District;
   j. 20.64.655 Drainage, Resort Commercial District;
   k. 20.67.653 Drainage, General Manufacturing District;
   l. 20.69.655 Drainage, Rural Industrial and Manufacturing District.

8. Limit phosphorus entering Lake Whatcom through WCC 20. 51 Lake Whatcom Watershed Overlay District and Lake Whatcom and Lake Samish due to the application of commercial fertilizers to residential lawns and public properties through WCC 16.32, adopted herein by reference.
### TITLE OF DOCUMENT:
Birch Bay Watershed and Aquatic Resources Management District Program Update

### ATTACHMENTS:
1. Memo

### 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.)

Whatcom County Public Works Stormwater Division staff will provide an overview of the Birch Bay Watershed and Aquatic Resources Management (BBWARM) District stormwater program including capital projects.

### COMMITTEE ACTION:

### COUNCIL ACTION:

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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](http://www.co.whatcom.wa.us/council).
MEMORANDUM

TO: The Honorable Jack Louws, Whatcom County Executive, and Honorable Members of the Whatcom County Council

THROUGH: Frank M. Abart, Public Works Director

FROM: Chris Brueske, P.E., Assistant Director  
Kirk N. Christensen, P.E., Stormwater Manager

RE: Birch Bay Watershed and Aquatic Resources Management (BBWARM) District Program Update

DATE: June 7, 2013

- Requested Action
Whatcom County Public Works Stormwater Division and members of the BBWARM Citizen Advisory Committee request the opportunity to provide the Natural Resources Committee an update on the BBWARM District stormwater program.

- Background and Purpose
BBWARM was established as a Flood Control Zone District subzone in 2007 and began implementing a stormwater program for the Birch Bay watershed in 2010. BBWARM has a five-member Citizen Advisory Committee and an established stormwater program with a work plan based on recommendations from the Birch Bay Comprehensive Stormwater Plan. The purpose of this presentation will be to update members of the Natural Resources Committee on the current BBWARM work plan, recent program accomplishments, capital projects, and the six-year capital plan.

For more information please contact Ingrid Enschede at Whatcom County Public Works Stormwater at extension 50787 or ienschede@co.whatcom.wa.us.
Interlocal Agreement with the City of Bellingham regarding administration of the Homeowner Incentive Program (HIP)

ATTACHMENTS:

1. Memo
2. Interlocal Agreement
3. Exhibit “A” – Washington State Dept. of Ecology Grant with the City of Bellingham

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 Interlocal Agreement will cooperatively administer the Homeowner Incentive Program (HIP) with the City of Bellingham based on the Washington State Department of Ecology grant awarded to the City. The grant provides technical assistance and reimbursements for residential retrofit projects that incorporate Low Impact Development (LID) techniques. The program is applicable to homeowners within the Silver Beach Creek sub-basin of the Lake Whatcom watershed.

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 Jack Louws, Whatcom County Executive, and Honorable Members of the Whatcom County Council

THROUGH: Frank M. Abart, Public Works Director

FROM: Chris Brueske, P.E., Assistant Director
Kirk N. Christensen, P.E., Stormwater Manager

RE: Interlocal Agreement with the City of Bellingham to Cooperatively Administer the Homeowner Incentive Program (HIP) in the Silver Beach Creek Sub-basin

DATE: June 24, 2013

- Request For Authorization of Interlocal Agreement
  Public Works requests the Whatcom County Council authorize the County Executive to enter into an Interlocal Agreement with the City of Bellingham to administer the Homeowner Incentive Program. Staff will present the program summary and the Interlocal to the Natural Resources Committee prior to the Finance Committee.

- Background and Purpose
  The City of Bellingham (COB) received a Washington State Department of Ecology (DOE) grant in 2011 to develop a program to address stormwater management through residential retrofits utilizing Low Impact Development (LID) techniques. The "Homeowner Incentive Program" (HIP) was piloted in the Silver Beach Creek sub-basin of the Lake Whatcom watershed, and Whatcom County agreed to partner with COB to administer the program within the County's portion of the sub-basin.

  The HIP provides eligible property owners technical assistance and up to $6,000 in reimbursement for projects that reduce stormwater runoff and improve water quality that meet technical parameters set forth in the grant. Homeowners are encouraged to develop project ideas and designs to address their specific stormwater concerns on their property. Project examples include the installation of rain gardens, lawn removal, native plantings, infiltration trenches, sand filters, and permeable pavement. Staff will provide educational resources, technical assistance, oversight through project completion, and guidance on long-term maintenance of the installation. Associated permit fees will either be waived or incurred by Public Works-Stormwater.

- Funding Amount and Source
  DOE will provide 75%, with COB and the County jointly providing a 25% match as follows:

  $500,000 Department of Ecology (75%)
  $166,666 City of Bellingham and Whatcom County* (25%)
  $666,666

  *County's portion of the 25% match ($11,523/year) will be provided through staff time for working with homeowners and grant administration over the next 2 years.

Please contact Cathy Craver at extension 50694 if you have any questions.

Enclosure
**WHATCOM COUNTY CONTRACT INFORMATION SHEET**

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Public Works – Stormwater</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Contract Administrator:</strong></td>
<td>Cathy Craver, Senior Planner</td>
</tr>
<tr>
<td><strong>Contractor's / Agency Name:</strong></td>
<td>City of Bellingham</td>
</tr>
<tr>
<td><strong>Is this a New Contract?</strong></td>
<td>Yes ___ No ___</td>
</tr>
<tr>
<td>Yes ___ No ___</td>
<td><strong>Yes ___ No ___</strong></td>
</tr>
<tr>
<td><strong>Is this a grant agreement?</strong></td>
<td>Yes ___ No ___</td>
</tr>
<tr>
<td><strong>Yes ___ No ___</strong></td>
<td><strong>CFDA #:</strong></td>
</tr>
<tr>
<td><strong>Is this contract grant funded?</strong></td>
<td>Yes ___ No ___</td>
</tr>
<tr>
<td>Yes ___ No ___</td>
<td><strong>WA State DOE Grant #G1100173 with the City of Bellingham:</strong></td>
</tr>
<tr>
<td><strong>Is this contract the result of a RFP or Bid process?</strong></td>
<td>Yes ___ No ___</td>
</tr>
<tr>
<td>Yes ___ No ___</td>
<td><strong>Contract</strong></td>
</tr>
<tr>
<td><strong>If yes, RFP and Bid number(s):</strong></td>
<td><strong>TBD</strong></td>
</tr>
<tr>
<td><strong>Is this contract excluded from E-Verify?</strong></td>
<td>Yes ___ No ___</td>
</tr>
<tr>
<td>Yes ___ No ___</td>
<td><strong>If yes, indicate qualified exclusion(s) below:</strong></td>
</tr>
<tr>
<td><strong>Contract less than $100,000.</strong></td>
<td><strong>Professional services agreement for certified/licensed professional</strong></td>
</tr>
<tr>
<td><strong>Work is for less than 120 days</strong></td>
<td><strong>Contract for Commercial off the shelf items (COTS)</strong></td>
</tr>
<tr>
<td><strong>Interlocal Agreement (between Govt.)</strong></td>
<td><strong>Public Works Dept. - Local Agency/Federally Funded FHWA</strong></td>
</tr>
</tbody>
</table>

**Contract Amount:** (sum of orig contract amount and any prior amendments)

$ 23,046

**This Amendment Amount:**

$

**Total Amended Amount:**

$

**Scope of Services:**

This Interlocal Agreement will cooperatively administer the Homeowner Incentive Program (HIP) with the City of Bellingham based on the Washington State Department of Ecology grant awarded to the City. The grant provides technical assistance reimbursements for residential retrofit projects that incorporate Low Impact Development (LID) techniques. The program is applicable to homeowners within the Silver Beach Creek sub-basin of the Lake Whatcom watershed.

**Term of Contract:**

Expiration Date: December 31, 2014

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**Contract Routing Steps & Signoff:**  
[sign or initial] [indicate date transmitted]

1. Prepared by Remy McConnell    Date 06/24/13 [electronic]
2. Attorney reviewed X            Date 6-27-13 [electronic]
3. AS Finance reviewed bennett    Date 06/25/13 [electronic]
4. IT reviewed if IT related    Date [electronic] hard copy printed
5. Corrections made    Date 6-27-13
6. Attorney signoff X
7. Contractor signed    Date
8. Submitted to Exec Office    Date 6-28-13 [summary via electronic; hardcopies]
9. Reviewed by DCA    Date
10. Council approved (if necessary)    Date
11. Executive signed    Date
12. Contractor Original Returned to dept.    Date
13. County Original to Council    Date
2013-2014 INTERLOCAL AGREEMENT
CITY OF BELLINGHAM – WHATCOM COUNTY
LAKE WHATCOM LOW IMPACT DEVELOPMENT (LID) RESIDENTIAL RETROFITS

THIS INTERLOCAL AGREEMENT (the "Agreement") is made and entered into by and between the City of Bellingham (the "City"), 210 Lottie Street, Bellingham, WA 98225, and Whatcom County (the "County"), County Courthouse, 311 Grand Avenue, Bellingham, WA 98225.

RECITALS

WHEREAS, the Silver Beach Creek sub-basin of the Lake Whatcom watershed is located partially within the corporate limits of the City and partially within unincorporated areas of the County and has some of the highest phosphorus loading of all the Lake Whatcom tributaries; and

WHEREAS, the City and the County have made various attempts to control phosphorus loading into the Lake Whatcom watershed, with success limited by factors such as separate messaging for each educational initiative, lack of focused stormwater source control on individual lots, and lack of project-specific monitoring to track effectiveness in phosphorus reduction; and

WHEREAS, Washington State Department of Ecology ("Ecology") issued the final Total Maximum Daily Load study for phosphorus and fecal coliform bacteria in November 2008, which requires the City and the County to develop a response strategy; and

WHEREAS, in 2011 the City received grant funding from Ecology in the amount of $500,000, Grant Number G1100173, project title "Lake Whatcom LID Residential Retrofits" ("Ecology Grant"), a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference; and

WHEREAS, the purpose of the Ecology Grant is to improve stormwater management by facilitating the construction of Low Impact Develop (LID) Best Management Practices (BMPs) on private properties of participating land owners in the Silver Beach Creek sub-basin of the Lake Whatcom watershed; and

WHEREAS, the Ecology Grant provides for Ecology to reimburse up to 75% of eligible costs incurred by the City or by City-approved participants in the performance of a variety of approved tasks, including: (i) grant administration; (ii) outreach and neighborhood trainings; (iii) geotechnical study, (iv) technical assistance and project review, (v) homeowner improvement projects (including rain gardens, infiltration trenches, lawn removal, native plantings and porous asphalt, pavers and concrete); (vi) construction oversight; and (vii) follow up visual monitoring and assessment; and

WHEREAS, the City developed a program to administer the Ecology Grant known as the Lake Whatcom Homeowner Incentive Program ("HIP"); and
WHEREAS, the grant identifies the County as a participant in implementing the Ecology Grant in unincorporated areas of the Silver Beach Creek sub-basin; and

WHEREAS, the parties desire to enter into this Agreement in order to define their respective obligations for the administration of the Ecology Grant.

NOW THEREFORE, the City and the County agree as follows:

TERMS AND CONDITIONS

1. **Purpose.** The purpose of this Agreement is to set the terms whereby the City and the County will work cooperatively to administer the Ecology Grant within a portion of the Silver Beach sub-basin of the Lake Whatcom watershed located in unincorporated areas of the County.

2. **Administration.** No new or separate legal or administrative entity is created to administer the provisions of this Agreement. As a sub-recipient of grant funds, the County shall as a condition of this Agreement, comply with all requirements for recipients and sub-recipients set forth in the Ecology Grant. 

3. **County Responsibilities.**

   3.1 The County will perform work necessary to meet the conditions of the Ecology Grant, including but not limited to contacting interested homeowners, aiding them in plan development, approving designs that meet the requirements of the Ecology Grant, inspecting projects to assure compliance with design requirements and aiding private land owners located outside city limits in submitting reimbursement requests to the County who will, in turn, submit them to the City for processing with Ecology pursuant to the Ecology Grant.

   3.2 The County will provide the City with payment requests and supporting documentation for all County-incurred and landowner-incurred expenses that are eligible for reimbursement under the Ecology Grant, including but not limited to, County staff hours and payment of staff hours.

4. **City Responsibilities.** The City will process reimbursement requests as follows:

   4.1 **Reimbursement of County-INCURRED Expenses.** The City will process and submit County-incurred expenses to Ecology for 75% reimbursement under the Ecology Grant. Reimbursements will be retained by the City and credited against the County's obligation to provide 25% matching funds for landowner-incurred expenses pursuant to subsection 4.2 below.

   4.2 **Reimbursement of Landowner-INCURRED Expenses.** The City will make a good faith effort to reimburse County-approved participants within thirty (30) days of receipt from the County of a properly documented payment request submittal. The City will issue payment directly to County-approved participants for up to 100% of eligible expenses. In turn, the City will seek 75% reimbursement from Ecology and 25% reimbursement from the County. Pursuant to subsection 4.1, the County directs the City to retain all reimbursements for County-incurred expenses and credit them against the County's 25% share of landowner reimbursements. If through no fault of its own the City is not reimbursed for all or part of any individual landowner project, the County will directly reimburse the City for all its costs.
5. **Payment.** All payments by the City to the County and County-approved participants under this Agreement are considered reimbursement for project work meeting the eligibility criteria of the Ecology Grant. Each request for payment herein is to be submitted in the usual form of a claim for services rendered, which claims shall be supported by detailed documentation of the services actually performed and expenses incurred so as to comply with auditing requirements and the terms of the Ecology Grant. Payment shall be upon approved claims and in accordance with customary procedures.

6. **Term.** This Agreement shall be effective for services performed from the approval date of this Agreement through December 31, 2014. It may be terminated by either party upon the giving of 30 days’ written notice to the other, at which time any remaining financial obligations for services rendered shall be paid in full according to the provisions of section V. **Payment,** above. Immediately upon receipt of a termination notice, the County shall cease incurring or authorizing additional expenditures pursuant to this Agreement and/or the Ecology Grant.

7. **Responsible Persons.** The persons responsible for administration of this Agreement shall be the Whatcom County Public Works Director and the City of Bellingham Public Works Director or their respective designees.

   Bill Reilly                              Cathy Craver
   Storm and Surface Water Utility        Public Works-Stormwater
   City of Bellingham                    Whatcom County
   2221 Pacific Street                   322 N. Commercial Street, Suite 301
   Bellingham, WA 98229                  Bellingham, WA 98225
   Phone: (360) 778-7955                  Phone: (360) 715-7450
   Fax: (360) 778-7801                    Fax: (360) 715-7451

   The City contact and telephone number for billing/invoice questions is Amy Butler, Public Works Engineering (360) 778-7747

   The County contact and telephone number for billing/invoice questions is Shonda Shipman, Public Works Administration, (360) 676-6692.

8. **Treatment of Assets and Property.** No fixed assets or personal or real property will be jointly or cooperatively acquired, held, used, or disposed of pursuant to this Agreement, except that the documentary products of the Lake Whatcom Homeowner Incentive Program shall be deemed the property of both of the parties to this Agreement.

9. **Future Acts.** The parties anticipate that this Agreement may be amended to address further actions, following an evaluation of the specific management options to be developed during the Project.

10. **Liability.** The City agrees to defend and indemnify the County from any claims, damages or liabilities arising out of the City's negligent acts or omissions. Likewise, the County agrees to defend and indemnify the City from any claims, damages or liabilities arising out of the County's negligent acts or omissions.

11. **Modifications.** The terms of this Agreement may be changed, modified, amended or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term
or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

12. **Applicable Law.** In the performance of this Agreement, it is mutually understood and agreed upon by the Parties hereto that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance, and the venue of any action arising herefrom shall be in the Superior Court of the State of Washington in and for Whatcom County.

13. **Severability.** In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement that can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

14. **Entire Agreement.** This Agreement contains all the terms and conditions agreed upon by the Parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.

15. **Recordation.** Upon execution of this Agreement, the County shall file a copy of it with the office of its County Auditor pursuant to the requirements of RCW 39.34.

IN WITNESS WHEREOF, the parties have signed this Agreement this _____ day of _______________, 20____.

CITY OF BELLINGHAM

By:

Kelli Linville, Mayor

Approved as to form:

Office of the City Attorney

Ted Carlson, Director of Public Works

WHATCOM COUNTY

By:

Jack Louws, County Executive

Approved as to form:

Daniel L. Gibson
Chief Civil-Deputy Prosecutor

Frank Abart, Director of Public Works
STATE OF WASHINGTON  )  
COUNTY OF WHATCOM  ) ss.

On this _______ day of __________________, 20____, before me personally appeared, to me KELLI LINVILLE known to be the Mayor of CITY OF BELLINGHAM, 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 ______________. 
My commission expires: ______________

STATE OF WASHINGTON  )  
COUNTY OF WHATCOM  ) ss.

On this _______ day of __________________, 20____, before me personally appeared JACK LOUWS, to me known to be the County 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 ______________. 
My commission expires: ______________
January 21, 2011

Mr. William Reilly  
Stormwater Surface Manager  
City Of Bellingham  
2221 Pacific Street  
Bellingham, WA 98226

Re: FY 2011 Stormwater Retrofit and LID  
Ecology Agreement No. G1100173  
Lake Whatcom LID Residential Retrofits

Dear Reilly:

Enclosed is one fully-signed copy of the above-referenced agreement between the Department of Ecology and the City of Bellingham.

I look forward to working with you on this project and if you should have any questions, please call me at (360) 407-6216.

Sincerely,

[Signature]

Patricia Brommer  
Financial Manager  
Water Quality Program

Enclosures
January 12, 2011

The Honorable Daniel V. Pike, Mayor
City of Bellingham
210 Lottie Street
Bellingham, WA 98225

Re: Lake Whatcom LID Residential Retrofits
FY 2011 Capital Stormwater Grant Program
Grant No. G1100173, FY 2011 Funding Cycle

Dear Mayor Pike:

I am pleased to inform you that the grant agreement for the Lake Whatcom LID Residential Retrofits has been signed. A signed original of the agreement is being mailed to the city’s Project Manager their project files and future reference.

The grant provides $500,000 toward the project. We appreciate this opportunity to assist you with financial and technical assistance. Ecology’s Water Quality Program staff in the Bellingham Field Office and Lacey are available to assist you with your project.

If you have any questions or need additional information, please call Christina Maginnis, Ecology’s project manager, at 360-715-5212 or Patricia Brommer, Ecology’s financial manager, at 360-407-6216.

Sincerely,

[Signature]

Kelly Susewind, P.E., P.G.
Water Quality Program Manager

KS:PB:mb

Enclosure

cc: William Reilly, City of Bellingham
Christina Maginnis, Ecology
DEPARTMENT OF ECOLOGY
State of Washington

FY2011 STORMWATER RETROFIT AND LID GRANT FUNDING AGREEMENT BETWEEN THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY AND CITY OF BELLINGHAM

GRANT AGREEMENT NUMBER G1100173

LAKE WHATCOM HOMEOWNER INCENTIVE PROGRAM

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U. SEVERABILITY
V. PRECEDENCE
STORMWATER RETROFIT AND LID
FUNDING AGREEMENT BETWEEN
THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY
AND
CITY OF BELLINGHAM

THIS is a binding agreement between the state of Washington Department of Ecology (DEPARTMENT) and CITY OF BELLINGHAM (RECIPIENT). The purpose of this agreement is to provide funds to the RECIPIENT, who will carry out the requirements described in this agreement.

PART I. GENERAL INFORMATION

Project Title: Stormwater Homeowner Incentive Program
Grant Number: G1100173
State Fiscal Year: FY 2011
Total Project Cost: $666,666
Total Eligible Cost: $666,666
DEPARTMENT Share: $500,000
RECIPIENT Share: $166,666
DEPARTMENT Maximum Percentage: 75%

RECIPIENT Information

RECIPIENT Name: City of Bellingham
Storm and Surface Water Utility
2221 Pacific Street
Bellingham, WA 98226
(360) 778-7701

Federal Taxpayer ID Number: 91-6001229

PROJECT Manager:
William Reilly
Storm and Surface Water Manager
wreilly@cob.org
(360) 778-7955

PROJECT Financial Officer:
Amy Butler
abutler@cob.org
(360) 778-7747
DEPARTMENT Contact Information

PROJECT Manager: 
   Email Address: 
   Phone Number: 

Address:

☐ NorthWest 
WA State Department of Ecology 
Northwest Regional Office 
3190 160th Ave SE 
Bellevue, WA 98008-5452 
Fax (425) 649-7098

☐ Central 
WA State Department of Ecology 
Central Regional Office 
15 West Yakima Ave, Suite 200 
Yakima, WA 98902-3452 
Fax (509) 575-2809

☐ Southwest 
WA State Department of Ecology 
Southwest Regional Office 
P.O. Box 47775 
Olympia, WA 98504-7775 
Fax (360) 407-6305

☒ Bellingham 
WA State Department of Ecology 
Bellingham Field Office 
1440 10th Street, Suite 102 
Bellingham, WA 98225 
Fax (360) 715-5225

PROJECT Financial Manager: 
   Email Address: 
   Phone Number: 
   Fax Number: 
   Address:

☒ Patricia Brommer 
WA State Department of Ecology 
Water Quality Program, FMS 
P.O. Box 47600 
Olympia, WA 98504-7600

Christina Maginnis 
cmag461@ecy.wa.gov 
(360) 715-5212
CHECK ALL THAT APPLY:

- Stormwater Retrofit and LID Funds (state funds): ☒ Yes  Amount: ☐ No
  - Will this project be used to match Section 319 funds?
    ☐ Yes  ☒ No

- Prior Authorization Granted: ☒ Yes  If yes, Effective Date: July 1, 2010  ☐ No

- Increased Oversight? ☒ Yes  ☐ No

The effective date of this AGREEMENT is July 1, 2010. Any work prior to this date is the sole responsibility of the RECIPIENT.

This agreement expires December 31, 2014.

Post Project Assessment date – three years after the expiration date of the agreement (see Post Project Assessment in Attachment I): December 31, 2017

PART II. PROJECT SUMMARY

This project will improve stormwater management by implementing Low Impact Development best management practices (BMPs) in the Lake Whatcom watershed. BMPs will be implemented on private property to improve water quality and reduce water quantity for stormwater in Silver Beach Creek sub-basin of the Lake Whatcom watershed. Land owner BMPs will be implemented in specific neighborhoods (Silver Beach, and Hillsdale) using established criteria. BMPs will be implemented with land owner cooperation and will include a range of possible actions including rain gardens, porous asphalt, porous pavers, porous concrete, bioretention planter boxes, infiltration trenches, native plantings, lawn removal and others as appropriate to the sites. Land owners will be given a financial reimbursement to cover some of the eligible costs associated with installing the BMPs.
### PART III. PROJECT BUDGET

#### Homeowner Improvement Project

<table>
<thead>
<tr>
<th>TASKS/OBJECTS</th>
<th>TOTAL PROJECT COST</th>
<th>*TOTAL ELIGIBLE COST (TEC)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 - Project Administration/Management</td>
<td>$12,000</td>
<td>$12,000</td>
</tr>
<tr>
<td>2 - Outreach and Neighborhood Trainings</td>
<td>$9,000</td>
<td>$9,000</td>
</tr>
<tr>
<td>3 - Geotechnical Study</td>
<td>$50,000</td>
<td>$50,000</td>
</tr>
<tr>
<td>4 - Technical Assistance and Project Review</td>
<td>$37,500</td>
<td>$37,500</td>
</tr>
<tr>
<td>5 - Homeowner Improvement Projects</td>
<td>$550,666</td>
<td>$550,666</td>
</tr>
<tr>
<td>6 - Construction Oversight</td>
<td>$2,500</td>
<td>$2,500</td>
</tr>
<tr>
<td>7 – Follow up visual monitoring and assessment</td>
<td>$5000</td>
<td>$5000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$666,666</strong></td>
<td><strong>$666,666</strong></td>
</tr>
</tbody>
</table>

* The DEPARTMENT's Fiscal Office will track to the Total Eligible Cost.

#### MATCHING REQUIREMENTS

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<table>
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</tr>
</thead>
<tbody>
<tr>
<td>DEPARTMENT Share: 75% of TEC</td>
<td>$500,000</td>
</tr>
<tr>
<td>RECIPIENT Share: minimum 25% of TEC</td>
<td>$166,666</td>
</tr>
</tbody>
</table>

Other types of in-kind, such as volunteer work are not eligible.

### PART IV. PROJECT GOALS AND OUTCOMES

A. **Financial Assistance Water Quality Project Goals:** The overall goals of this project are focused on the protection of Silver Beach Creek/Lake Whatcom and include one or more of the following:

- ☐ Stormwater System Retrofit
- ✗ Low Impact Development Best Management Practices
- ☐ Designated beneficial uses will be restored or protected, 303(d)-Listed water bodies restored to water quality standards, healthy waters prevented from being degraded.
B. **Water Quality and Environmental Outcomes:** The following are the anticipated water quality and environmental improvements from the project. Please include types and amounts of BMPs that will be installed, and the water quality parameters addressed and improvements to these parameters that will occur as a result of the project.


2. Provide statistical breakdown of average reduction per site in the volume and % reduction in phosphorus and fecal coliform bacteria generated from stormwater runoff on public and private impervious surfaces in the Silver Beach Creek watershed by maximizing infiltration on residential lots. End of pipe outfall reduction per sub-basin (Hillsdale sub-basin), Silver Beach Creek Basin or neighborhood (Silver Beach neighborhood).

C. **Performance Items and Deliverables:** The following are the anticipated action items that will play an integral role in implementation of the project. This includes items such as outreach and education, monitoring, technical assistance, GIS mapping, and others.

1. Outreach to 1000 homeowners in Silver Beach Creek, Hillsdale, and other Lake Whatcom neighborhoods deemed appropriate for incentives.

2. Complete soil suitability assessment of 100 test pits in project area.

3. Complete five neighborhood workshops/trainings on how to install low impact development best management practices (BMPs).

4. Provide financial incentives for 250 residences for installing 550 LID BMPs.

5. Document follow-up technical assistance visits to homeowners for BMP post installation monitoring and maintenance to be included as part of grant Final Report.

6. Complete follow up assessment to measure program success for guidance of future home owner incentive programs.

7. The **RECIPIENT**, in cooperation with Whatcom County may provide two retrofits for non residential properties. The Geneva and Silver Beach Elementary Schools may participate in the program under the following conditions.

   - The total reimbursable costs for each school shall not exceed 18,000 dollars (being the multiple of three residential projects).
   - The plan shall be reviewed and approved by Ecology prior to authorization of work and expenditures.
• The plans must provide for substantial water quality benefit to Lake Whatcom and shall be designed to provide education to the public on low impact designs suitable to use within the Lake Whatcom Watershed.

PART V. SCOPE OF WORK

Task 1 - Project Administration/Management (Total Task Cost: $12,000)

A. The RECIPIENT will administer the project. Responsibilities will include, but not be limited to: maintenance of project records; submittal of payment vouchers and reimbursements to homeowners, fiscal forms, and progress reports; compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.

B. The RECIPIENT must manage the project. Efforts will include: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT’s designee; the DEPARTMENT; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT must carry out this project in accordance with any completion dates outlined in this agreement.

C. The RECIPIENT must ensure this project is completed according to the details of this agreement. The RECIPIENT may elect to use its own forces or it may contract for professional services necessary to perform and complete project-related work.

Required Performance:

1. Effective administration and management of this grant project.
2. Timely submittal of all required performance items, progress reports, and financial vouchers.
3. Submit at least three hard copies and one electronic copy of the final project report after a draft has been approved by the DEPARTMENT.
4. Write and submit a one to two page summary of project accomplishments and outcomes at project completion, including pictures, to be published in the DEPARTMENT’s Annual Water Quality Financial Assistance Report following the DEPARMENT’s water quality stories format.

Task 2 Outreach/Advertisement/Neighborhood Training (Total Task Cost: $9,000)

This task will consist of making property owners aware of the project through use of door hangers, neighborhood meetings, web advertisement, and training participants to help other home owners in the program.

A. The RECIPIENT will design educational materials such as signage and door hangers to advertise and promote home owner incentive program to reach all property owners in the Silver Beach and Hillsdale neighborhoods.
B. The RECIPIENT will provide at least five neighborhood workshops/trainings to train neighborhood volunteers to provide assistance with designing and installing LID practices such as rain gardens, infiltration trenches, soil remediation, riparian plantings, impervious surface removal, lawn removal and other appropriate BMPs. Trainings can also be used to directly train participants on the foregoing subjects for implementation of projects.

C. The RECIPIENT will produce a video record for each type of low impact development BMPs installed by homeowners.

Required Performance:

1. Design educational materials to advertise homeowner incentive program.
2. Perform outreach in Silver Beach and Hillsdale neighborhoods.
3. Complete five neighborhood workshops to train neighbors, developers, contractors, and staff on LID projects and incentive program.
4. Produce 1-minute videos showing installation of each type of LID project installed by landowners and make the videos available on RECIPIENT’s website.

Task 3: Geotechnical Study (contract) (Total Cost: $50,000)

A. The RECIPIENT will conduct soils testing at approximately 100 sites in the Silver Beach Creek Pilot area within Whatcom County. The RECIPIENT, in cooperation with Whatcom County, will engage an engineering firm with geotechnical experience and expertise to conduct the soils testing. The testing will consist of test pit explorations to a depth of five feet or until rock or groundwater is encountered.

Required Performance:

1. Submit the geotechnical study report to the DEPARTMENT in the PROJECT Final Report.

Task 4 – Technical Assistance and Project Review: (Total Task Cost: $37,500)

A. The RECIPIENT will provide technical and environmental expertise for initial site assessment for landowners prior to BMP installation, by:
   a. Identifying RECIPIENT staff, County staff, or trained volunteers who can do initial site assessment.
   b. Establishing criteria for determining site suitability.

B. The RECIPIENT will perform detailed site assessments. Each site assessment will evaluate hydrology, topography, soils, vegetation, existing utilities, and overall site features. This task will include a geotechnical investigation to determine the infiltration capacity and groundwater conditions at each site.

The RECIPIENT will conduct the work to be performed or ensure work is performed
through a contract for professional services. The RECIPIENT will design (or contract) the proposed LID improvements as described in Task 5.

C. The RECIPIENT will ensure required contracts are established for potential reimbursements and include the conditions of reimbursement; including inspection during construction and annual inspection/maintenance for two years after completion of the LID BMP. The RECIPIENT will ensure: 1) preparation of the proposed improvement designs, 2) coordination of design reviews at different stages, 3) preparation of plans and cost estimates, and 4) acquisition of any necessary permits. Permit fees are ineligible for reimbursement by the DEPARTMENT.

D. The RECIPIENT will ensure the LID projects are designed in accordance with the:
   c. The RECIPIENT’s Lake Whatcom version of the **WSU Rain Garden Handbook**
   d. Good engineering practices and generally recognized engineering standards, or
   e. The project pre-design report if other standards are cited.

E. The RECIPIENT will provide to the DEPARTMENT for review, BMP design types selected for use. The RECIPIENT will provide all permit documentation up to and including any WWHM modeling that has been completed. The RECIPIENT accepts liability that should any particular homeowner project be found not to provide benefit to decreasing phosphorus for Lake Whatcom, approval of payment may be withheld by the DEPARTMENT.

Required Performance:

1. Perform a detailed site assessment to determine final site locations and the design parameters for the proposed LID improvements.
2. Provide technical assistance to landowners for initial site design for proposed LID improvements.
3. Review designs and submit a copy of the final LID project site design contract/permit to the DEPARTMENT, if desired.
4. Provide technical expertise to landowners or entities requesting reimbursement funding.

**Task 5 – Homeowner Incentive Program (Cost share determination) (Total Task Cost: $550,666)**

A. **Local Incentive Program.** The RECIPIENT will develop eligibility criteria for homeowner incentives for installing Low Impact Development best management practices (BMPs) on residential properties.
1. The criteria includes:
   i. Projects must demonstrate that a minimum of 10% of the property site will mitigate for onsite phosphorus loading.
   ii. All projects must work toward reducing phosphorus and/or fecal loading through installation and maintenance of infiltration systems/rain gardens, lawn removal/soil remediation, native plantings, rainwater reuse etc.
   iii. The incentive for projects is calculated as follows:
      1. Projects that mitigate for phosphorus between 10% and 30% of the site will be provided an incentive of $1,000.
      2. Projects that provide mitigation for greater than 30% of the site, each additional percentage point increase will be compensated at $80/percent point.
      3. The maximum incentive for any residential retrofit is $6,000.
      4. Exception: Two public schools within the watershed are allowed up to $18,000 for phosphorus mitigating projects that also provide for public education on the topic.
   iv. Reimbursements are for eligible expenses only.
   v. Eligible Expenses for Reimbursement include: Approved mulch, soil, native plants, soil amendments, small equipment rental for use by property owner are 100% reimbursable up to the site limit.

2. Design guidance by landscape architects, landscape designers, civil engineers, geologists, soil scientists, septic designers, etc. will be compensated 100% for the first $100 of expense and thereafter at 50% of the charge, to a maximum of $1,000 or 15% of the total reimbursable expense up to site limit maximum for reimbursement.

3. Project construction costs will be compensated at no more than 75% of the actual eligible cost, up to the site mitigation maximum. Costs will be based on time records for personnel, equipment records, and contractor documented time records and charges.

B. Local Incentive Servicing. The RECIPIENT will review eligibility criteria to determine priority sites and officially approve/deny the homeowner applications based on the criteria established in 4B., and shall establish the reimbursement criteria.

C. Prepare and Manage Incentive Documents. The RECIPIENT will prepare and execute all reimbursement receipts and submit to the DEPARTMENT with payment request forms.

D. City/County match projects. The RECIPIENT may use as match: the Silver Beach and Geneva Elementary school LID projects. Alternately, the RECIPIENT may use as match: public/private partnership opportunities for ROW projects with adjacent homeowners to reduce maintenance costs for city crews and incorporate increased water quality treatment benefits.

Required Performance:

1. Submit a list of the eligibility criteria for landowner incentives.
2. Provide reimbursement receipts with payment requests based on a final inspection of the BMPs or facilities and provision of valid receipts.

**Task 6 – Construction Oversight (Total Task Cost: $2,500)**

A. The RECIPIENT will ensure a qualified contractor, licensed for work in the City of Bellingham, is hired to install the LID projects. Or alternatively, the RECIPIENT will ensure oversight by city staff for homeowner construction.

B. The RECIPIENT must describe how adequate and competent construction management and engineering, appropriate for the level of permit, will be performed for each type of LID project.

C. The RECIPIENT will provide to the DEPARTMENT’s Project Manager a list of BMPs installed and date of inspection by City or County staff indicating that the project was complete, and in accordance with the plans/permit conditions. The DEPARTMENT will review these projects each fall of the project period, to determine eligibility.

D. The RECIPIENT will work with the homeowner to develop and submit a maintenance plan/landowner agreement for the stormwater treatment and low impact development (LID) project. The maintenance plan/landowner agreement will describe how the RECIPIENT will ensure project success consistent with the design manual used and require the homeowner to maintain the BMPs for a minimum of ten years.

E. The RECIPIENT will ensure the maintenance plan addresses long term activities for ongoing pollutant removal and flow-control capability of the project.

**Required performance:**

1. Provide a list of licensed, qualified contractors that are available to landowners to complete construction of BMPs.
2. Work with 250 landowners to help construct a minimum of 550 Low Impact Development BMPs.
3. Document how construction management was performed during LID project installation.
4. Work towards completing 100 BMPs per year of the project, but complete 550 BMPs by end of project.
5. Work with homeowners to address ongoing maintenance of the LID improvements for a period of ten years post installation.
6. Submit to the DEPARTMENT a maintenance plan/landowner agreement for each site, which provides a way to demonstrate long term maintenance and commitment from the property owner.

**Task 7: Follow up visual monitoring and assessment (Total Cost:$ 5,000)**

A. The RECIPIENT will use the Lake Whatcom phosphorus mitigation model, that shows percent removal for different BMPs, to demonstrate effectiveness of phosphorous
reduction per homeowner site, and to show phosphorus load decreases to Lake Whatcom.

B. The RECIPIENT will conduct flow monitoring (as established in the Silver Beach Pilot Project) to demonstrate flow reduction in Whatcom County homeowner sites. Previous water quality monitoring FC, pH, total/dissolved P, temp, conductivity, and flow will be “pre” condition. Pilot data will show post effectiveness of project in Whatcom County areas.

C. The RECIPIENT will develop a database of HIP participants or Lake Whatcom stewards to do storm event checks of BMPs on properties with greater than 75% Phosphorus reduction.

D. The RECIPIENT will ensure infiltration BMPs are reviewed for contract compliance and necessary maintenance.

Required Performance:

1. Submit modeling data from phosphorus mitigation model to show % phosphorus removal per site.
2. Develop a matrix of completed projects with percent Phosphorus reduction and combination of BMP’s and submit matrix with FINAL report.
3. Provide report of results from follow up inspections in FINAL grant report.

PART V(a). SPECIAL TERMS AND CONDITIONS

A. Failure to Commence Work. In the event the RECIPIENT fails to commence work on the project within four months of the signatory date, the DEPARTMENT reserves the right to terminate this agreement.

B. Use of Force Account. In the event the RECIPIENT elects to use its own forces to accomplish eligible project work, the RECIPIENT acknowledges that it has the legal authority to perform the work and adequate and technically qualified staff to perform the work without compromising other government functions.

PART VI. ALL WRITINGS CONTAINED HEREBIN

The following contain the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein:

- This agreement
- Attachment I: General Project Management Requirements for the Centennial Clean Water Program and the Federal Clean Water Act Section 319 Nonpoint Source Fund
- Attachment II: General Terms and Conditions
- The effective edition, at the signing of this agreement, of the DEPARTMENT's “Administrative Requirements for Ecology Grants and Loans”
- The associated funding guidelines that correspond to the fiscal year in which the project is funded
- The applicable statutes and regulations
No subsequent modifications or amendments of this agreement will be of any force or effect unless signed by authorized representatives of the RECIPIENT and the DEPARTMENT and made a part of this agreement, EXCEPT that in response to a request from the RECIPIENT, the DEPARTMENT may redistribute the grant budget. The DEPARTMENT or the RECIPIENT may change their respective staff contacts without the concurrence of either party.

The RECIPIENT acknowledges that they have had the opportunity to thoroughly review the terms of this agreement, the attachments, all incorporated or referenced documents, as well as all applicable statutes, rules, and guidelines mentioned in this agreement.

IN WITNESS WHEREOF, the parties hereby execute this agreement:

STATE OF WASHINGTON  CITY OF BELLINGHAM
DEPARTMENT OF ECOLOGY

KELLY SUSEWIND P.E., P.G. DATE DANIEL V. PIKE DATE
WATER QUALITY PROGRAM MANAGER

EXECUTED, this the 15th day of December, 2010, for the CITY OF BELLINGHAM:

Departmental Approval:

Attest:

Approved as to Form:

Mayor

Finance Director

Office of the City Attorney
ATTACHMENT I: GENERAL PROJECT MANAGEMENT REQUIREMENTS FOR THE CENTENNIAL CLEAN WATER PROGRAM AND THE FEDERAL CLEAN WATER ACT SECTION 319 NONPOINT SOURCE FUND

ARCHAEOLOGICAL AND CULTURAL RESOURCES
The RECIPIENT must comply with all requirements listed in Executive Order 05-05 prior to implementing any project that involves disturbing soil. Compliance includes coordinating with the Department of Historic and Archeological Preservation and affected tribes. Executive Order 05-05 is found at:

The Department of Historic and Archeological Preservation has provided guidance to initiate the 0505 process that can be accessed online at:
http://www.dahp.wa.gov/pages/Documents/EnvironmentalReview.htm and

EDUCATION AND OUTREACH
Before producing any new materials for the purpose of education and outreach the RECIPIENT must make sure similar materials do not already exist elsewhere. If similar materials exist, the RECIPIENT must request the use of the existing materials before time and resources are invested to duplicate materials that are already available.

The RECIPIENT must provide the DEPARTMENT up to two copies and an electronic copy either on floppy disks or CD-ROM of any tangible educational products developed under this grant, such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements or gadgets, such as a refrigerator magnet with a message. If this is not practical, the RECIPIENT must provide a complete description including photographs or printouts of the product.

The RECIPIENT must also supply the DEPARTMENT with the names and contact information of local project leads.

If there are a significant number of people in the community that speak languages other than English, the RECIPIENT must produce all pamphlets, fliers, meeting notices, reports, and other educational and public outreach materials in English and in the other prevalent language.

FUNDING RECOGNITION
The RECIPIENT must inform the public about DEPARTMENT or EPA funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from the DEPARTMENT upon request.
INCREASED OVERSIGHT

If this project is selected for increased oversight (as indicated on page 3 of this agreement), the RECIPIENT must submit all backup documentation with each payment request submittal. In addition, the DEPARTMENT’s Project Manager must establish a schedule for additional site visits to provide technical assistance to the RECIPIENT and verify progress or payment information.

INDIRECT RATE

To acknowledge overhead costs, the RECIPIENT may charge an indirect rate of up to 25 percent based on employees’ direct salary and benefit costs incurred while conducting project-related work. The DEPARTMENT’s Financial Manager may require a list of items included in the indirect rate at any time.

LIGHT REFRESHMENTS

The RECIPIENT may spend up to $25 per meeting for light refreshments associated with this project. The total amount spent for light refreshments under this agreement cannot exceed $125.

MATCHING REQUIREMENTS

Cash Match Requirement. If grant funds awarded are more than $250,000, the RECIPIENT share for the project must be entirely in the form of cash or interlocal contributions.

If grant funds awarded are $250,000 or less, any combination of cash, interlocal, or in-kind match is allowed.

Stormwater hardship grants require cash match only.

Interlocal Match Requirement. The RECIPIENT certifies by signing this agreement that all negotiated interlocal agreements are consistent with all of the following:

- Terms of this grant agreement
- The edition of “Administrative Requirements for Ecology Grants and Loans” that is effective at the signing of this agreement.
- Chapter 39.34 RCW Interlocal Cooperation Act

MINORITY AND WOMEN’S BUSINESS PARTICIPATION

The RECIPIENT agrees to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated after the effective date of this agreement.

Contract awards or rejections cannot be made based on MBE or WBE participation. M/WBE participation is encouraged, however, and the RECIPIENT and all prospective bidders or persons submitting qualifications should take the following steps, when possible, in any procurement initiated after the effective date of this agreement:
a) Include qualified minority and women's businesses on solicitation lists.

b) Assure that qualified minority and women's businesses are solicited whenever they are potential sources of services or supplies.

c) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.

d) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.

e) Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

The RECIPIENT must report to the DEPARTMENT at the time of submitting each invoice, on forms provided by the DEPARTMENT, payments made to qualified firms. Please include the following information:

a) Name and state OMWBE certification number (if available) of any qualified firm receiving funds under the invoice, including any sub-and/or sub-subcontractors.

b) The total dollar amount paid to qualified firms under this invoice.

Payment Request Submittals

Frequency. The RECIPIENT must submit payment requests at least quarterly but no more often than monthly, unless allowed by the DEPARTMENT's Financial Manager. The DEPARTMENT's Financial Manager may require the RECIPIENT to submit regular payment requests to ensure efficient and timely use of funds.

Supporting Documentation. The RECIPIENT must submit all payment request vouchers and supportive documentation to the DEPARTMENT's Financial Manager. Payment request voucher submittals are based on match requirements found in the budget.

Required Forms.

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Reporting eligible costs. The RECIPIENT must report all eligible costs incurred on the project, regardless of the source of funding for those costs. This includes costs used as match. All eligible and ineligible project costs must be separate and identifiable.
Reimbursements. Payments will be made on a cost-reimbursable basis.

**POST PROJECT ASSESSMENT**

The RECIPIENT agrees to submit a brief survey regarding the key project results or water quality project outcomes and the status of long-term environmental results or goals from the project three years after project completion.

The DEPARTMENT’s Water Quality Program Performance Measures Lead will contact the RECIPIENT before the Post Project Assessment date to request this data.

The DEPARTMENT may also conduct site interviews and inspections, and may otherwise evaluate the Project, as part of this assessment.

**PROCUREMENT**

The RECIPIENT certifies by signing this agreement that all applicable requirements have been satisfied in the procurement of any professional services.

**PROGRESS REPORTS**

The RECIPIENT must submit quarterly progress reports to the DEPARTMENT’s Financial Manger and Project Manager. Payment requests will not be processed without a progress report.

**Reporting Periods.**

- January 1 through March 31
- April 1 through June 30
- July 1 through September 30
- October 1 through December 31

**Reporting Due Date.** Quarterly progress reports are due 15 days following the end of the quarter.

**Report Content.** At a minimum, all progress reports must contain a comparison of actual accomplishments to the objectives established for the period, the reasons for delay if established objectives were not met, analysis and explanation of any cost overruns, and any additional pertinent information specified in this agreement.

**REQUIRED DOCUMENT SUBMITTALS**

The RECIPIENT must submit the following documents to the DEPARTMENT as requested by the DEPARTMENT’s Project Manager or Financial Manager:

- Draft project completion reports – up to 3 copies
- Electronic copy of final project completion report – 1 copy
- Final project completion reports – up to 8 copies
- Final project completion reports of statewide significance – up to 50 copies
- Educational products developed under this agreement – up to 2 copies
- Documents that require DEPARTMENT Approval – 2 copies (one for the DEPARTMENT and one for the RECIPIENT)
- Interlocal agreements – 1 copy for the DEPARTMENT’s Financial Manager
- Professional services procurement agreements – 1 copy to the DEPARTMENT’s Financial Manager

Additional Required Document Submittals for the Federal Clean Water Act Section 319 Funded Projects and Centennial projects used by the DEPARTMENT to satisfy its Section 319 matching requirement.

- Federal Clean Water Act Section 319 Grant Data Reporting Form – 1 copy to DEPARTMENT’s Financial Manager during the first quarter following the effective date of the agreement
- Federal Clean Water Act Section 319 Grant Load Reductions Reporting Form – 1 copy to the DEPARTMENT’s Financial Manager by January 15 of each year.

If GIS data is collected, Ecology data standards are encouraged. An Ecology Focus Sheet entitled *GIS Data and Ecology Grants* (Publication No. 98-1812-SEA) outlines the standards. Common standards must be used for infrastructure details, such as geographic names, Geographic Information System (GIS) coverage, list of methods, and reference tables.
ATTACHMENT II: GENERAL TERMS AND CONDITIONS PERTAINING TO
GRANT AND LOAN AGREEMENTS OF THE DEPARTMENT OF ECOLOGY

A. RECIPIENT PERFORMANCE

All activities for which grant/loan funds are to be used shall be accomplished by the RECIPIENT
and RECIPIENT’s employees. The RECIPIENT shall only use contractor/consultant assistance if
that has been included in the agreement’s final scope of work and budget.

B. SUBGRANTEE/CONTRACTOR COMPLIANCE

The RECIPIENT must ensure that all subgrantees and contractors comply with the terms and
conditions of this agreement.

C. THIRD PARTY BENEFICIARY

The RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to
this agreement, the state of Washington is named as an express third-party beneficiary of such
subcontracts with full rights as such.

D. CONTRACTING FOR SERVICES (BIDDING)

Contracts for construction, purchase of equipment and professional architectural and engineering
services shall be awarded through a competitive process, if required by State law. RECIPIENT
shall retain copies of all bids received and contracts awarded, for inspection and use by the
DEPARTMENT.

E. ASSIGNMENTS

No right or claim of the RECIPIENT arising under this agreement shall be transferred or
assigned by the RECIPIENT.

F. COMPLIANCE WITH ALL LAWS

1. The RECIPIENT shall comply fully with all applicable Federal, State and local laws, orders,
regulations and permits. Prior to commencement of any construction, the RECIPIENT shall
secure the necessary approvals and permits required by authorities having jurisdiction over
the project, provide assurance to the DEPARTMENT that all approvals and permits have
been secured, and make copies available to the DEPARTMENT upon request.

2. Discrimination. The DEPARTMENT and the RECIPIENT agree to be bound by all Federal
and State laws, regulations, and policies against discrimination. The RECIPIENT further
agrees to affirmatively support the program of the Office of Minority and Women's Business
Enterprises to the maximum extent possible. If the agreement is federally-funded, the
RECIPIENT shall report to the DEPARTMENT the percent of grant/loan funds available to
women or minority owned businesses.

3. Wages And Job Safety. The RECIPIENT agrees to comply with all applicable laws,
regulations, and policies of the United States and the State of Washington which affect wages
and job safety.
4. Industrial Insurance. The RECIPIENT certifies full compliance with all applicable state industrial insurance requirements. If the RECIPIENT fails to comply with such laws, the DEPARTMENT shall have the right to immediately terminate this agreement for cause as provided in Section K.1, herein.

G. KICKBACKS

The RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this project to give up any part of the compensation to which he/she is otherwise entitled or, receive any fee, commission or gift in return for award of a subcontract hereunder.

H. AUDITS AND INSPECTIONS

1. The RECIPIENT shall maintain complete program and financial records relating to this agreement. Such records shall clearly indicate total receipts and expenditures by fund source and task or object. All grant/loan records shall be kept in a manner which provides an audit trail for all expenditures. All records shall be kept in a common file to facilitate audits and inspections.

Engineering documentation and field inspection reports of all construction work accomplished under this agreement shall be maintained by the RECIPIENT.

2. All grant/loan records shall be open for audit or inspection by the DEPARTMENT or by any duly authorized audit representative of the State of Washington for a period of at least three years after the final grant payment/loan repayment or any dispute resolution hereunder. If any such audits identify discrepancies in the financial records, the RECIPIENT shall provide clarification and/or make adjustments accordingly.

3. All work performed under this agreement and any equipment purchased, shall be made available to the DEPARTMENT and to any authorized state, federal or local representative for inspection at any time during the course of this agreement and for at least three years following grant/loan termination or dispute resolution hereunder.

4. RECIPIENT shall meet the provisions in OMB Circular A-133 (Audits of States, Local Governments & Non Profit Organizations), including the compliance Supplement to OMB Circular A-133, if the RECIPIENT expends $500,000 or more in a year in Federal funds. The $500,000 threshold for each year is a cumulative total of all federal funding from all sources. The RECIPIENT must forward a copy of the audit along with the RECIPIENT’S response and the final corrective action plan to the DEPARTMENT within ninety (90) days of the date of the audit report.

I. PERFORMANCE REPORTING

The RECIPIENT shall submit progress reports to the DEPARTMENT with each payment request or such other schedule as set forth in the Special Conditions. The RECIPIENT shall also report in writing to the DEPARTMENT any problems, delays or adverse conditions which will materially affect their ability to meet project objectives or time schedules. This disclosure shall be accompanied by a statement of the action taken or proposed and any assistance needed from the DEPARTMENT to resolve the situation. Payments may be withheld if required progress reports are not submitted. Quarterly reports shall cover the periods January 1 through March 31,
April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be due within thirty (30) days following the end of the quarter being reported.

J. COMPENSATION

1. Method of compensation. Payment shall normally be made on a reimbursable basis as specified in the grant agreement and no more often than once per month. Each request for payment will be submitted by the RECIPIENT on State voucher request forms provided by the DEPARTMENT along with documentation of the expenses. Payments shall be made for each task/phase of the project, or portion thereof, as set out in the Scope of Work when completed by the RECIPIENT and approved as satisfactory by the Project Officer. The payment request form and supportive documents must itemize all allowable costs by major elements as described in the Scope of Work.

Instructions for submitting the payment requests are found in "Administrative Requirements for Ecology Grants and Loans", part IV, published by the DEPARTMENT. A copy of this document shall be furnished to the RECIPIENT. When payment requests are approved by the DEPARTMENT, payments will be made to the mutually agreed upon designee. Payment requests shall be submitted to the DEPARTMENT and directed to the Project Officer assigned to administer this agreement.

2. Period of Compensation. Payments shall only be made for actions of the RECIPIENT pursuant to the grant/loan agreement and performed after the effective date and prior to the expiration date of this agreement, unless those dates are specifically modified in writing as provided herein.

3. Final Request(s) for Payment. The RECIPIENT should submit final requests for compensation within forty-five (45) days after the expiration date of this agreement and within fifteen (15) days after the end of a fiscal biennium. Failure to comply may result in delayed reimbursement.

4. Performance Guarantee. The DEPARTMENT may withhold an amount not to exceed ten percent (10%) of each reimbursement payment as security for the RECIPIENT's performance. Monies withheld by the DEPARTMENT may be paid to the RECIPIENT when the project(s) described herein, or a portion thereof, have been completed if, in the DEPARTMENT's sole discretion, such payment is reasonable and approved according to this agreement and, as appropriate, upon completion of an audit as specified under section J.6. herein.

5. Unauthorized Expenditures. All payments to the RECIPIENT may be subject to final audit by the DEPARTMENT and any unauthorized expenditure(s) charged to this grant/loan shall be refunded to the DEPARTMENT by the RECIPIENT.

6. Mileage and Per Diem. If mileage and per diem are paid to the employees of the RECIPIENT or other public entities, it shall not exceed the amount allowed under state law for state employees.

7. Overhead Costs. No reimbursement for overhead costs shall be allowed unless provided for in the Scope of Work hereunder.

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K. TERMINATION

1. For Cause. The obligation of the DEPARTMENT to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of the DEPARTMENT, to perform any obligation required of it by this agreement, the DEPARTMENT may refuse to pay any further funds there under and/or terminate this agreement by giving written notice of termination.

A written notice of termination shall be given at least five working days prior to the effective date of termination. In that event, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT under this agreement, at the option of the DEPARTMENT, shall become Department property and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Despite the above, the RECIPIENT shall not be relieved of any liability to the DEPARTMENT for damages sustained by the DEPARTMENT and/or the State of Washington because of any breach of agreement by the RECIPIENT. The DEPARTMENT may withhold payments for the purpose of setoff until such time as the exact amount of damages due the DEPARTMENT from the RECIPIENT is determined.

2. Insufficient Funds. The obligation of the DEPARTMENT to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. When this agreement crosses over state fiscal years the obligation of the DEPARTMENT is contingent upon the appropriation of funds during the next fiscal year. The failure to appropriate or allot such funds shall be good cause to terminate this agreement as provided in paragraph K.1 above.

When this agreement crosses the RECIPIENT's fiscal year, the obligation of the RECIPIENT to continue or complete the project described herein shall be contingent upon appropriation of funds by the RECIPIENT's governing body; provided, however, that nothing contained herein shall preclude the DEPARTMENT from demanding repayment of ALL funds paid to the RECIPIENT in accordance with Section O herein.

3. Failure to Commence Work. In the event the RECIPIENT fails to commence work on the project funded herein within four months after the effective date of this agreement, or by any date agreed upon in writing for commencement of work, the DEPARTMENT reserves the right to terminate this agreement.

L. WAIVER

Waiver of any RECIPIENT default is not a waiver of any subsequent default. Waiver of a breach of any provision of this agreement is not a waiver of any subsequent breach and will not be construed as a modification of the terms of this agreement unless stated as such in writing by the authorized representative of the DEPARTMENT.

M. PROPERTY RIGHTS

1. Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but the
DEPARTMENT retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover or otherwise use the material(s) or property and to authorize others to use the same for federal, state or local government purposes. Where federal funding is involved, the federal government may have a proprietary interest in patent rights to any inventions that are developed by the RECIPIENT as provided in 35 U.S.C. 200-212.

2. Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish information of the DEPARTMENT; present papers, lectures, or seminars involving information supplied by the DEPARTMENT; use logos, reports, maps or other data, in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to the DEPARTMENT.

3. Tangible Property Rights. The DEPARTMENT’s current edition of "Administrative Requirements for Ecology Grants and Loans", Part V, shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by the DEPARTMENT in the absence of state, federal statute(s), regulation(s), or policy(s) to the contrary or upon specific instructions with respect thereto in the Scope of Work.

4. Personal Property Furnished by the DEPARTMENT. When the DEPARTMENT provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to the B-4 DEPARTMENT prior to final payment by the DEPARTMENT. If said property is lost, stolen or damaged while in the RECIPIENT’s possession, the DEPARTMENT shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.

5. Acquisition Projects. The following provisions shall apply if the project covered by this agreement includes funds for the acquisition of land or facilities:
   a. Prior to disbursement of funds provided for in this agreement, the RECIPIENT shall establish that the cost of land/or facilities is fair and reasonable.
   b. The RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney’s opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses contemplated by this agreement.

6. Conversions. Regardless of the contract termination date shown on the cover sheet, the RECIPIENT shall not at any time convert any equipment, property or facility acquired or developed pursuant to this agreement to uses other than those for which assistance was originally approved without prior written approval of the DEPARTMENT. Such approval may be conditioned upon payment to the DEPARTMENT of that portion of the proceeds of the sale, lease or other conversion or encumbrance which monies granted pursuant to this agreement bear to the total acquisition, purchase or construction costs of such property.

N. SUSTAINABLE PRODUCTS

In order to sustain Washington’s natural resources and ecosystems, the RECIPIENT is encouraged to implement sustainable practices where and when possible. These practices include
use of clean energy, and purchase and use of sustainably produced products (e.g., recycled paper). For more information, see http://www.ecy.wa.gov/sustainability/.

O. RECOVERY OF PAYMENTS TO RECIPIENT

The right of the RECIPIENT to retain monies paid to it as reimbursement payments is contingent upon satisfactory performance of this agreement including the satisfactory completion of the project described in the Scope of Work. In the event the RECIPIENT fails, for any reason, to perform obligations required of it by this agreement, the RECIPIENT may, at the DEPARTMENT's sole discretion, be required to repay to the DEPARTMENT all grant/loan funds disbursed to the RECIPIENT for those parts of the project that are rendered worthless in the opinion of the DEPARTMENT by such failure to perform. Interest shall accrue at the rate of twelve percent (12%) per year from the time the DEPARTMENT demands repayment of funds. If payments have been discontinued by the DEPARTMENT due to insufficient funds as in Section K.2 above, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination. Any property acquired under this agreement, at the option of the DEPARTMENT, may become the DEPARTMENT'S property and the RECIPIENT'S liability to repay monies shall be reduced by an amount reflecting the fair value of such property.

P. PROJECT APPROVAL

The extent and character of all work and services to be performed under this agreement by the RECIPIENT shall be subject to the review and approval of the DEPARTMENT through the Project Officer or other designated official to whom the RECIPIENT shall report and be responsible. In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the Project Officer or other designated official as to the extent and character of the work to be done shall govern. The RECIPIENT shall have the right to appeal decisions as provided for below.

Q. DISPUTES

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of in writing shall be decided by the Project Officer or other designated official who shall provide a written statement of decision to the RECIPIENT. The decision of the Project Officer or other designated official shall be final and conclusive unless, within thirty days from the date of receipt of such statement, the RECIPIENT mails or otherwise furnishes to the Director of the DEPARTMENT a written appeal. In connection with appeal of any proceeding under this clause, the RECIPIENT shall have the opportunity to be heard and to offer evidence in support of this appeal. The decision of the Director or duly authorized representative for the determination of such appeals shall be final and conclusive. Appeals from the Director's determination shall be brought in the Superior Court of Thurston County. Review of the decision of the Director will not be sought before either the Pollution Control Hearings Board or the Shoreline Hearings Board. Pending final decision of dispute hereunder, the RECIPIENT shall proceed diligently with the performance of this agreement and in accordance with the decision rendered.
R. CONFLICT OF INTEREST

No officer, member, agent, or employee of either party to this agreement who exercises any function or responsibility in the review, approval, or carrying out of this agreement, shall participate in any decision which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is, directly or indirectly interested; nor shall he/she have any personal or pecuniary interest, direct or indirect, in this agreement or the proceeds thereof.

S. INDEMNIFICATION

1. The DEPARTMENT shall in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

2. To the extent that the Constitution and laws of the State of Washington permit, each party shall indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this agreement.

T. GOVERNING LAW

This agreement shall be governed by the laws of the State of Washington.

U. SEVERABILITY

If any provision of this agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this agreement which can be given effect without the invalid provision, and to this end the provisions of this agreement are declared to be severable.

V. PRECEDENCE

In the event of inconsistency in this agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable Federal and State statutes and regulations; (b) Scope of Work; (c) Special Terms and Conditions; (d) Any terms incorporated herein by reference including the "Administrative Requirements for Ecology Grants and Loans"; and (e) the General Terms and Conditions.

SS-010 Rev. 04/04
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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<td>06/12/2013</td>
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<td>Prosecutor:</td>
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<td>Purchasing/Budget:</td>
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<td>Executive:</td>
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<td>06/12/2013</td>
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</tbody>
</table>

**TITLE OF DOCUMENT:**

**ATTACHMENTS:**

<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>( ) NO</th>
</tr>
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<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( ) 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.)

*Short presentation regarding Whatcom County’s Self-Insured Medical Program by Karen Goens, HR Manager and Marty Andrews of Kibble & Prentice*

**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](http://www.co.whatcom.wa.us/council).
Executive Louws provides an update on EMS contract progress.

Executive Jack Louws will provide an update at Finance Committee regarding the Emergency Management Services contract progress.
**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>
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<td>05/09/2013</td>
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<td>Finance &amp; Admin Serv</td>
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<td>Finance/Council</td>
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<td>Purchasing/Budget:</td>
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<td>5/21/13</td>
<td>WHATCOM COUNTY COUNCIL</td>
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<td>Executive:</td>
<td></td>
<td>5/24/13</td>
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</table>

**TITLE OF DOCUMENT:**

Contract for Services Agreement for benefit consultant for the self-insured medical program – Kibble & Prentice, a USI Company

**ATTACHMENTS:**

1. Memorandum to Executive Louws
2. Contract for Services Agreement with Kibble & Prentice

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>(x ) NO</th>
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**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 agreement is for benefit consultation services for the County’s self-insured medical program.

**COMMITTEE ACTION:**

6/04/2013: Forwarded to Council for approval

**COUNCIL ACTION:**

6/04/2013: Council referred to committee for additional discussion 6-1, Crawford opposed

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](http://www.co.whatcom.wa.us/council).
Enclosed are two (2) originals of a Contract for Services for benefits consulting between Whatcom County and Kibble & Prentice for your review and signature.

**Background and Purpose**
While Whatcom County administers key elements of the self-insured medical plan in-house, we require outside expertise to monitor claims data, analyze benefit options, provide actuarially-sound plan pricing, bid for competitive stop loss coverage, and educate employees on new plan options. Martin "Marty" Andrews of Kibble & Prentice was unanimously recommended following a Request for Qualifications process to continue providing these services. This firm has demonstrated performance from a high quality, County-focused team, has experience and knowledge of our program, and has offered reasonable pricing. Continuing with Kibble & Prentice as benefits consultant will lend continuity for our self-insured health plan as we go out to bid for third party administrator and now join other large employers in offering multiple plan choices to our employees. The agreement before you would commence January 1, 2014 and run through December 31, 2016 with a renewal option of up to three more years.

**Funding Amount and Source**
The self-insured medical program is funded through contributions collected internally from departments per eligible employee. The budgeted plan cost in 2014 is $6,436,636. Consultant costs will be $45,000 in 2014; $46,500 in 2015; and $48,000 in 2016. Starting in 2015, more extensive data analysis through predictive modeling tools will be included in the price.

**Differences from Previous Agreement**
This service agreement continues previous services and adds predictive modeling and more extensive employee communications.

Please contact me at extension 50550 if you have any questions or concerns regarding the terms of this agreement.
# WHATCOM COUNTY CONTRACT INFORMATION SHEET

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Administrative Services – Human Resources (HR)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Administrator:</td>
<td>Karen S. Goens, HR Manager</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Kibble &amp; Prentice, a USI Company</td>
</tr>
</tbody>
</table>

Is this a New Contract? Yes _X_ No ____ If not, is this an Amendment or Renewal to an Existing Contract? Yes ____ No ____ If yes, previous number(s): ____________________________

Is this a grant agreement? Yes ____ No _X_ If yes, grantor agency contract number(s) __________________________ CFDA number __________________________

Is this contract grant funded? Yes ____ No _X_ If yes, associated Whatcom County grant contract number(s) __________________________

Is this contract the result of a RFP or Bid process? Yes _X_ No ____ If yes, RFP and Bid number(s) 13-34 Cost Center: 507340

Is this contract excluded from E-Verify? No ____ Yes _X_ If no, include Attachment D Contractor Declaration Form If yes, indicate qualified exclusion(s) below: __ Contract less than $100,000. _X_ Professional services agreement for certified/licensed professional __ Work is for less than 120 days _X_ Contract for Commercial off the shelf items (COTS) __ Interlocal Agreement (between Govt.) _X_ Public Works Dept. - Local Agency/Federally Funded FHWA

Contract Amount:(sum of orig contract amt and any prior amendments)
- $45,000 in 2014
- $46,500 in 2015
- $48,000 in 2016

This Amendment Amount:
- $

Total Amended Amount:
- $

Scope of Services:

- Provide benefit consultation services for the County’s self-insured medical program

Term of Contract: 3 yrs + up to 3 yr renewal Expiration Date: December 31, 2016

Contract Routing Steps & Signoff: [sign or initial] [indicate date transmitted]
1. Prepared by: KSGoens Date 05/09/2013 [electronic]
2. Attorney reviewed: Daniel L. Gibson Date 05/10/13 [electronic]
3. AS Finance reviewed: Date 5/21/13 [electronic]
4. IT reviewed if IT related Date _____________ [electronic]
5. Corrections made: Date _____________ [electronic] hard copy printed
6. Attorney signoff: Daniel L. Gibson Date 05/10/13
7. Contractor signed: Date 5/15/13
8. Submitted to Exec Office: Date 5/21/13 [summary via electronic; hardcopies]
9. Reviewed by DCA Date _____________
10. Council approved (if necessary) Date _____________
11. Executive signed: Date _____________
12. Contractor Original Returned to dept; Date _____________
13. County Original to Council Date _____________
CONTRACT FOR SERVICES
Benefits Consultant – Self-Insured Medical Program

Kibble & Prentice, a USI Company, hereinafter called Contractor, and Whatcom County, hereinafter referred to as County, agree and accept as set forth in this Agreement, including:

- General Conditions, pp. 3 to 8,
- Exhibit A (Scope of Work), p. 9,
- Exhibit B (Compensation), p. 10,
- Exhibit C (Certificate of Insurance), p. 11,
- Exhibit D (Business Associate Agreement), pp. 12 to 16,

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 1st day of January, 2014, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2016.

The general purpose or objective of this Agreement is to provide benefit consultation for the County’s self-insured medical plan as more fully and definitively described in Exhibit A hereof. 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 $45,000 for 2014; $46,500 for 2015; $48,000 for 2016. 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 15th day of May, 2013.

CONTRACTOR:

Kibble & Prentice, a USI Company

[Signature]

Todd C. McMahon, CCO/SVP

STATE OF WASHINGTON

COUNTY OF KING

On this 15th day of May, 2013, before me personally appeared Todd C. McMahon to me known to be the CCO/SVP of Kibble & Prentice 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

NOTARY PUBLIC

MY COMMISSION EXPIRES 10/1/15

Contract for Services

v 1.0
WHATCOM COUNTY:
Recommended for Approval:

Karen S. Goens, Human Resources Manager Date 5/20/2013

Approved as to form:

Daniel L. Gibson, Chief Civil Deputy Prosecutor Date

Approved:
Accepted for Whatcom County:

By: ____________________________
    Jack Louws, Whatcom County Executive

STATE OF WASHINGTON )
                      ) ss
COUNTY OF WHATCOM )

On this _______ day of __________, 2013, 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:

KIBBLE & PRENTICE, a USI Company

Martin (Marty) Andrews, Senior Vice President, Employee Benefits
Stacey Thomas, Account Manager, Employee Benefits
Lara Jones, Benefit Analyst

Address:
601 Union Street – Suite 1000
Seattle, WA 98101-4064

Mailing Address: SAME

Contact Name: Marty Andrews

Contact Phone: (206) 675-5672

Contact FAX: (206) 577-5956

Contact Email: marty.andrews@kpc.com

Contract for Services
Benefits Consultant – 2014-2016 v 1.0
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:
The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to three years, and for a total of no longer than six years from the inception of the contract.

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 all 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.

Contract for Services
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 the 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 of 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 unwholesome, 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 maintains a separate place of business, serves clients other than the County, will report all income and expenses 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.

31.1 Ownership of Items Produced:
When the Contractor creates any copyrightable materials or invents any patentable property, the Contractor may copyright or patent the same, but the County retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover, or otherwise use the materials or property and to authorize other governments to use the same for state or local governmental purposes. Contractor further agrees to make research, notes, and other work products produced in the performance of this Agreement available to the County upon request.

31.2 Patent/Copyright Infringement: Not Applicable

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 Professional Liability insurance with the following minimums: $10,000,000/Claim and $10,000,000 Aggregate. 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 shall waive all rights of subrogation. The County insurance shall be noncontributory.

34.2 Industrial Insurance Waiver: Not Applicable

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: Not Applicable

36.1 Waiver of Noncompetition: Not Applicable

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:

Karen S. Goens, Human Resources Manager
Administrative Services Department
311 Grand Avenue – Suite 107
Bellingham, WA 98225-4038
(360) 676-6802
kgoens@co.whatcom.wa.us

Contract for Services
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: Not Applicable

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 of the extension of time claimed to be due.

d. Arbitration: Not Applicable
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.
EXHIBIT "A"
(SCOPE OF WORK)

Kibble & Prentice will perform consulting services including but not limited to the following analytics and strategy projects:

1. Regular monitoring and analysis of data from third party medical and prescription plan administrators.

2. Preparation of Quarterly Group Experience Reports and on-site visits to Whatcom County administrators to provide financial updates and to discuss marketplace and benefit trends.

3. Renewal Projections for coming plan year, including plan options and pricing based on an actuarially-sound basis (relative to one another) and using predictive modeling tools.

4. Development of "what if" recommendations for plan design changes if projected costs exceed contribution caps.

5. Consultation for third party administrator, network, pharmacy manager, and other benefits vendor selection.

6. Bidding and evaluation to obtain competitive rates and benefits for excess coverage and options.

7. Calculation of potential fee costs for Whatcom County with regard to the Patient Protection and Affordable Care Act.

8. Presentations and reports to the Medical Advisory Committee.

9. Implementation and delivery of employee communications and meetings about the Qualified High Deductible Health Plan and Health Savings Account and other medical plan choices.

10. Other incidental consultation, as needed.

Adjustments to projects contained within this Scope of Work may be made by mutual agreement between the Contractor and Contract Administrator.
EXHIBIT "B"
(COMPENSATION)

As consideration for services outlined in Exhibit "A" (Scope of Work), the County agrees to compensate the Contractor:

$45,000 in 2014
$46,500 in 2015
$48,000 in 2016

The County will make quarterly payments in four equal parts for services covered under the flat annual rate.
EXHIBIT "C"  
INSURANCE

ACORD-  
CERTIFICATE OF LIABILITY INSURANCE  

Client #: 483788  
DEANWORM  

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not affirmatively or negatively amend, extend or alter the coverage afforded by the policies below. This certificate of insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer and the certificate holder.

Important: If the certificate holder is an additional insured, the policy(ies) must be endorsed. If subrogation is waived, subject to the terms and conditions of the policy, certain policyholders may require an endorsement. A statement on this certificate does not confer rights to the certificate holder and/or to the issuing insurance company.

PRODUCER  
USI  
1445 Ross Avenue  
Suite 4200  
Dallas, TX 75202

INSURER:  
1. XL Specialty Insurance Company  
2. USI Insurance Services LLC  
555 Pleasantville Road  
Babelford Manor, NY 10510

COVERAGES  
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A Professional Liability Insurance  

ELU12847512  
12/01/2012  
12/01/2013  
$10,000,000 per claim  
$10,000,000 aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (USE ACORD 46; ADDITIONAL RENTS SCHEDULE IF MORE SPACE IS REQUIRED)

Professional Liability Errors & Omissions Liability coverage is extended to all subsidiaries and dba's of One USI Holdings Corp. / USI Insurance Services LLC. All USI employees are covered under this policy for the work performed as directed by USI.

RE: Kibble & Prentice Holding Company, 601 Union St., Suite 1000, Seattle, WA 98101-2925

CERTIFICATE HOLDER

Evidence of Coverage

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1980-2010 ACORD CORPORATION. All rights reserved.

ACORD 25 (2010/05)  
1 of 1 
The ACORD name and logo are registered trademarks of ACORD

DXVH0
EXHIBIT "D"
(BUSINESS ASSOCIATE AGREEMENT)

K&P has been retained by the Client ("Covered Entity") as its benefits consultant and will perform certain services on behalf of the Covered Entity, in its capacity as a broker, consultant or other service provider with respect to activities of the Covered Entity as a "group health plan" as defined in 45 C.F.R. § 160.103. In connection with the provision of such services by K&P, the Covered Entity may disclose to K&P certain Protected Health Information (as defined below), concerning the Covered Entity and its activities.

K&P and the Covered Entity desire to enter into a business associate agreement for the purpose of addressing the Privacy Rule, the Security Rule, and the Electronic Transaction Rule, (as those terms are defined below), and for addressing the privacy and security provisions set forth in the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), contained in Title XIII, Subtitle D, of the American Recovery and Reinvestment Act of 2009. In consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, K&P and the Covered Entity agree as follows:

4.1. DEFINITIONS

4.1.1 "Agreement" shall mean this document, including all exhibits, attachments, and properly executed amendments and addendums.

4.1.2 "Breach" shall have the same meaning as the term "breach" in 45 C.F.R. § 164.402.

4.1.3 "Electronic Health Record" shall have the same meaning as the term "electronic protected health information" in § 13400(5) of the American Recovery and Reinvestment Act of 2009.

4.1.4 "Electronic Protected Health Information" shall have the same meaning as the term "electronic protected health information" in 45 C.F.R. § 160.103.

4.1.5 "Electronic Transaction Rule" shall mean the final regulations issued by the U.S. Department of Health and Human Services concerning standard transactions and code sets under 45 C.F.R. Parts 160 and 162.

4.1.6 "Individual" shall mean the person who is the subject of the Protected Health Information or a person who qualifies as the personal representative of the individual in accordance with 45 C.F.R. § 164.502(g).

4.1.7 "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and E.

4.1.8 "Protected Health Information" shall mean any information that: (a) relates to the past, present, or future physical or mental health or condition of an Individual; (b) the provision of health care to an Individual; (c) or the past, present, or future payment for the provision of health care to an Individual; and that identifies the Individual or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual.

4.1.9 "Required By Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 160.103.

4.1.10 "Secretary" shall mean the Secretary of the Department of Health and Human Services ("HHS") and any other officer or employee of HHS to whom authority has been delegated.

4.1.11 "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 160.103.


4.1.13 "Transaction" shall have the same meaning as the term "transaction" in 45 C.F.R. § 160.103.
4.1.14 "Unsecured Protected Health Information" shall have the same meaning as the term "unsecured protected health information" in 45 C.F.R. § 164.402.

4.2. **SAFEGUARDING PRIVACY AND SECURITY OF PROTECTED HEALTH INFORMATION**

4.2.1 **Permitted Uses and Disclosures.** K&P hereby agrees that it shall be prohibited from using or disclosing Protected Health Information provided or made available by the Covered Entity (or another business associate of the Covered Entity) for any purpose other than as expressly permitted or required by this Agreement.

4.2.1(a) Functions and Activities on Covered Entity's Behalf. Except as otherwise set forth in this Agreement, the parties hereby agree that K&P shall be permitted to use and/or disclose Protected Health Information provided or made available by the Covered Entity (or another business associate of the Covered Entity) only for the purpose of conducting the transactions contemplated under this Agreement and only for purposes within the scope of K&P's representation of the Covered Entity.

4.2.1(b) Business Operations. K&P is permitted to use and/or disclose Protected Health Information if necessary for the proper management and administration of K&P's representation of the Covered Entity, or to carry out any legal responsibilities of K&P, provided that, with respect to any disclosure of Protected Health Information, either:

4.2.1(b)(1) the disclosure is Required By Law; or

4.2.1(b)(2) K&P obtains reasonable assurances from the person to whom the Protected Health Information is disclosed that: (a) the Protected Health Information will be held in confidence and used or further disclosed only as for the purposes for which K&P disclosed the Protected Health Information to the person or as Required by Law; (b) the person will use appropriate safeguards to prevent use or disclosure of the Protected Health Information; and (c) the person immediately notifies K&P of any instance of which it is aware in which the confidentiality of the Protected Health Information has been breached.

4.2.1(c) Data Aggregation Services. K&P is permitted to use or disclose Protected Health Information to provide data aggregation services, as that term is defined by 45 C.F.R. § 164.501, relating to health care operations of the Covered Entity.

4.2.1(d) Minimum Necessary. K&P will, in its performance of the functions, activities, services, and operations specified above, make reasonable efforts to use, to disclose, and to request only the minimum amount of Covered Entity's Protected Health Information reasonably necessary to accomplish the intended purpose of the use, disclosure or request, except that K&P will not be obligated to comply with this minimum-necessary limitation if neither K&P nor Covered Entity is required to limit its use, disclosure or request to the minimum necessary. K&P and Covered Entity acknowledge that the phrase "minimum necessary" shall be interpreted in accordance with the HITECH Act.

4.2.2 **Information Safeguards.**

4.2.2(a) Privacy of Covered Entity's Protected Health Information. K&P will develop, implement, maintain, and use appropriate administrative, technical, and physical safeguards to protect the privacy of Covered Entity's Protected Health Information. The safeguards must reasonably protect Covered Entity's Protected Health Information from any intentional or unintentional use or disclosure in violation of the Privacy Rule and limit incidental uses or disclosures made pursuant to a use or disclosure otherwise permitted by this Agreement.

4.2.2(b) Security of Covered Entity's Electronic Protected Health Information. K&P will develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information that K&P creates, receives, maintains, or transmits on Covered Entity's behalf as required by the Security Rule.
4.2.3 **Subcontractors and Agents.** K&P will require any of its subcontractors and agents to which K&P is permitted by this Agreement, or in writing by Covered Entity, to disclose Covered Entity’s Protected Health Information and/or Electronic Protected Health Information, to provide reasonable assurance that such subcontractor or agent will comply with the same privacy and security safeguard obligations with respect to Covered Entity’s Protected Health Information and/or Electronic Protected Health Information that are applicable to K&P under this Agreement.

4.2.4 **Prohibition on Sale of Records.** As of the effective date specified by HHS in final regulations to be issued on this topic, K&P shall not directly or indirectly receive remuneration in exchange for any Protected Health Information of an Individual unless the Covered Entity or K&P obtains from the Individual, in accordance with 45 C.F.R. § 164.508, a valid authorization that includes a specification of whether the Protected Health Information can be further exchanged for remuneration by the entity receiving Protected Health Information of that individual, except as otherwise allowed under the HITECH Act.

4.2.5 **Penalties For Noncompliance.** K&P acknowledges that it is subject to civil and criminal enforcement for failure to comply with the Privacy Rule and Security Rule, as amended by the HITECH Act.

4.3. **COMPLIANCE WITH ELECTRONIC TRANSACTION RULE**

If K&P conducts in whole or part electronic Transactions on behalf of Covered Entity for which HHS has established standards, K&P will comply, and will require any subcontractor or agent it involves with the conduct of such Transactions to comply, with each applicable requirement of the Electronic Transaction Rule. K&P shall also comply with the National Provider Identifier requirements, if and to the extent applicable.

4.4. **INDIVIDUAL RIGHTS**

4.4.1 **Access.** K&P will make available to Covered Entity or, at Covered Entity’s direction, to an Individual (or the Individual’s personal representative) for inspection and obtaining copies Covered Entity’s Protected Health Information about the Individual that is in K&P’s custody or control, so that Covered Entity may meet its access obligations under 45 C.F.R. § 164.524. Effective as of the date specified by HHS, if the Protected Health Information is held in an Electronic Health Record, then the Individual shall have a right to obtain from K&P a copy of such information in an electronic format. K&P shall provide such a copy to Covered Entity or, alternatively, to the Individual directly, if such alternative choice is clearly, conspicuously, and specifically made by the Individual or Covered Entity.

4.4.2 **Amendment.** K&P will, upon receipt of written notice from Covered Entity, promptly amend or permit Covered Entity access to amend any portion of Covered Entity’s Protected Health Information, so that Covered Entity may meet its amendment obligations under 45 C.F.R. § 164.526.

4.4.3 **Disclosure Accounting.** To allow Covered Entity to meet its disclosure accounting obligations under 45 C.F.R. § 164.528:

4.4.3(a) **Disclosures Subject to Accounting.** K&P will record the information specified below ("Disclosure Information") for each disclosure of Covered Entity’s Protected Health Information, not exempted from disclosure accounting as specified below, that K&P makes to Covered Entity or to a third party.

4.4.3(b) **Disclosures Not Subject to Accounting.** K&P will not be obligated to record Disclosure Information or otherwise account for disclosures of Covered Entity’s Protected Health Information if Covered Entity need not account for such disclosures.

4.4.3(c) **Disclosure Information.** With respect to any disclosure by K&P of Covered Entity’s Protected Health Information that is not excepted from disclosure accounting, K&P will record the following Disclosure Information as applicable to the type of accountable disclosure made:

4.4.3(c)(1) **Disclosure Information Generally.** Except for repetitive disclosures of Covered Entity’s Protected Health Information as specified below, the Disclosure Information that K&P must record for each accountable disclosure is (i) the disclosure date, (ii) the name and (if known) address of the entity to which K&P made the disclosure, (iii) a brief description of Covered Entity’s Protected Health Information disclosed, and (iv) a brief statement of the purpose of the disclosure.
4.4.3(c)(2) Disclosure Information for Repetitive Disclosures. For repetitive disclosures of Covered Entity's Protected Health Information that K&P makes for a single purpose to the same person or entity (including Covered Entity), the Disclosure Information that K&P must record is either the Disclosure Information specified above for each accountable disclosure, or (i) the Disclosure Information specified above for the first of the repetitive accountable disclosures; (ii) the frequency, periodicity, or number of the repetitive accountable disclosures; and (iii) the date of the last of the repetitive accountable disclosures.

4.4.3(d) Availability of Disclosure Information. K&P will maintain the Disclosure Information for at least 6 years following the date of the accountable disclosure to which the Disclosure Information relates (3 years for disclosures related to an Electronic Health Record, starting with the date specified by HHS). K&P will make the Disclosure Information available to Covered Entity within 60 calendar days following Covered Entity's request for such Disclosure Information to comply with an Individual's request for disclosure accounting. Effective as of the date specified by HHS, with respect to disclosures related to an Electronic Health Record, K&P shall provide the accounting directly to an Individual making such a disclosure request, if a direct response is requested by the Individual.

4.4.4 Restriction Agreements and Confidential Communications. K&P will comply with any agreement that Covered Entity makes that either (i) restricts use or disclosure of Covered Entity's Protected Health Information pursuant to 45 C.F.R. § 164.522(a), or (ii) requires confidential communication about Covered Entity's Protected Health Information pursuant to 45 C.F.R. § 164.522(b), provided that Covered Entity notifies K&P in writing of the restriction or confidential communication obligations that K&P must follow. Covered Entity will promptly notify K&P in writing of the termination of any such restriction agreement or confidential communication requirement and, with respect to termination of any such restriction agreement, instruct K&P whether any of Covered Entity's Protected Health Information will remain subject to the terms of the restriction agreement. Effective February 17, 2010 (or such other date specified as the effective date by HHS), K&P will comply with any restriction request if: (i) except as otherwise Required by Law, the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for purposes of carrying out treatment); and (ii) the Protected Health Information pertains solely to a health care item or service for which the health care provider involved has been paid out-of-pocket in full.

4.5. BREACHES

4.5.1 Privacy or Security Breach. K&P will report to Covered Entity any use or disclosure of Covered Entity's Protected Health Information not permitted by this Agreement along with any Breach of Covered Entity's Unsecured Protected Health Information. K&P will treat the Breach as being discovered in accordance with 45 CFR §164.410. K&P will make the report to the Covered Entity not more than 15 calendar days after K&P learns of such non-permitted use or disclosure. If a delay is requested by a law-enforcement official in accordance with 45 CFR §164.412, K&P may delay notifying Covered Entity for the applicable time period. K&P's report will at least:

4.5.1(a) Identify the nature of the Breach or other non-permitted use or disclosure, which will include a brief description of what happened, including the date of any Breach and the date of the discovery of any Breach;

4.5.1(b) Identify Covered Entity’s Protected Health Information that was subject to the non-permitted use or disclosure or Breach (such as whether full name, social security number, date of birth, home address, account number or other information were involved) on an individual basis;

4.5.1(c) Identify who made the non-permitted use or disclosure and who received the non-permitted disclosure;

4.5.1(d) Identify what corrective or investigational action K&P took or will take to prevent further non-permitted uses or disclosures, to mitigate harmful effects and to protect against any further Breaches;

4.5.1(e) Identify what steps the individuals who were subject to a Breach should take to protect themselves;

4.5.1(f) Provide such other information, including a written report, as Covered Entity may reasonably request.
4.5.2 **Security Incidents.** K&P will report to Covered Entity any attempted or successful (A) unauthorized access, use, disclosure, modification, or destruction of Covered Entity's Electronic Protected Health Information or (B) interference with Business Associate's system operations in Business Associate's information systems, of which K&P becomes aware. K&P will make this report once per month, except if any such Security Incident resulted in a disclosure not permitted by this Agreement or Breach of Covered Entity's Unsecured Protected Health Information, Business Associate will make the report in accordance with the provisions set forth in Section 4.5.1.

4.5.3 **Return or Destruction of Covered Entity's Protected Health Information as Feasible.** Upon termination or other conclusion of Agreement, K&P agrees to return all Protected Health Information received from the Covered Entity, or created or received by K&P on behalf of the Covered Entity, and not to retain any copies of the Protected Health Information after termination of this Agreement, if feasible in the reasonable opinion of K&P. If K&P elects to destroy the Protected Health Information, it shall certify to the Covered Entity that the Protected Health Information has been destroyed.

4.5.4 **Continuing Privacy and Security Obligation.** If return or destruction of the Protected Health Information is not feasible, K&P agrees to extend the protections of this Agreement for as long as necessary to protect the Protected Health Information and to limit any further use or disclosure so as to be consistent with the intent of this Agreement.

4.5.5 **Access to Books and Records.** K&P hereby agrees to make its internal practices, books and records relating to the use, disclosure, and safeguards for Protected Health Information received from, or created or received by K&P on behalf of the Covered Entity, available to the Secretary or the Secretary's designee for purposes of determining compliance with the Privacy Rule and/or the Security Rule.

4.5.6 **Mitigation Procedures.** K&P agrees to have procedures in place for mitigating, to the extent practicable, any deleterious effect from the use or disclosure of Protected Health Information received from, or created or received by K&P on behalf of the Covered Entity, in a manner contrary to this Agreement or the Privacy Rule.

4.5.7 **Amendment to Agreement.** Upon the compliance date of any final regulation or amendment to final regulation promulgated by HHS that affects K&P or Covered Entity's obligations under this Agreement, this Agreement will be automatically amended such that the obligations imposed on K&P or Covered Entity remain in compliance with the final regulation or amendment to final regulation.
# Economic Development Investment Program – EDI Board recommendation

**ATTACHMENTS:** Memorandum; EDI Program application from City of Nooksack; EDI Board Meeting Notes from 6/24/13; EDI TAC Funding Application Assessment; Nooksack Memo of 6/24/13; Rural Sales Tax Fund balances as of 3/31/13

The Economic Development Investment Board has reviewed a funding application from the City of Nooksack, and is making the following recommendation for adoption by the County Council:

Approval of the City of Nooksack’s request for EDI funding in the amount of $780,000 in support of the Wastewater Treatment Plant Upgrade project, in the form of a loan in the amount of $520,000 and a grant in the amount of $260,000.
MEMORANDUM

To: Whatcom County Council Members
From: Jack Louws, County Executive
Subject: Economic Development Investment Board – Funding Recommendation
Date: June 26, 2013

At the recent quarterly meeting of the EDI Board, the City of Nooksack gave a brief presentation to the board members regarding a prospective public infrastructure project for which they have applied for EDI Program funding.

Prior to the EDI Board’s review, there was a new EDI Subcommittee that met to review and score the project application materials. This subcommittee is called the EDI Technical Advisory Committee (TAC) and is comprised of board members from the Northwest Economic Council. The results of their review were provided to EDI Board members prior to their meeting. Then at the EDI Board meeting, a memorandum (copy attached) was distributed by Nooksack staff to the board members, which revised the dollar amounts being requested.

The EDI Board discussed the original application, the TAC review and the revised fund request, following which they voted unanimously in favor of recommending that the County Council approve the revised EDI Program funding request as follows:

<table>
<thead>
<tr>
<th>Project</th>
<th>Funding Request</th>
<th>Board Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Nooksack Water</td>
<td>$520,000 (loan)</td>
<td>$520,000 (loan)</td>
</tr>
<tr>
<td>Treatment Plant Upgrade</td>
<td>$260,000 (grant)</td>
<td>$260,000 (grant)</td>
</tr>
</tbody>
</table>

The EDI funding application is attached for your review as you consider this recommendation at your meeting on July 9, 2013. Approval of this recommendation will result in the preparation of an Interlocal Loan and Grant Agreement with the City of Nooksack. Additionally, a supplemental budget for County Council review and approval will be prepared.

If you have any questions on this matter, please feel free to contact me at 676-6717.

Attachments: City of Nooksack application;
EDI TAC Funding Application Assessment
Sehome Planning 6/24/13 Memorandum to EDI Board
EDI Board 6/24/13 Meeting Notes
Whatcom County
Economic Development
Investments Program
Application for Funding

Jack Louws, Whatcom County Executive
Whatcom County Economic Development Investment (EDI) Program
R scouring Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

Preliminary Information and Application

Note: The intent of this Program is to be consistent with State law, RCW 82.14.370

1. Who is eligible to apply: Local general or special-purpose governments and higher education.

2. What projects are covered: Construction of publically-owned infrastructure, facilities, and related improvements, which enable or encourage the creation or retention of private sector businesses and jobs in Whatcom County consistent with EDI Program Policy Objectives.

3. What activities are fundable: New construction, refurbishment, replacement, rehabilitation, renovation or repair. Demolition is allowable if tied to construction. Soft costs allowed within scope of construction budget. No land acquisition except right-of-way included in a construction project.

4. What can you use the funds for: Transportation (roads, bridges, rail), utility services (water, sewer, storm, energy, telecom) and public buildings or structures.

5. Other Limitations: Planning/feasibility only projects are not eligible. Minimum local match is 10% of EDI request. EDI Board will make recommendations to the County Council which makes the final decision.

Preferential Project Types

First Preference – “JOBS IN HAND PROJECTS” – These types of projects will allow for the immediate creation and/or retention of jobs by providing public infrastructure that directly supports jobs. A perfect example would be a private business that will build or move into a facility and hire employees if a road is built or if water/sewer lines are extended to the site. These types of proposals would include a commitment by the private sector employer to create jobs and provide private investment.

Second Preference – “BUILD IT AND JOBS WILL COME PROJECTS” – These types of projects will construct public infrastructure but are not associated with a specific commitment from a private business to locate and/or create jobs. A perfect example would be the construction of roads and utility infrastructure to serve a new business park that would benefit multiple businesses.

Third Preference – COMMUNITY ENHANCEMENT PROJECTS” – These types of projects generally improve the physical appearance or create community assets to enhance the business climate. Examples would be boardwalk, streetscaping, downtown structures, and other publicly-owned facilities that make a community or region more attractive to existing or future businesses.
Whatcom County Economic Development Investment (EDI) Program
Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

Preferential Project Terms

First Preference – EDI LOAN – Due to the preferred revolving nature of EDI funds, proposals that are loan only will receive higher scoring. Loan terms and interest rate structure matches the Public Works Trust Fund program. The county will maintain discretion to modify such as including a deferral period.

Second Preference – LOAN/GRANT COMBINATION – The preferred combination of grant funds and loan funds is 1/3 grant, 2/3 loan.

Third Preference – EDI GRANT – Due to the “one-shot” nature of grants, projects of equal scoring requesting a grant only will be scored lower than another similar project requesting a loan/grant mix.

Preferential* Project Amounts (Guidelines)

JOBS IN HAND PROJECTS - $1,000,000 limit if grant only. $2,000,000 limit if combination of grant and loan. $3,000,000 limit if loan only.

BUILD IT AND JOBS WILL COME PROJECTS - $500,000 limit if grant only. $1,000,000 limit if combination of grant and loan. $1,500,000 limit if loan only.

COMMUNITY ENHANCEMENT PROJECTS - $250,000 limit if grant only. $500,000 limit if combination of grant and loan. $750,000 limit if loan only.

*Based on compelling reasons, the EDI Board and County Council may consider exceptions.

Past Performance

Have you received EDI Program funding in the past? _______; Yes ___X___ No

If yes, provide project name and EDI grant/loan awarded: ______________________________________________________

If yes, EDI Program staff and/or the EDI Board may conduct an audit to review performance measures against projected outcomes, such as job creation projections.

Has your jurisdiction received any audit findings from the Washington State Auditor in the past 10 years? ______; Yes; ___X___ No. If yes, provide details:

Last Updated: 12/4/12
THRESHOLD PROJECT CRITERIA

Evidence of Planning

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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</thead>
<tbody>
<tr>
<td>X</td>
<td></td>
</tr>
<tr>
<td>X</td>
<td></td>
</tr>
<tr>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

- Project included on an adopted regional economic strategy ("CEDS" list).
- Project included in the applicant’s Comprehensive Plan.
- Project included in the applicant’s Capital Expenditure Plan or adopted budget.

COMMENTS: The project has been on the CEDS list for over ten years and is addressed in the capital facilities element of the City’s comprehensive plan. The project is also identified in the City’s General Sewer Plan and is fully examined in the WWTP Upgrade Facilities Plan approved by the Department of Ecology. Funding for the project has been included in the City’s adopted 2013 budget.

THRESHOLD PROJECT SCORING

POINTS

5

Preferential Project Type

- Jobs In Hand
- Build It And Jobs Will Come
- Community Enhancement

5

Preferential Project Terms

- Loan Only
- Loan/Grant
- Grant Only

5

Preferential Project Amounts

- Within Dollar Limits
- Outside Preferred Dollar Limits

Total Points: 15

To proceed to other parts of the application and to receive EDI Board review, a proposed project must score 10 or more points on the above section.
Whatcom County Economic Development Investment (EDI) Program
Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

PROJECT APPLICANT

Applicant Name: City of Nooksack

Applicant Address: 103 W. Madison Street. Nooksack, WA 98276

Applicant Contact Person: Rollin Harper, City Planner

Applicant Email and Phone Number: E-mail: rollinh@sehome.com Phone (360) 733-6033

PROJECT TITLE
Wastewater Treatment Plant Upgrade – Design and Construction

PROJECT AMOUNT REQUESTED

$ 720,000 EDI Funds $ 84,744 Local Match
(10% of EDI request minimum)

PROJECT TYPE

Jobs In Hand Build It And Jobs Will Come Community Enhancement

PROJECT TERMS

Loan Only Grant/Loan Grant Only

Loan Amount Requested: $480,000 Grant Amount Requested: $240,000

If a loan, term requested: 25 (years)

PROJECT DESCRIPTION
(one page limit)
The City of Nooksack is working with the City of Everson to complete a major upgrade of the wastewater treatment plant (WWTP) that serves both cities. The project proposed for EDI funding includes the Nooksack portion of the costs to design and construct the WWTP Upgrade. In 2012 the City completed its General Sewer Plan and the Facilities Plan for the WWTP Upgrade, both of which were

Last Updated: 12/4/12
approved by the Department of Ecology. Design of the project is currently underway, and construction is scheduled to begin in October of this year.

**BASIC PROJECT INFORMATION**

1. Complete the public project budget and status of funds below. If EDI funds are approved is funding 100% complete? _X_ Yes _No_

The City has secured a $15,000 grant from the Port of Bellingham Small City Economic Development Program to fund a portion of the project design. An application has been submitted to the Department of Ecology to fund construction of both the Everson and Nooksack portions of the WWTP Upgrade. Both cities are waiting to hear if the project will be funded by Ecology. EDI funding is seen as a beneficial alternative and is being sought to replace Ecology funding not yet secured.

<table>
<thead>
<tr>
<th>Funding Source</th>
<th>Amount</th>
<th>Planned/Applied For</th>
<th>Secured</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Dollars</td>
<td>$</td>
<td>Yes ___ No <em>X</em></td>
<td>Yes ___ No <em>X</em></td>
</tr>
<tr>
<td>State Dollars</td>
<td>$ 720,000*</td>
<td>Yes <em>X</em> No ___</td>
<td>Yes <em>X</em> No ___</td>
</tr>
<tr>
<td>Local Dollars - Port</td>
<td>$ 15,000</td>
<td>Yes <em>X</em> No ___</td>
<td>Yes <em>X</em> No ___</td>
</tr>
<tr>
<td>Local Dollars - City</td>
<td>$ 69,744</td>
<td>Yes <em>X</em> No ___</td>
<td>Yes <em>X</em> No ___</td>
</tr>
<tr>
<td>EDI Funding</td>
<td>$ 720,000*</td>
<td>Yes <em>X</em> No ___</td>
<td>Yes <em>X</em> No ___</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$ 804,744</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* EDI funding requested to take the place of State funding not yet secured.

2. Describe the amount of outside (private) funding committed to the project (eg. Plant and equipment). None.

3. Describe the public infrastructure being proposed. Include engineering estimates and a site map detailing the proposed improvements as Attachments A and B.

The public infrastructure being proposed includes a major upgrade to the wastewater treatment plant that serves both the city of Everson and the city of Nooksack. This upgrade will include design and construction of the following plant components: upgrades to the influent pump station, installation of biological selectors, installation of jet aeration system, upgrades to the clarifiers, modifications to RAS pumps and piping, installation of a sludge thickening system, construction of a new control building, upgrades to the SCADA system, installation of a new sludge holding tank, and installation of a re-use water system. The engineer’s estimate and site plan are included as attachments.

4. Describe how these improvements will enhance or encourage community vitality and stimulate other private development in the area.

The WWTP has reached its capacity. The proposed WWTP Upgrade will make additional capacity available to new commercial and industrial businesses wanting to locate within Nooksack that would otherwise be
Whatcom County Economic Development Investment (EDI) Program
Roving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

unable to do so based on insufficient capacity available to accommodate future growth. The project will also support expansion of existing businesses and renovation of unused properties that are run down.

5. List all permits and environmental reviews required for the public project and detail their status (completed, in-process, etc.)

<table>
<thead>
<tr>
<th>Permit Type</th>
<th>In Process</th>
<th>Date Completed</th>
<th>Completion By</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preliminary Engineering Review</td>
<td>X</td>
<td></td>
<td>08/2013</td>
</tr>
<tr>
<td>Environmental Review</td>
<td>X</td>
<td></td>
<td>06/2013</td>
</tr>
<tr>
<td>Design Engineering</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Right-of-Way</td>
<td></td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>Construction Permits</td>
<td></td>
<td></td>
<td>09/2013</td>
</tr>
<tr>
<td>Environmental Permits</td>
<td>X</td>
<td></td>
<td>08/2013</td>
</tr>
<tr>
<td>Bid Documents</td>
<td>X</td>
<td></td>
<td>07/2013</td>
</tr>
<tr>
<td>Award Construction Contract</td>
<td></td>
<td></td>
<td>09/2013</td>
</tr>
<tr>
<td>Begin Construction</td>
<td></td>
<td></td>
<td>10/2013</td>
</tr>
<tr>
<td>Project Operational</td>
<td></td>
<td></td>
<td>09/2014</td>
</tr>
</tbody>
</table>

6. Are any other public jurisdictions involved in this project? If so, in what way?
The Everson WWTP serves both the city of Everson and the city of Nooksack. Treatment capacity in the WWTP is owned jointly by the two jurisdictions, which also share ongoing operation and maintenance costs. The Port of Bellingham has provided a small grant to fund project design.

7. Who will maintain the public facility/infrastructure to be completed with EDI funds? Will this project impact utility rates within the jurisdiction?
The upgraded WWTP will be jointly maintained by the cities of Everson and Nooksack. Based on the City’s small size (population of approximately 1,375) and limited financial resources, the cost of the project may impact utility rates in the city of Nooksack; however, the City will make every effort to keep any unavoidable rate increases as small as possible. The availability of grant funding and low-interest loans will help in this regard.

8. Will this project directly generate a revenue stream that could be used to repay an EDI loan? Will this project spur indirect revenues that could be used to repay an EDI loan? If no to either question – why?
The project will allow the City to continue to receive connection fees from new development, including from both residential and commercial/industrial development. Revenue from connection fees would likely be used to repay the EDI loan. The project could also generate other sources of revenue, such as increased property taxes and increased sales taxes that result from increased economic activity based on new development supported by the availability of WWTP capacity.

Last Updated: 12/4/12
9. What other revenue sources are available for this project and have they been considered. This includes forming a Local Improvement District (LID or ULID), issuing Councilmanic Bonds, Revenue Bonds, or other source(s). Issuance of bonds and formation of a ULID are not considered viable options for funding this type of project due to its relatively small size. The two main sources of revenue that can be used to fund this project through the term of an EDI loan include monthly utility rates paid by customers and sewer connection charges paid by new development. The City also has some resources available in the sewer capital fund.

10. Describe the private development project that will be supported by this public facility project. If there is a committed private sector partner include Contingency Agreement (Attachment C). No specific private development project has been identified that will be supported by this project.

11. Explain why the private development requires the proposed public improvement(s). Not applicable.

12. What is the status of the associated private development review and permits. List all permits required and give the current status (applied for, being reviewed, issued).

<table>
<thead>
<tr>
<th>Environmental Review</th>
<th>In Process</th>
<th>Date Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Permits</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Environmental Permits</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

13. Describe the type of industry or economic activity the public development will attract. What is the strategy to attract industry to the project site?
The project will attract the types of small-scale commercial and industrial businesses that currently locate in the City of Nooksack. These include small-scale manufacturing and service businesses, such as auto repair. The availability of developable commercial and industrial sites in an area that has adequate wastewater treatment capacity will attract new businesses that are needed to serve anticipated growth in the area.

Last Updated: 12/4/12
14. List the number of projected jobs, by type, to be retained and/or created by the private entity.

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Current Jobs Retained** (In FTEs)</th>
<th># Of Jobs Created Year 1 (In FTEs)</th>
<th># Of Jobs Created by Year 5 (In FTEs)</th>
<th>Hourly Wage of current or new position</th>
<th>Local Occupational Hourly Wages***</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mgmt./Admin*</td>
<td></td>
<td></td>
<td></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Technical/Prof</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Office/Clerical</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Production</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Skilled Crafts</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Others</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totals</td>
<td></td>
<td></td>
<td></td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

* Indicate Management positions in annual salary.

** Retained jobs are defined as jobs that would otherwise be lost from the county without this project.

*** This column will be populated with data from the state before application is distributed and revised annually.

a. Projected annual gross payroll for all job classifications $________

b. Describe fringe benefits the company offers to regular full time employees? (health insurance, retirement plans, etc.)

15. How does this project support the economy of Whatcom County and how does it fit into a county-wide economic development strategy?

This project supports the economy of Whatcom County by ensuring that small cities, including the City of Nooksack, can provide opportunities for jobs to be created within local jurisdictions. In this way, jobs can be created closer to where people live, which allows them to travel shorter distances to get to work and to support other local businesses. This fits very well into the County’s overall economic development strategy that encourages the provision of jobs throughout the county.
Whatcom County Economic Development Investment (EDI) Program
Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

16. What will the effect of this project be on the natural environment – does the project address any issues related to public health, pollution, or quality of life?

The upgrading of the WWTP will lead to a number of environmental benefits. First, the upgrade will improve the water quality of the effluent that is discharged from the plant into the Nooksack River. Second, the installation of a re-use water system will allow treated effluent within the plant to be used instead of potable water. This will reduce demands on the City’s domestic wells and help conserve groundwater resources. The WWTP upgrade will also reduce the quantity of chlorine, which is a hazardous chemical.

17. Does this project address any existing issues related to public safety and/or does it increase public safety in the future or address a potential future public safety issue?

This project includes construction of a new control building that will replace an existing structure where the lowest floor is below the base flood elevation of the 100-year flood. This means that completion of the project will eliminate the situation where City staff must perform essential operations, including lab testing, at a location that is subject to inundation during a major flood event. Reducing the use of chlorine will also reduce risks to City staff and the public.

18. Describe specific quantifiable measures of the outcomes, other than purely jobs, that will demonstrate project success. Describe how you will measure this and explain what you expect to show as progress toward the outcome.

One of the measures of success will be the increase in WWTP capacity that will result from the project and which will be reflected in an updated NPDES permit issued by the Department of Ecology once the project has been completed. An additional outcome that the City will be hoping to achieve through the project will be the reinstatement or replacement of the City’s future industrial area, which was removed by the County Council for other reasons in 2009.

Application for Funding – Certification

I HEREBY CERTIFY THAT THE INFORMATION GIVEN IN THIS APPLICATION TO WHATCOM COUNTY FOR INVESTMENTS IN ECONOMIC DEVELOPMENT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

[Signature of Responsible Public Official]

Date: 4-26-13
EDI Technical Advisory Committee
PROJECT SCORING SHEET

<table>
<thead>
<tr>
<th>3 pts</th>
<th>2 pts</th>
<th>1 pt</th>
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<tbody>
<tr>
<td>S</td>
<td>M</td>
<td>W</td>
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</table>

### ECONOMIC IMPACT

<table>
<thead>
<tr>
<th>__________</th>
<th>__________</th>
<th>__________</th>
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<tbody>
<tr>
<td>Develops economic development infrastructure</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retains or grows existing businesses</td>
<td></td>
<td></td>
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<tr>
<td>Spurs additional private sector investment</td>
<td></td>
<td></td>
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<tr>
<td>Will create new jobs</td>
<td></td>
<td></td>
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<tr>
<td>Will retain existing jobs</td>
<td></td>
<td></td>
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<tr>
<td>Provides above average wages</td>
<td></td>
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<tr>
<td>Promotes community revitalization</td>
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<tr>
<td>Will have significant local impact</td>
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<tr>
<td>Will have significant regional impact</td>
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<tr>
<td>Project will likely result in lasting benefit to the local community</td>
<td></td>
<td></td>
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<tr>
<td>Project will likely result in lasting benefit to the regional community</td>
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### ENVIRONMENT AND QUALITY OF LIFE

<table>
<thead>
<tr>
<th>__________</th>
<th>__________</th>
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<tbody>
<tr>
<td>Protects and/or improves the natural environment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supports the sustainable use of environmental resources</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provides significant contribution to improved health or quality of life</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Will contribute to public safety, public health, or aesthetic improvements to community</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reduces pollution – water, wastewater, or storm drainage</td>
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</tbody>
</table>

### SAFETY AND PUBLIC SUPPORT

<table>
<thead>
<tr>
<th>__________</th>
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</thead>
<tbody>
<tr>
<td>Project improves safety</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Project addresses a current safety issue</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Project is supported in approved local plans</td>
<td></td>
<td></td>
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</tbody>
</table>

### FISCAL CONSIDERATIONS

<table>
<thead>
<tr>
<th>__________</th>
<th>__________</th>
<th>__________</th>
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</thead>
<tbody>
<tr>
<td>Project budget is well thought out and reasonable</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Match funds in hand and sufficient</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is there a demonstrated need for financing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Source of loan repayment demonstrated</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asking for both grant and loan</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Last Updated: 12/4/12
PROJECT SCORING

3 pts 2 pts 1 pt
S M W

PROJECT READINESS

Level of completion – engineering and design
Detailed schedule provided
Extent to which permits, approvals and other authorizations are met
Time period over which private investment will occur and jobs created

Total Number of Boxes Checked

x3  x2  x1

Multiplied By Associated Points

TOTAL SCORING POINTS

TOTAL OF ALL SCORING POINTS (Max 81, Mid 54 and Minimum 27)

Bonus Points:

Add: 100 points if Project is “Jobs In Hand”
Add: 50 points if Project is “Build It and Jobs Will Come”
Add: 25 points if Project is “Community Enhancement”

Add: 100 points if Request is Loan Only
Add: 50 points if Request is Loan/Grant Combination
Add: 25 points if Request is Grant Only

GRAND TOTAL OF ALL SCORING POINTS (Max 281, Mid 154, Minimum 77)

SCORING ASSESSMENT

Scoring Range of Points

281 points to 170 points = Compelling Application – funding should be strongly considered
169 points to 125 points = Moderate Application – funding might be considered
Less than 125 points = Weak Application – funding should not be considered

Last Updated: 12/4/12
## Everson WWTP Upgrades Estimated Probable Project Cost

<table>
<thead>
<tr>
<th>Item</th>
<th>Full Project</th>
<th>City of Everson Share</th>
<th>City of Nooksack Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Influent Pump Station</td>
<td>$111,000</td>
<td>$74,000</td>
<td>$37,000</td>
</tr>
<tr>
<td>Biological Selector</td>
<td>$137,000</td>
<td>$91,333</td>
<td>$45,667</td>
</tr>
<tr>
<td>Jet Aeration</td>
<td>$448,000</td>
<td>$298,667</td>
<td>$149,333</td>
</tr>
<tr>
<td>Clarifier Upgrade and Scum Piping</td>
<td>$54,000</td>
<td>$36,000</td>
<td>$18,000</td>
</tr>
<tr>
<td>RAS Pumps and Piping</td>
<td>$110,000</td>
<td>$73,333</td>
<td>$36,667</td>
</tr>
<tr>
<td>Sludge Holding Tank Cover</td>
<td>$30,000</td>
<td>$20,000</td>
<td>$10,000</td>
</tr>
<tr>
<td>Sludge Thickener and Holding Tank</td>
<td>$210,000</td>
<td>$140,000</td>
<td>$70,000</td>
</tr>
<tr>
<td>New Control Building</td>
<td>$240,000</td>
<td>$160,000</td>
<td>$80,000</td>
</tr>
<tr>
<td>Additional Items</td>
<td>$38,000</td>
<td>$25,333</td>
<td>$12,667</td>
</tr>
<tr>
<td>Plant Water System</td>
<td>$132,000</td>
<td>$88,000</td>
<td>$44,000</td>
</tr>
<tr>
<td>Generator</td>
<td>$80,000</td>
<td>$53,333</td>
<td>$26,667</td>
</tr>
<tr>
<td>SCADA</td>
<td>$30,000</td>
<td>$20,000</td>
<td>$10,000</td>
</tr>
<tr>
<td>Electrical and Instrumentation</td>
<td>$436,000</td>
<td>$290,667</td>
<td>$145,333</td>
</tr>
<tr>
<td>Design Fee (Modified 12/18/2012)</td>
<td>$332,552</td>
<td>$221,701</td>
<td>$110,851</td>
</tr>
<tr>
<td>Design Fee Amendments(2)</td>
<td>$25,681</td>
<td>$17,121</td>
<td>$8,560</td>
</tr>
<tr>
<td><strong>TOTAL COST</strong></td>
<td><strong>$2,414,233</strong></td>
<td><strong>$1,609,489</strong></td>
<td><strong>$804,744</strong></td>
</tr>
</tbody>
</table>

(1) Costs do not include inspection or engineering services during construction.
(2) Amendments (currently in review) includes; I/I analysis, gravel removal alternative analysis, and grit removal design fees

The estimate of probable cost herein is based on our perception of current conditions at the project location. This estimate reflects our professional opinion of accurate costs at this time and is subject to change as the project design matures. BHC Consultants has no control over variances in the cost of labor, materials, equipment; nor services provided by others, contractor's means and methods of executing the work or of determining prices, competitive bidding or market conditions, practices or bidding strategies. BHC Consultants cannot and does not warrant or guarantee that proposals, bids, or actual construction costs will not vary from the costs presented as shown.

This estimate of probable costs was prepared under the direct supervision of the following professional engineer:

Adam Schuyler, P.E.
EDI Program Technical Advisory Committee (TAC)
Funding Application Assessment

Applicant: City of Nooksack
Project Title: Wastewater Treatment Plant Upgrade – Design and Construction
Amount Requested: $480,000 Loan, $240,000 Grant
TAC Meeting Date: June 10, 2013
Attendees: TAC members Jeff Callender, Tom Kenney, Jeff Kochman, Pinky Vargas; Rollin Harper, Nooksack City Planner; Bob Wilson, WCOG/NWEC staff.

Scoring: Following a question and answer session with Mr. Harper and then discussion among the TAC members, each member completed the EDI Technical Advisory Committee Project Scoring Sheet (version dated 12/4/2012) individually. The individual scores were then compiled and averaged, with the results grouped by each of the five categories plus the two bonus categories, as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economic Impact</td>
<td>18.75</td>
</tr>
<tr>
<td>Environment &amp; Quality of Life</td>
<td>12.75 / 15</td>
</tr>
<tr>
<td>Safety &amp; Public Support</td>
<td>5.75 / 9</td>
</tr>
<tr>
<td>Fiscal Considerations</td>
<td>9.50 / 15</td>
</tr>
<tr>
<td>Project Readiness</td>
<td>5.25 / 12</td>
</tr>
<tr>
<td>Bonus Points (Build It and Jobs Will Come)</td>
<td>50 / 100</td>
</tr>
<tr>
<td>Bonus Points (Loan/Grant Combination)</td>
<td>50 / 100</td>
</tr>
<tr>
<td>TOTAL</td>
<td>152 / 284</td>
</tr>
</tbody>
</table>

The score of 152 places the application in the “moderate” range, which is 125 to 169.

Comments: The TAC would like to see more detail on how the requested loan would be repaid, including demonstration of the City's fiscal capacity to satisfy it as well as an approximate breakdown by percentage of the specific funding sources (general fund, sewer fund, connection fees, etc.) which the City anticipates using for the purpose of repayment. The TAC also recommends that the EDI Board consider recommending to the County Council a shorter term than the 25 years requested by the City, taking into careful consideration the potential financial impact on ratepayers that would likely result by reducing the length of the term.
To: Whatcom County EDI Board  
From: Rollin Harper, Nooksack City Planner  
RE: Nooksack EDI Funding Request – Updated Project Cost Estimate  
Date: June 24, 2013

MEMORANDUM

In the City of Nooksack’s application for funding from the County Economic Development Investment Fund, the City’s funding request was based on the engineer’s cost estimate of approximately $2,415,000, out of which the City of Nooksack share was approximately $805,000. Recent project design modifications that have been incorporated through the final design process will increase the total project cost and the Nooksack portion jof the total cost. Based on these increases, the City is proposing to increase its funding request as follows:

Original EDI Application

<table>
<thead>
<tr>
<th>Project Cost</th>
<th>EDI Total</th>
<th>EDI Loan</th>
<th>EDI Grant</th>
<th>City Match</th>
</tr>
</thead>
<tbody>
<tr>
<td>$805,000</td>
<td>$720,000</td>
<td>$480,000</td>
<td>$240,000</td>
<td>$85,000</td>
</tr>
</tbody>
</table>

Updated City Request

<table>
<thead>
<tr>
<th>Project Cost</th>
<th>EDI Total</th>
<th>EDI Loan</th>
<th>EDI Grant</th>
<th>City Match</th>
</tr>
</thead>
<tbody>
<tr>
<td>$870,000</td>
<td>$780,000</td>
<td>$520,000</td>
<td>$260,000</td>
<td>$90,000</td>
</tr>
</tbody>
</table>

An updated engineer’s estimate is not yet available, but can be provided once final project costs have been incorporated.
Notes of EDI Board Meeting  

Board Members present at Meeting:  
Jack Louws, County Executive  
Kelli Linville, Mayor, City of Bellingham  
Scott Korthuis, Mayor, City of Lynden  
Stephen A. Jones, Agricultural Industry  
Jeff McLure, PUD#1  
Aubrey Stargell, Timber Industry  
Bill Gorman, Chamber of Commerce  
David Franklin, At-Large Appointee

Board Members absent:  
Jim Jorgensen, Port of Bellingham*  
Kathy Kershner, County Council Chair  
Jim Kyle, Fishing Industry Rep  
Bob Bromley, Mayor, City of Sumas  
Jeff Kochman, NWEC rep

Staff present:  
Suzanne Mildner (Board Clerk, Executive Office)

Guests present:  
Jim Ackerman (Mayor, City of Nooksack); Rollin Harper (City Planner); Dodd Snodgrass (Port of Bellingham); Anna Dye (Chamber Intern)

*Mike McAuley, Port Commissioner, arrived late to the meeting, and informed the Clerk that he is now the Port’s representative on the EDI Board (in place of Jim Jorgensen).

1. Welcome and Introductions  
Board Chair, Executive Jack Louws called the meeting to order and introductions were made.

2. EDI Fund Review – Status as of 3/31/13  
A review of the Public Utilities Improvement/EDI Fund was given as of 3/31/13. Executive Louws briefly went over the revenues, expenditures and commitments noted on the spreadsheet. Mayor Linville raised the issue of eliminating the county’s portion of the rural sales tax fund and allocating 100% to the EDI Program. Currently the fund split is 70% to the EDI Program (35% for grants, 35% for loans) and 30% to the county’s capital facilities expenditures. Executive Louws reiterated his position on this issue, wherein the state legislation entitled the county to utilize this fund for these purposes, and the EDI Program was initiated not by mandate, but by the decision of the County Executive at the time to provide assistance to the small cities. He is not inclined to change the fund allocations at this time. (Clerk’s note: the EDI Board approved and County Council adopted a reduction in the county’s capital fund portion in September 2011, changing it from 40% to 30%).

3. Status Update – CEDS / EDI Subcommittee / WCOG  
Dodd Snodgrass gave a brief synopsis about the CEDS; essentially that the County has entered into an interlocal agreement with Whatcom Council of Governments (WCOG) to update the original 2002 document within the next year, and to provide their services in updating the attached project list annually. Executive Louws said that he has asked WCOG to make contact with the small cities' Planning Departments on a quarterly basis to remind them to review their projects status.  
Also, the EDI Subcommittee, or EDI Program Technical Advisory Committee, was formed (from NWEC board members) and met for their first application review, the results of which are before the EDI Board at today’s meeting (a one-page score sheet and summary).

4. Application: City of Nooksack’s Wastewater Treatment Plant Upgrade  
Rollin Harper, City Planner for Nooksack, addressed the board regarding the merits of this project. He noted it is the first time that the City of Nooksack has ever approached the EDI
EDI Board Meeting Notes
6/24/13
Page 2

Board for funding. The project does not meet the “Jobs in Hand” criteria, however it fits the category of “Build it and Jobs will come.” This project benefits both Nooksack and Everson, and during the last couple of years, both cities have prepared a Facilities Plan to include it. The upgrade to the wastewater treatment plant, which is running at 85 – 100% capacity currently, will provide an environmental benefit due to the improvement of quality of effluent. It also has a conservation component and a safety component which adds value and merit. One of the questions raised by the TAC was the ability to repay the EDI loan. Nooksack’s current budget is sufficient to allow for this loan and repayment. Executive Louws asked if this would require a rate structure increase. Mayor Ackerman replied that it’s possible there may be a small increase, but he believed they could manage without doing so – it’s the last resort to institute rate increases, as it would create hardship for many of the seniors in their population. Mayor Ackerman also pointed out that as far as economic development goes, the housing market is what they consider their economic development for their small communities, due to steady growth in that sector over the last few years. Improvement to this infrastructure will support that growth and ensure it continues into the future. Nooksack’s current population is approximately 1,390, with 450 connections; and Everson’s population is approximately 2,500, with 800 connections.

Mr. Harper passed out a memo to the board members which requested a slight increase in the amount being requested for both the loan and grant ($520,000 loan and $260,000 grant); this increase is due to recent design modifications that have resulted in increased costs. Also, the loan term was discussed, with it noted that a 20 year term would be acceptable to Nooksack, instead of the original 25 year term in requested in the application.

After some continued general discussion, Executive Louws called for a motion. Mayor Korthuis made a motion that the EDI Board recommend approval to the County Council for $780,000 in EDI funding, through a $520,000 loan and a $260,000 grant (as outlined in the 6/24/13 memorandum from Sehome Planning.) Mr. Franklin seconded the motion, followed by a question. Mr. Franklin asked Executive Louws that if the State were to discontinue the revenue stream for this fund, would the current fund balance support this grant/loan request, to which Executive Louws answered yes. Then there was a friendly amendment to the motion to include the loan term. The amended motion: Mayor Korthuis moved that the EDI Board recommend approval of the EDI funding to the City of Nooksack for a $520,000 loan for a 20 year term, and for a $260,000 grant. The motion was seconded by Mr. Franklin. Executive Louws called for a vote on the motion, which was taken. **Motion passed unanimously 8-0** (Commissioner McAuley abstained).

5. **Unfinished business.**

Mr. McLure requested that the administration provide an answer to the question of whether or not EDI loan repayments of principal and interest are designated to the EDI Program alone, as separate from the County capital fund allocation.

There being no further business, the meeting adjourned at 11:06 a.m.

**NEXT MEETING:** Monday, September 23, 2013, 10:00 a.m.
## Whatcom County
### Rural Sales Tax
#### Report as of 3/31/2013

<table>
<thead>
<tr>
<th>Totals for Years</th>
<th>1990-2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales Tax Revenue</td>
<td>(17,702,759.21)</td>
<td>(3,097,383.23)</td>
<td>(2,771,020.84)</td>
<td>(2,768,621.35)</td>
<td>(2,867,602.33)</td>
<td>(3,048,640.15)</td>
<td>(3,048,640.15)</td>
<td>(816,858.96)</td>
</tr>
<tr>
<td>Grant Revenue</td>
<td>(50,000.00)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Loan Principal Payments</td>
<td>(50,868.00)</td>
<td>(87,900.00)</td>
<td>(216,922.00)</td>
<td>(252,178.00)</td>
<td>(255,961.00)</td>
<td>(259,801.00)</td>
<td>(176,149.00)</td>
<td></td>
</tr>
<tr>
<td>Interest Earnings</td>
<td>(22,500.00)</td>
<td>(53,855.00)</td>
<td>(69,369.00)</td>
<td>(65,085.00)</td>
<td>(61,302.00)</td>
<td>(57,462.00)</td>
<td>(33,370.00)</td>
<td></td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td>(17,826,127.21)</td>
<td>(3,239,138.23)</td>
<td>(3,050,911.84)</td>
<td>(3,086,084.35)</td>
<td>(3,184,865.33)</td>
<td>(3,365,303.15)</td>
<td>(1,926,377.98)</td>
<td></td>
</tr>
</tbody>
</table>

| **Expenditures** |           |      |      |      |      |      |      |       |
| Capital Facilities Exp (30%) | 2,806,948.64 | 1,758,114.00 | 367,966.00 | 1,386,572.61 | 2,777,427.05 | 412,647.77 | 10,077.33 | 9,520,473.40 |
| Other Agency Loans (35%) | 4,696,696.00 |      |      |      |      | 536,318.88 | 1,146,865.00 | 20,747.35 | 6,403,657.23 |
| Grant Expenditures (35%) | 4,747,302.41 | 25,000.00 | 340,931.18 | 374,011.87 | 333,466.56 | 856,058.59 | 500.00 | 6,719,776.71 |
| **Total Expenditures** | 12,251,447.05 | 1,783,114.00 | 706,011.18 | 1,760,584.58 | 3,647,242.49 | 2,460,571.36 | 31,324.68 | 22,843,901.34 |

| Cash Balance/Year | (5,574,680.16) | (1,635,324.23) | (2,349,994.66) | (1,325,499.77) | (463,377.16) | (905,331.78) | (995,053.28) | (12,143,506.73) |

### Cash Balance Allocation

<table>
<thead>
<tr>
<th>Sales Tax Revenue</th>
<th>Date</th>
<th>Grant Revenue</th>
<th>Principal/Interest</th>
<th>Balance</th>
<th>Committed</th>
<th>Adjusted Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital Facilities Exp (30%)</td>
<td>9,322,105.82</td>
<td>9,520,473.40</td>
<td>50,000.00</td>
<td>451,632.47</td>
<td>437,656.92</td>
<td>13,965.50</td>
</tr>
<tr>
<td>Other Agency Loans (35%)</td>
<td>11,575,790.12</td>
<td>6,403,657.23</td>
<td>-</td>
<td>5,172,152.89</td>
<td>5,102,713.77</td>
<td>(20,880.66)</td>
</tr>
<tr>
<td>Grant Expenditures (35%)</td>
<td>11,875,790.12</td>
<td>6,719,776.71</td>
<td>-</td>
<td>4,865,019.41</td>
<td>3,796,008.50</td>
<td>1,069,079.91</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>33,072,686.07</td>
<td>22,843,901.34</td>
<td>50,000.00</td>
<td>10,478,784.73</td>
<td>9,426,358.19</td>
<td>1,053,426.54</td>
</tr>
</tbody>
</table>

| Principal/ Interest Payments | 1,663,722.00 | 1,663,722.00 | - | 1,663,722.00 |

| Adjusted Total | 33,072,686.07 | 22,843,901.34 | 50,000.00 | 1,663,722.00 | 12,143,506.73 | 9,426,358.19 | 2,717,148.54 |

*Committed equals the total remaining commitments from the table below.

### Administration and EDI Proposed Commitments

<table>
<thead>
<tr>
<th>Project Name</th>
<th>Total Approved</th>
<th>Capital Facilities Fund</th>
<th>Remaining Balances</th>
<th>Total Remaining Commitments</th>
</tr>
</thead>
<tbody>
<tr>
<td>West Illinois/ Timpson Way Extension (332217)</td>
<td>389,619.00</td>
<td>-</td>
<td>-</td>
<td>39,619.00</td>
</tr>
<tr>
<td>East Whatcom Regional Res. Ctr Kendall (332255)</td>
<td>2,284,343.00</td>
<td>-</td>
<td>-</td>
<td>27,208.00</td>
</tr>
<tr>
<td>Wilkerson Way (332204)</td>
<td>150,000.00</td>
<td>24,500.50</td>
<td>-</td>
<td>24,500.50</td>
</tr>
<tr>
<td>Eval Svcs-Civic Center Bldg (332206)</td>
<td>2,338,898.00</td>
<td>3,310.09</td>
<td>-</td>
<td>3,310.09</td>
</tr>
<tr>
<td>Data Center Generator &amp; UPS (332207)</td>
<td>245,000.00</td>
<td>227,055.00</td>
<td>-</td>
<td>227,055.00</td>
</tr>
<tr>
<td>Innovation Resource Ctr (332306)</td>
<td>80,000.00</td>
<td>8,662.00</td>
<td>-</td>
<td>8,662.00</td>
</tr>
<tr>
<td>Fairchild Affordable Housing (332213)</td>
<td>1,226,000.00</td>
<td>943,038.77</td>
<td>-</td>
<td>17,500.00</td>
</tr>
<tr>
<td>POE ED Consortium (332219)</td>
<td>430,000.00</td>
<td>-</td>
<td>-</td>
<td>88,916.59</td>
</tr>
<tr>
<td>COB-West Bakken Overpass Project (332232)</td>
<td>850,000.00</td>
<td>-</td>
<td>-</td>
<td>300,000.00</td>
</tr>
<tr>
<td>CH Rotunda Roof Replacement (332401)</td>
<td>135,000.00</td>
<td>3,428.93</td>
<td>-</td>
<td>3,428.93</td>
</tr>
<tr>
<td>CH 2nd Floor Roof Replacement (332402)</td>
<td>165,000.00</td>
<td>165,000.00</td>
<td>-</td>
<td>165,000.00</td>
</tr>
<tr>
<td>CH 1st Floor Carpet Replacement (332404)</td>
<td>12,112.07</td>
<td>5,652.60</td>
<td>-</td>
<td>5,652.60</td>
</tr>
<tr>
<td>PUD I-Broadband</td>
<td>217,500.00</td>
<td>-</td>
<td>-</td>
<td>217,500.00</td>
</tr>
<tr>
<td>City of Everson-Road Improvmts/Utility Ext (332922)</td>
<td>499,390.00</td>
<td>249,678.50</td>
<td>5,282.91</td>
<td>254,937.91</td>
</tr>
<tr>
<td>City of Lynden-Water Treatment Plant</td>
<td>6,000,000.00</td>
<td>-</td>
<td>4,000,000.00</td>
<td>2,000,000.00</td>
</tr>
<tr>
<td>COB Waterfront Project</td>
<td>1,109,000.00</td>
<td>-</td>
<td>-</td>
<td>1,109,000.00</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td>17,021,622.07</td>
<td>437,035.92</td>
<td>5,192,713.77</td>
<td>3,786,008.50</td>
</tr>
<tr>
<td>Cost Center</td>
<td>Description</td>
<td>Type of Activity</td>
<td>Total Committed</td>
<td></td>
</tr>
<tr>
<td>------------</td>
<td>--------------------------------------------------</td>
<td>------------------</td>
<td>-----------------</td>
<td></td>
</tr>
<tr>
<td>332120</td>
<td>Construction Management</td>
<td>Capital Facilities</td>
<td>2,176,566.65</td>
<td></td>
</tr>
<tr>
<td>332200</td>
<td>CH Remodel - 2nd Floor</td>
<td>Capital Facilities</td>
<td>6,920.00</td>
<td></td>
</tr>
<tr>
<td>332010</td>
<td>Glacier Restrooms</td>
<td>Capital Facilities</td>
<td>19,627.74</td>
<td></td>
</tr>
<tr>
<td>332055</td>
<td>Hannegan Rd Signalization</td>
<td>Capital Facilities</td>
<td>1,500,000.00</td>
<td></td>
</tr>
<tr>
<td>332040</td>
<td>Williamson Way</td>
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**Total Loan:** 2,289,673.00

**Total:** 10,340,417.00
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**
Resolution Ordering the Cancellation of Checks More than Two Years Old
Whatcom County Jail Inmate Fund Outstanding Checks

**ATTACHMENTS:**
Above mentioned resolution and list of unreturned checks.

**SEPA review required?** ( ) Yes ( ) NO
**SEPA review completed?** ( ) Yes ( ) NO

Should Clerk schedule a hearing? ( ) Yes ( ) NO

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:**
The attached resolution will allow Administrative Services and the Treasurer’s Office to cancel the enclosed checks listed in Exhibit A and enable them to report and remit those funds to DOR Unclaimed Property Division.

**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](http://www.co.whatcom.wa.us/council).
RESOLUTION NO. ________

ORDERING THE CANCELLATION OF CHECKS MORE THAN TWO YEARS OLD

WHEREAS, RCW 63.29.130 states that property held by courts and public agencies that remains unclaimed by the owner for more than two years is presumed abandoned; and,

WHEREAS, the Whatcom County Sheriff’s Office/Jail has provided a list of inmate trust fund checks that were issued prior to 06-30-11 and never presented or claimed by the owner.

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that Administrative Services Finance and the Treasurer’s Office are directed, pursuant to RCW 63.29.130, to cancel the checks listed in Exhibit A, and to report and remit those funds to DOR Unclaimed Property Division.

APPROVED this ______day of ____________________, 2013.

ATTEST: 

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk Kathy Kershner, Council Chair

APPROVED as to form:

Signature

Civil Deputy Prosecutor
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As of 3/31/13

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Total: $3,468.93
**CLEARANCES** | Initial | Date | Date Received in Council Office | Agenda Date | Assigned to:  
--- | --- | --- | --- | --- |  
Originator: Wendy Wefler-Clinton |  | 6/13/13 |  | 7/9/13 | Finance & Admin Sves Committee and Council Agenda  
Division Head: Karen S. Goens |  | 6/17/13 |  |  |  
Dept. Head: |  |  |  |  |  
Prosecutor: |  | 06/13/13 |  |  |  
Purchasing/Budget: |  |  |  |  |  
Executive: |  | 6/28/13 |  |  |  

**TITLE OF DOCUMENT:** 
Whatcom County Deputy Sheriff's Guild Collective Bargaining Agreement

**ATTACHMENTS:** 

**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.)


**COMMITTEE ACTION:**  

**COUNCIL ACTION:**

Related County Contract #: 200911045  
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.
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<td>Wendy Wefer-Clinton</td>
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<td>Whatcom County Deputy Sheriff's Guild</td>
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<td>Cost Center:</td>
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<td>Is this contract excluded from E-Verify? No ______ Yes X ______</td>
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<td>___ <em>Contract for Commercial off the shelf items (COTS)</em></td>
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<td>___ <em>Public Works Dept. - Local Agency/Federally Funded FHWA</em></td>
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<td>Expiration Date: December 31, 2014</td>
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COLLECTIVE BARGAINING AGREEMENT

By and Between
WHATCOM COUNTY, WASHINGTON

AND

WHATCOM COUNTY DEPUTY SHERIFF’S GUILD BARGAINING UNIT

JULY 9, 2013 – DECEMBER 31, 2014
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  Section 2.5 – Counseling
  Section 2.6 – Performance Evaluations
    Section 2.6.1 – Disputes
  Section 2.7 – Investigative Procedures
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    Section 2.7.2 – Constitutional Rights or Privileges
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      Section 2.7.3.1 – Interview Advisement
      Section 2.7.3.2 – Length of Interview
      Section 2.7.3.3 – Conduct
      Section 2.7.3.4 – No Inducements Allowed
      Section 2.7.3.5 – Recordings
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        Section 2.7.3.5.2 – Class II Investigation Interviews
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        Section 2.7.3.5.5 – Guild Representation
    Section 2.7.4 – Length of Investigation and Access to Investigatory File
      Section 2.7.4.1 – Extension of Timeline
      Section 2.7.4.2 – Suspension of Timeline
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  Section 3.3.1 – Between Shifts
  Section 3.3.2 – On Regular Days Off
  Section 3.3.3 – During Vacation
    Section 3.3.3.1 – Stipulations
    Section 3.3.3.2 – Eight Hour vs. Ten Hour Day
    Section 3.3.3.3 – Out-of-Pocket Expenses
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AGREEMENT
By and Between
WHATCOM COUNTY, WASHINGTON
AND
WHATCOM COUNTY DEPUTY SHERIFF’S GUILD

JULY 9, 2013 – DECEMBER 31, 2014

THIS AGREEMENT, MADE AND ENTERED INTO on July 9, 2013, by and between Whatcom County, Washington, referred to as the County, and Whatcom County Deputy Sheriff’s Guild, hereinafter referred to as the Guild.

GENERAL PURPOSES

The County and the Guild do hereby reach agreement for the purpose of enhancing the employer-employee relationship and to promote service to the public and the general efficiency, morale and security in the Sheriff’s Office.

ARTICLE 1 - GUILD RECOGNITION AND SECURITY

1.1 Covered Employees. The County recognizes the Guild as the sole and exclusive representative for the purpose of collective bargaining for all full-time and regular part-time general authority peace officers (as defined in RCW 10.93.020) through the rank of sergeant of the Whatcom County Sheriff’s Office, excluding supervisors, confidential employees and all other employees.

1.2 Guild Dues. It shall be a condition of employment that all employees of the County covered by this Agreement who are members of the Guild in good standing on the effective date of this Agreement shall remain members in good standing and those who are not members on the effective date of this Agreement shall on the 31st day following the effective date of this Agreement become and remain members in good standing in the Guild. It shall also be a condition of employment that all employees covered by this Agreement hired on or after its effective date shall on the 31st day following the beginning of such employment, become and remain members in good standing in the Guild.

1.2.1 Religious Objection. PROVIDED THAT, if a public employee is a member of a church or religious body whose bona fide religious tenets or teaching forbid said employee to become a member of a labor Guild, such public employee shall pay an amount of money equivalent to the regular Guild dues and initiation fee of the Guild to a non-religious charity or to another charitable organization mutually agreed upon by the employee and the Guild. The employee shall furnish written proof to the Guild that such payment has been made. If the employee and the Guild do not reach an agreement on the non-religious charity to whom the Guild dues and initiation fees are to be paid, the Public Employment Relations Commission shall designate the charitable organization.
1.2.2 Fair Share. PROVIDED FURTHER THAT, if an employee for any other reason does not wish to be a member of the Guild, that employee shall proportionally and fairly share in the cost of the collective bargaining process. Therefore, the cost for such bargaining unit member shall be fixed proportionally at the amount of dues uniformly required of each member of the bargaining unit to defray the cost of services rendered in negotiating and administering this Agreement. Payment of a maintenance fee in this amount shall be in lieu of any other obligation under this section.

1.3 Non-Discrimination Clause. No employees shall be discharged, suspended or discriminated against for upholding Guild principles or engaging in protected Guild activity and any employee working under instruction of the Guild or who serves on a committee may do so without losing their position for such activity. There shall be no discrimination against any individual employee of the County or member of the labor organization with whom the County has a bona fide collective bargaining agreement with respect to the hire, tenure, compensation or other terms and conditions of employment because of Guild membership or as required by law.

1.4 New Hire Notification to Guild. The Guild shall be notified within seven (7) working days of new hires. Notification shall be in writing and shall include the employee’s name, address, date of hire, classification, assignment, step and grade.

1.5 Reserves and Volunteer Duties. Appropriately trained volunteer members of the Sheriff’s Office and/or reserves may be used to perform the following duties: perform patrol, investigation and law enforcement functions; transport persons arrested by employees; transport paperwork and/or equipment to employees in the field, the Sheriff’s Office or other locations; assist with community education and crime watch organizing efforts; use radar reader board; take initial reports of relatively minor matters not requiring the presence of an employee such as thefts under $1,000 where suspects are unknown; instances of malicious mischief not amounting to a felony where suspects are unknown; reports of suspicious activity where suspects are not present and where supervisory approval is first received; instances of worthless checks or documents where losses are under $1,000; and, handling matters of disabled or abandoned vehicles and similar type incidents not requiring the presence of a fully commissioned and trained employee.

1.5.1 Reserves on Duty. No more than two (2) reserves will be allowed to work without being under the immediate control of an employee at any given time. Those two reserves working without being under the immediate control of an employee will at all times work together as a team. All other reserves will work under the immediate control of employees at a ratio of one reserve to one employee. Reserves will wear an insignia on their uniform identifying them as a reserve.

1.5.2 Emergencies. In cases of emergency, members of other agencies and/or reserves may be utilized by the Sheriff under the mutual aid agreement or under the Police Powers Act until the situation is controlled. An emergency is defined as an unplanned incident in which a strong possibility of harm to persons or property exists,
requiring immediate response. Once the emergency is under control, members of the bargaining unit would be utilized as outlined above.

1.5.3 Bargaining Unit Security. The work by reserves and volunteers identified above is subject to the security of the bargaining unit. Specifically, reserves and volunteers may be utilized only to supplement and not supplant bargaining unit positions. In the event of any layoff in the bargaining unit, reserves may only be utilized on a one-to-one ratio with an employee until the displaced bargaining unit member is recalled or the position is refilled.

1.6 Definition of Employee. The term "employee," as used in this Agreement shall be defined as follows:

Employee: General Authority Peace Officers who have full powers of arrest and who are fully commissioned Deputy Sheriffs employed by the Whatcom County Sheriff's Office (not including reserve).

1.7 Collective Bargaining. All collective bargaining with respect to wages, hours and other working conditions of employment shall be conducted by authorized representatives of the Guild and the County. It is recognized between the parties that this Agreement covers the employees of the Sheriff's Office for wages, working hours, schedules, benefits, and general working conditions only.

1.8 Civil Service. Except where matters are covered by express provisions of this Agreement, bargaining unit employees are subject to the rules of the Whatcom County Civil Service Commission. Any alleged violations of contractual provisions also covered by Civil Service Rules may be adjusted either through the Civil Service appeals process or through the grievance procedure of this Agreement provided that the filing of a Civil Service appeal, either before or after the filing of a grievance, shall constitute an election of remedies and a waiver of the employee's right to further pursue the grievance or the Guild's right to request the County to arbitrate the grievance. Provided further that nothing in this section shall be construed as a waiver of any right the Guild may have to require the County to engage in collective bargaining on any mandatory subject of bargaining.

ARTICLE 2 – DISCIPLINE/INTERNAL INVESTIGATIONS

2.1 Just Cause. No employee will be disciplined or discharged except for just cause.

2.1.1 Probationary Employees. The provisions of this article shall not apply to newly hired employees serving a probationary period. Probationary employees may be disciplined or discharged without just cause and without any recourse under this Agreement.
2.2 Types of Discipline. Discipline is defined to include verbal reprimand, written reprimand, disciplinary transfers, suspension, demotion (loss of rank) and termination.

2.3 Progressive Discipline. Discipline shall be progressive in nature for similar or substantially similar violations. In some instances, based upon the nature of the offense, discipline need not be progressive. Discipline shall not be used for purposes of progressive discipline after the maximum period as setout in the chart below.

<table>
<thead>
<tr>
<th>Type of Discipline</th>
<th>Maximum Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Verbal Reprimand (Recorded to the employee’s file)</td>
<td>2 years and no reoccurrence of similar misconduct</td>
</tr>
<tr>
<td>Written Reprimand</td>
<td>3 years and no reoccurrence of similar misconduct</td>
</tr>
<tr>
<td>Suspension (5 days or under), Disciplinary Transfer</td>
<td>5 years and no reoccurrence of similar misconduct</td>
</tr>
<tr>
<td>Suspension (over 5 days) or Demotion</td>
<td>7 years and no reoccurrence of similar misconduct</td>
</tr>
</tbody>
</table>

2.3.1 Records Removal. Pursuant to the chart above, records of discipline removed from the employee's Sheriff’s Office personnel file shall be maintained in the Office of Professional Standards and shall not be divulged or released except as required by law or upon authorization from the Prosecuting Attorney.

2.4 Supervisor Notes. Supervisor notes and log entries in and of themselves are not considered discipline.

2.5 Counseling. Counseling shall not be considered discipline.

2.6 Performance Evaluations. A performance evaluation shall not be considered discipline.

2.6.1 Disputes. An employee who receives a written performance evaluation with an overall rating below “meets job requirements” may file a grievance pursuant to the provisions of Article 22, Grievance Procedure, of this Agreement in the event such evaluation would reduce the employee’s longevity/performance premium. Otherwise employees may write rebuttals or responses to their performance evaluations but may not grieve them.

2.7 Investigative Procedures. Employees whose conduct may be subject to discipline shall be afforded, at a minimum, the rights established by these procedures. This section shall not apply to any routine, supervisory contact with an employee for the purpose of counseling, instruction, training or delivering a performance evaluation.
2.7.1 Due Process. Employees shall be afforded due process of law, which includes the right to be informed in writing (using Addendum C – Advice of Administrative Investigation) of the specifically alleged acts of misconduct and alleged policy violations within fifteen (15) calendar days from the date that a supervisor who is at a level outside the bargaining unit was made aware of the facts or circumstances that could lead to discipline of an employee. Employees shall be afforded the opportunity to respond to such charges.

2.7.2 Constitutional Rights or Privileges. When the investigation reveals the possibility of prosecution for a criminal offense, the employee charged with or suspected of committing a criminal act shall be afforded the same constitutional rights, privileges or guarantees enjoyed by any person. This section shall not deprive the County of the right to pursue the investigation administratively under section 2.7 (Investigative Procedures).

2.7.3 Interview. The interview of any employee during the course of an investigation that could lead to disciplinary action as defined in section 2.2 (Types of Discipline) shall be conducted under the following conditions.

2.7.3.1 Interview Advisement. Interviews for employees subject to investigation shall be at a reasonable hour, preferably at a time when the employee is on duty, or during the normal waking hours for the employee, with at least two (2) hours notice. Upon request, the employee will be granted a twenty-four (24) hour delay, unless the exigency of the investigation requires otherwise prior to the commencement of any interview pursuant to section 2.7 (Investigative Procedures). The employee shall be provided Notice using Addendum D (Advice of Administrative Interview) which includes the following:

You are about to be questioned as part of an administrative investigation being conducted by the Whatcom County Sheriff’s Office. You are hereby ordered to fully answer the questions that are put to you that relate to information you possess and/or your conduct and/or job performance, and to cooperate with this investigation. You are required to answer questions relating to the performance of your official duties or fitness for duties. Your failure to answer truthfully and cooperate with this investigation can be the subject of disciplinary action in and of itself, including dismissal. The statements you make or evidence gained as a result of this required cooperation may be used for administrative purposes but will not be used or introduced into evidence in a criminal proceeding.

2.7.3.2 Length of Interview. An interview session shall be for a reasonable period, taking into consideration the gravity and complexity of the issue being investigated.

2.7.3.3 Conduct. The employee being interviewed and the interviewer shall not be subjected to verbal abuse.
2.7.3.4 No Inducements Allowed. No promise of reward shall be made as an inducement to answer any questions.

2.7.3.5 Recordings. Employees shall be given reasonable notice that he/she will be interviewed as part of a Class I or Class II Administrative Investigation and they shall be informed whether or not the interview will be audio recorded. Audio recordings may be transcribed should either the County or Guild request such a transcription with the cost of the transcription borne by the requesting party. The subject or witness employee shall have the opportunity to review the transcript, if transcription is requested or, if not transcribed, listen to the recording of their Interview by appointment with the Sheriff or designee. The audio recording shall be available for review by the Guild or subject/witness employee for a reasonable time after all issues of the investigation have been resolved. The recording of Administrative Interviews shall not be a matter of “due process” and is ministerial in nature with no penalty for an inadvertent failure of the audio recorder attributable to any party or loss of audio recordings or recordings that didn't work, etc.

2.7.3.5.1 Recording Permission Not Required. The investigator does not need to obtain permission from an employee at the time of the interview to audio record and/or otherwise record the Class I or Class II interview but must advise the employee that the interview is being recorded. The County and the Guild agree that the Advice of Administrative Interview attached to this Agreement (Addendum D) shall be provided to the subject or witness employees in all Administrative Interviews.

2.7.3.5.2 Class II Investigation Interviews. Class II investigations are generally not audio recorded but will be audio recorded at the request of either party. In a Class II interview should one party object to the use of an audio recording then a transcript shall be made and be the only official record. Class II transcription expenses shall be at the expense of the requesting party.

2.7.3.5.3 Recording Device. There shall be only one audio recording device used at the interview and all audio recordings shall be the sole responsibility of the County.

2.7.3.5.4 Non-employee Witnesses. To the extent possible, the County will record non-employee witness interviews.

2.7.3.5.5 Guild Representation. Any employee is entitled to Guild representation in an interview at the employee’s request.

2.7.4 Length of Investigation and Access to Investigatory File. Disciplinary investigations, including the review and approval of the investigative report(s) by the Sheriff, shall not exceed ninety (90) calendar days. The County shall endeavor to complete the investigation prior to the expiration of ninety (90) days, however, the County reserves the right to extend the investigation timeline in section 2.7.4.1 (Extension of Timeline).
Within the ninety (90) calendar day time frame:

1. Notification of investigation shall be made to the employee within fifteen (15) calendar days as outlined in section 2.7.1 (Due Process).
2. Upon the determination by the Sheriff that the investigation is satisfactorily complete, the employee will be notified in writing of:
   a. Any intent to impose discipline and discipline contemplated;
   b. If discipline is to be imposed, the date and time when a pre-disciplinary hearing will be held;
   c. The Sheriff reserves the right to modify the initial determination as to the extent of discipline contemplated after a pre-disciplinary hearing.

2.7.4.1 Extension of Timeline. The length of an investigation may be extended where reasonably necessary by notice to and mutual agreement of the Guild. The Guild may not unreasonably withhold their agreement to extend the investigatory timeline. A request for extension must include the reason for the request and a reasonable number of days which does not prohibit the County from a reasonable request for additional extensions. Request for extensions shall not apply to notification of the investigation (section 2.7.1 – Due Process).

2.7.4.2 Suspension of Timeline. If an employee is investigated for suspicion of committing a criminal act, the Sheriff may suspend the investigative timeline upon notification of the Guild of the criminal investigation. The investigatory timeline may be suspended until a determination is made by the prosecuting authority on the underlying allegations. If the employee is subjected to criminal prosecution, the investigatory timeline may be suspended until adjudication of the allegations is completed. When the investigation is recommenced, the timeline shall start at the same point it was suspended.

2.7.5 Determination of Discipline. Any discipline to be taken as a result of the investigation shall be announced in writing within fifteen (15) calendar days after completion of the investigation. A copy of which will be served upon the Guild.

2.7.6 Media Access. Without their express consent, employees under investigation shall not be subjected to visits by the press or other news media, nor shall the home address or photograph of the employee be given to the press or other news media unless ordered by the Courts or required by law.

2.7.7 Access to Investigatory File. When an investigation is concluded by the Sheriff, and where discipline is contemplated by the Sheriff, the employee shall be afforded the opportunity to read the investigatory file, the conclusions reached, and any recommendations made, before official action is taken by the Sheriff. The Guild shall be afforded an opportunity to review and copy the file pursuant to section 16.5 (Access to Equipment). Upon notice to the Guild, the County may withhold from the employee information from, and the identity of, confidential informants and other witnesses which the County does not intend to rely; however such information shall be made available upon request of the Guild for review on the same basis as if a public record request would be satisfied at the conclusion of the investigation. If there is discipline issued, and the parties
disagree as to the exculpatory nature of the evidence, it will be presented in camera through the grievance process to the Arbitrator.

2.8 Personnel File. Employee's personnel file(s) shall be open for review by the employee provided that employees shall not have the right to review psychological evaluations, polygraph results, supervisor's notes prepared for the purpose of preparing employee's evaluations, medical records, pre-appointment interview forms or applicant background investigation documents. Employees shall be provided a copy of any material not excluded above that is placed in their personnel file at the time of submission. Employees must acknowledge receipt by signing for their copy. Employees may submit a written response, rebuttal or explanation to be included with any submission. All material, once submitted, remains a part of the permanent personnel file. The personnel file shall be considered the official record of an employee's service. Employees shall be provided a copy of all material in their personnel file, upon request and except as noted above, shall have the right to attach statements in rebuttal or explanation.

2.9 Advance Notice of Public Disclosure Request. The County shall provide the employee at least seventy-two (72) hours (three business days) advance notice prior to releasing any personnel record information (including internal investigation files) to be provided through the Sheriff’s Office in response to a Public Disclosure request, discovery request, or subpoena duces tecum unless specifically mandated by law.

ARTICLE 3 - WORK SCHEDULE

3.1 Workweek. The workweek is defined as the seven-day period between 12:00 a.m. Sunday through 11:59 p.m. the following Saturday. Standardized shifts shall be established on a ten-hour basis. All time worked over the regular shift or over forty (40) hours in any one (1) workweek shall be paid for at the rate of time and one-half the regular rate of pay. The parties agree and recognize that unforeseen circumstances may create conditions that may render the ten-hour schedule not practical in terms of providing adequate protection for employees or the public. These circumstances may include, but are not limited to: lay-offs, emergencies, shortages of personnel, unusual occurrences, unanticipated changes in workloads, special events, changes in sick time use patterns, and similar events. In the event the Sheriff reasonably determines that it is not practical to safely or efficiently provide law enforcement services on the ten-hour work schedule, he may elect to revert to a 5-day/8-hour schedule as circumstances require.

3.1.1 Work Breaks. Employees are employed in activities that may preclude the observance of routine lunch and/or break periods. It is agreed that statutory lunch and break requirements shall be satisfied by employee observance of lunch and breaks as their duty assignments permit during any fully compensated work period.

3.1.2 Delineation of days limiting floating days off and changes to bid vacation. Prior to the commencement of vacation bidding each year, the parties shall meet and negotiate with Command Staff the days where special staffing needs may require the limiting of floating days off or changes to bid vacation during those times. The
parties recognize that in addition to those delineated days, situations may arise that would also require a limitation of time off. In the event of such an occurrence, the parties agree to meet and negotiate with Command Staff possible remedies prior to denying time off.

3.2 Shift Bidding. The following procedure shall apply: During the first 10 days of September of each year a shift schedule shall be posted and bid by seniority for the following calendar year. A shift bid period shall be defined as being of two (2) months duration. Employees can bid any shift indefinitely, but can be temporarily assigned to another shift for cause. Rules regarding the bidding process will be established by mutual agreement between the County and the Guild. Pursuant to section 5.4 (Vacation Selection), the first vacation bid shall be at the same time. Employees shall be allowed twenty-four (24) hours to make their bid, provided no one shall be skipped unless they have been personally notified it is their turn to bid. Employees who know, or reasonably should know, that they will be absent when it is their turn to bid shall make a reasonable effort to make themselves available.

3.2.1 Scheduling of Probationary Employees. This section shall not apply to entry level probationary employees. Probationers will be assigned shifts by the administration and may not bid for shifts which occur before completion of their probation period. Probationary employees will be given fourteen (14) days notice of work schedule after completion of their FTO period. Probationary employees who are assigned to ride alone will not be assigned Friday – Saturday or Saturday - Sunday as their days off, except when necessary to maintain adequate staffing.

3.2.2 Shift Trades. Employees may request up to a total of two shift trade days in any calendar month. Requests shall not impede operational efficiencies and shall not be arbitrarily denied. Shift trades cannot cause an adverse impact with unreasonably extended work hours (more than 16 hours). Approval of the Operations Lieutenant may be obtained in special circumstances for the arrangement of more than two trades per calendar month. Shift Exchange Requests submitted in person at least ten (10) days in advance of the trade will be deemed approved unless denied within ten (10) days of the trade request. Trade requests must be approved by both affected shift supervisors and the Operations Lieutenant. A shift trade date must be listed at the time of request (no banking), and must be accomplished within twelve (12) months. Failure to show up for a shift trade will result in revocation of the privilege to exchange shifts for up to one year and the time is required to be made up as staffing dictates. Probationary employees are not allowed to exchange shifts except with prior approval of the Operations Lieutenant.

3.3 Call Back to Duty. Employees who are ordered back to duty or for court appearance shall be compensated as outlined in the following sections of this Article:

3.3.1 Between Shifts. Employees shall be guaranteed three (3) hours pay at the overtime rate of time and one-half. If work extends beyond three (3) hours, the employee will be paid the actual hours on duty at the overtime rate of time and one-half.
3.3.2 On Regular Days Off. Employees shall be guaranteed four (4) hours pay at the overtime rate of time and one-half. If work extends beyond four (4) hours, the employee will be paid the actual hours on duty at the overtime rate of time and one-half. Regular days off are defined as the time between the last on-duty hour following completion of an employee’s shift schedule until the first on-duty hour starting the employee’s next shift schedule.

3.3.3 During Vacation. Employees shall be guaranteed eight (8) hours at the overtime rate of time and one half plus their normal salary (20 hours of straight time). The employee shall also receive a return of the vacation day. Vacation is defined as the time between the end of the last on-duty hour of the shift scheduled prior to commencement of the vacation and the first on-duty hour starting the employee’s next scheduled shift following the vacation.

3.3.3.1 Stipulations. In order to be paid for a call back to duty during vacation, at the rate outlined in section 3.3.3 (During Vacation), including call backs in response to a subpoena, the call back must have been authorized in advance by the Sheriff, the Undersheriff, or the Chief Deputy. The vacation must be at least five work days in length, and have been scheduled at least thirty (30) days in advance of the subpoena date. The employee must have made a good faith attempt to notify the staff within three (3) days from his or her knowledge of the service of the subpoena. If notice is not given, no call back premium shall be paid.

3.3.3.2 Eight Hour vs. Ten Hour Day. The reference to “eight (8) hours” in section 3.3.3 (During Vacation) shall be construed to mean “one full day” as defined by the employee’s current work schedule. For an employee assigned to work four days, ten hours per day as an assigned shift, it means ten (10) hours. The reference to “at least five (5) work days in length” shall be construed to be “at least four (4) work days in length” for employees working four days, ten hours per day as an assigned shift.

3.3.3.3 Out-of-Pocket Expenses. In the event an employee’s vacation is canceled or modified because they are required to return to work and as a consequence the employee suffers a loss such as nonrefundable deposits or cancellation fees or travel costs, the employee shall be made whole for any such loss.

3.3.4 Court Case Cancellation Notice. If an employee’s case still is scheduled at 5 p.m. the previous day, and canceled thereafter, the employee shall be paid the appropriate call-out rate.

3.3.5 Telephone Contact. Employees who are authorized to perform work when being reached by telephone during their off-duty time, shall be guaranteed a minimum of one-half hour at the overtime rate or actual time worked if over one-half hour. Employees who receive premium pay and are contacted in regards to their specialty are deemed to be compensated via the premium for reasonable initial consultation.
3.3.5.1 De minimis. For purposes of this section, the term, "perform work" shall mean any work-related telephone call that exceeds 7.5 minutes in duration.

3.3.5.2 Quiet Time. The parties recognize that quiet time is important and accordingly agree that all calls received during such hours, regardless of duration, are subject to section 3.3.5 (Telephone Contact). Each schedule shall have an associated quiet time. Recognizing there are various "standardized shifts," for purposes of illustration, the below chart demonstrates the principle where all time shall be considered "performing work" when the employee receives a phone call during the agreed quiet time or receives a call during a scheduled day off which is non-contiguous with their scheduled shift. The parties agree work hours other than described will follow the same principle.

<table>
<thead>
<tr>
<th>Assigned Shift</th>
<th>Work Hours during the Shift</th>
<th>Quiet Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Days</td>
<td>0600 – 1600</td>
<td>8 pm to 5 am</td>
</tr>
<tr>
<td>Swing</td>
<td>1400 – 2400</td>
<td>Midnight to 9 am</td>
</tr>
<tr>
<td>Graveyard</td>
<td>2000 – 0600</td>
<td>7 am to 3 pm</td>
</tr>
</tbody>
</table>

3.4 Overtime. Overtime will be distributed as equally as possible among available employees. All such overtime will be authorized and assigned through the Sheriff’s Office and the employee will be paid his normal overtime rate. The Sheriff’s Office will maintain a system of recording overtime worked by all members of the bargaining unit with a current posting on the bulletin board accessible to the employees.

3.4.1 Overtime Chart. The Sheriff’s Office will select employees on the basis of seniority, provided that employees will be rotated so as to give each employee an equal opportunity for overtime work. It is understood between the parties that an employee may select normal duty overtime and/or extra outside employment overtime; however, the total of the combined overtime hours of both categories will be used in equalizing overtime distribution. Rules and/or methods of creating the overtime chart, updating hours worked, method of rotation, etc. shall be by mutual agreement of the parties (including those methods described in section 3.4.1.1 (Method of Selection) below.

3.4.1.1 Method of Selection. When an opportunity for overtime occurs, the supervisor tasked with assigning the overtime, will send out an email on the County email program to all members indicated on the chart listed in section 3.4.1 (Overtime Chart), listing the details for the overtime and a cutoff time for receiving responses. After the cutoff, the assigning supervisor shall use the method described in section 3.4.1 (Overtime Chart) to select the employee from the interested emails. As much notice as is reasonably possible will be given taking into consideration illness, minimum staffing and last minute requests. The assigning supervisor shall endeavor to contact employees on the chart by phone or in person, prior to arbitrarily assigning an employee the overtime.
3.4.1.1 Selection Exclusions. Nothing in this Agreement limits any right of the Sheriff or designee to assign overtime directly to, or call out employees related to a specialty assignment, major crime or emergencies.

3.4.2 Extended Periods of Overtime. Employees required to work overtime (includes special duty) for an extended period shall be entitled to a minimum of eight (8) hours time off before returning to duty.

3.4.3 Mandatory Meetings. Mandatory meetings called by the Sheriff for all employees shall be considered on-duty time. Overtime shall be paid to those entitled to it.

3.5 Compensatory Time. Employees earning overtime may elect to accrue such time to a compensatory time bank in lieu of overtime pay. The compensatory time bank shall be capped at eighty (80) regular-time hours. The Sheriff shall pre-approve the days on which compensatory time will be taken, upon consideration of staffing needs. Compensatory time requests shall be submitted seven (7) calendar days before the date requested for use. Any denial shall be returned to the employee with an explanation for the denial within five (5) calendar days of receipt. Compensatory time not scheduled is subject to being cashed out upon request of the employee. The employee may make such a request once each year. The Employer may cash out all unscheduled compensatory time, as accrued on November 30 of each year, and such payment shall be made by December 31. Employees shall be paid their accrued compensatory time upon termination or resignation and shall use or cash out all accrued compensatory time before taking retirement.

3.6 Training Days. Every effort will be made to schedule training at least thirty (30) or more days in advance. Scheduled training, which is posted thirty (30) or more days before it occurs shall be considered the employee’s assigned shift for that day. If such scheduled training is cancelled within thirty (30) days of occurring and no other training is substituted, the employee has the option, with the approval of affected supervisors, of either working the scheduled training hours for that day or moving back to his or her regular shift.

ARTICLE 4 - PAID HOLIDAYS

4.1 Recognized Holidays. The following shall be recognized holidays:

- New Year’s Day
- Martin Luther King Day
- President’s Day
- Memorial Day
- Independence Day
- Labor Day
- Veteran’s Day
- Thanksgiving Day
- Day after Thanksgiving
- The day before Christmas
- Christmas Day
- Personal Holiday

4.1.1 Scheduling the Personal Holiday. Each employee shall receive one (1) Personal Holiday each calendar year which may be taken by the employee after the
employee has notified his or her supervisor two (2) weeks in advance of the requested day off. The Sheriff’s Office shall provide a response to the request no later than five (5) business days from the date of request. The Personal Holiday must be taken during the year and cannot be cashed out upon separation. No employee shall be eligible to receive the Personal Holiday until after completion of three (3) months of employment. A Personal Holiday request may only be denied when it conflicts with Sheriff’s Office minimum staffing requirements. Personal Holiday requests will not be unreasonably denied.

4.2 Eligibility Criteria. Employees shall be entitled to accrue such paid holidays as set out in section 4.3 (Holiday Accrual) in a month for which the employee receives compensation. Compensation is defined as payment of wages for work performed, vacation or accrued sick leave, other paid leave, or income for industrial injury not to exceed twelve (12) months from the date of injury; provided that said work, vacation, other paid leave and/or industrial injury income must equal or exceed payment for eighty (80) hours in a calendar month.

4.2.1 Eligibility for Employees on Payroll on 6/15/94. Employees on the payroll on June 15, 1994, will remain subject to the eligibility requirement of 50 compensated hours.

4.2.2 Employees Working <1.0 FTE. Employees working less than an assigned eight hour schedule shall receive holiday pay based on their average work assignment.

4.3 Holiday Accrual. All employees accrue in lieu of holidays, 7.34 hours per eligible month up to 88 hours (11 days @ 8 hours). These days shall be bid per section 5.4.1.1 (Holiday Accrual Bidding).

4.4 Pay on Designated Holidays Employees whose shift begins on Thanksgiving, the day after Thanksgiving, President's Day, Veteran's Day, the day before Christmas or Christmas day (the actual holiday, not the County-observed holiday) will be paid at the overtime rate of time and one-half for that shift.

ARTICLE 5 - VACATION SCHEDULE

5.1 Vacation Accrual.

5.1.1 Vacation Accrual Rate. Eligible employees shall accrue vacation on a calendar month basis. The amount of vacation earned for each calendar month shall be determined by the number of years of continuous service completed by the employee immediately prior to the commencement of the calendar month in accordance with the following chart:
<table>
<thead>
<tr>
<th>During the following years of service</th>
<th>Hours of vacation accrued per month</th>
<th>Hours of Holiday accrued per month</th>
<th>Total Monthly Accrual</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 1</td>
<td>6.67</td>
<td>7.34</td>
<td>14.01</td>
</tr>
<tr>
<td>2</td>
<td>7.34</td>
<td>7.34</td>
<td>14.68</td>
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<tr>
<td>3</td>
<td>8.00</td>
<td>7.34</td>
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<tr>
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<td>10.00</td>
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<td>17.34</td>
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<td>5, 6, 7</td>
<td>11.34</td>
<td>7.34</td>
<td>18.68</td>
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<tr>
<td>8, 9</td>
<td>12.00</td>
<td>7.34</td>
<td>19.34</td>
</tr>
<tr>
<td>10</td>
<td>13.34</td>
<td>7.34</td>
<td>20.68</td>
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<tr>
<td>11</td>
<td>14.00</td>
<td>7.34</td>
<td>21.34</td>
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<td>12</td>
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</tr>
<tr>
<td>15</td>
<td>16.67</td>
<td>7.34</td>
<td>24.01</td>
</tr>
</tbody>
</table>

Vacation and holiday hours accrued in one year can be scheduled in accordance with section 5.4. (Vacation Schedule) the following year.

5.1.2 Accrual for Employees Hired Prior to 6/15/94. The monthly vacation accrual for employees hired prior to June 15, 1994, will be based on the years of service they would have been given credit for on January 1, 1994, had the annual vacation accrual schedule remained in effect. January 1 will be the anniversary date for future vacation accrual for employees hired prior to January 1, 1994. For employees hired on or after June 15, 1994, the employee’s anniversary date will be used for vacation accrual purposes.

5.1.3 LEOFF I Retirement: LEOFF I employees shall cease the accrual of their vacation benefits provided for under this Agreement upon entry into the LEOFF Retirement System.

5.2 Eligibility Criteria. To be eligible to accrue vacation as provided herein, employees must receive compensation each month. The term compensation as used herein is defined to be payment of wages for work performed, vacation, accrued sick leave, other paid leave, or income for industrial injury not to exceed twelve (12) months from the date of injury; provided that said work, vacation, paid leave and/or industrial injury income must equal or exceed payment for eighty (80) hours in a calendar month.

5.2.1 Eligibility for Employees on Payroll on 6/15/94. Employees on the payroll on June 15, 1994, will remain subject to the eligibility requirement of 50 compensated hours.

5.3 Termination Cashout. When an employee leaves employment with the County for any reason, such employee will be paid for any unused vacation accrued to the date of termination at the appropriate schedule (see section 5.1.1 – Vacation Accrual Rate) for the years of service completed. Employees who terminate within four (4) calendar months of their employment date shall not receive pro-rated vacation pay.
5.4 Vacation Selection. During the month of September of each year, in conjunction with shift bidding (section 3.2), a vacation chart shall be posted by the Sheriff’s Office for the following year. The vacation chart must be completed by December 31st.

5.4.1 Vacation Bidding. Employees shall bid for vacation periods and days in lieu of holidays as follows: each individual, in seniority order, shall select their first two weeks of vacation time in a minimum of one week and a maximum of two-week blocks which need not be scheduled consecutively. Following the first vacation selection a similar bid selection shall be held for individuals entitled to more than two weeks and a third and fourth bid, if necessary, for those entitled to more than four weeks shall be held. It is understood that the second and third bids shall not displace selections made during prior bidding periods. K-9, Forest Patrol, Resident, Traffic, and Task Force assignments will not be included in the employee bidding list.

5.4.1.1 Holiday Accrual Bidding. Holiday accrual hours (per section 4.3 – Holiday Accrual) shall be accrued, bid, and cashed out as vacation. Once accrued, these hours can be used as bid, with the exception of new hires who would need to comply with section 5.4.6 (New Hires) and obtain supervisory approval. Holiday hours accrued in one year must be scheduled in accordance with sections 5.1.1 (Vacation Accrual) and 5.4 (Vacation Selection). The Personal Holiday may be taken as outlined in section 4.1.1 (Scheduling the Personal Holiday).

5.4.2 Vacation Availability. No more than three (3) employees may bid for the same vacation period. Only one employee from each shift may be on vacation at the same time.

5.4.3 Expanded Availability. The Guild and the Sheriff may, at any time, increase the limit of section 5.4.2 (Vacation Availability) through mutual agreement. When it is anticipated that all vacation slots will be filled, four employees will be allowed to bid for the same vacation days and two employees from each shift will be allowed to be on vacation at the same time.

5.4.4 Floating Days. Employees will be allowed to not bid up to seven (7) of their vacation days (defined as hours assigned to work each day in the coming year) in lieu of holidays to be used the following calendar year as "floaters", this is, up to seven (7) days may be kept (not bid) as days off to schedule later during the following calendar year subject to a first come, first served basis and availability of the time off determined by previously scheduled vacations and minimum staffing. The parties recognize there are days where special staffing needs will require that floating days off and days available for changes to a bid vacation may be limited or excluded. The parties will include the delineation of those possible dates in section 3.1.2 (Delineation of Days).

5.4.5 Annual Review. The Administration agrees to review operational requirements at least annually with a Guild-designated representative before commencement of vacation bidding to see if the number of persons allowed off on vacation at any one time as described in this section can be increased.
5.4.6 **New Hires.** New hires during their first calendar year of employment can utilize all hours that have been accrued in lieu of holiday time (as defined in section 4.3 – Holiday Accrual), subject to supervisory approval.

5.5 **Vacation Earnings.** Total vacation earnings to be scheduled include accrued vacation under Article 5, accrued hours in lieu of holidays pursuant to Article 4, and vacation bonus pursuant to Article 7.

5.6 **Vacation Carryover.** Employees shall be allowed to carry over up to two hundred and seventy (270) hours from one year to the next, which includes any hours defined in section 5.5 (Vacation Earnings), above.

5.7 **Employees Working Part-Time.** Employees working less than an eight-hour schedule shall accrue vacation benefits based on their average work assignment.

### ARTICLE 6 - HEALTH & WELFARE

6.1 **Eligibility Criteria.** The County agrees to make contributions into the Plans, as outlined in the following Sections of this Article, on behalf of employees covered by this Agreement who are regularly scheduled to work and are compensated at least eighty (80) hours per month, with contributions to begin on the first of the month following eighty (80) compensated hours of employment in one (1) calendar month. The term compensation as used herein is defined to be payment of wages for work performed, vacation, accrued sick leave, other paid leave, or income resulting from industrial injury not to exceed twelve (12) months from the date of the injury; provided that said work, vacation, paid leave, and/or industrial injury income must equal or exceed payment for eighty (80) hours in a calendar month.

6.1.1 **Eligibility for Employees on Payroll on 6/15/94.** Employees on the payroll on June 15, 1994, will remain subject to the eligibility requirement of 50 compensated hours.

6.2 **Health & Welfare.** The County agrees to make monthly contributions for employees, their spouses and dependents towards the following plans.

- **Medical** – Whatcom County Self-Insured Cap Plan or such other arrangement as setout in this Article 6.


- **Vision** – Washington Counties Insurance Fund Extended Vision Care Plan

6.2.1 **Life Insurance.** The County shall provide life insurance benefits for employees equivalent to one year's base salary to a maximum of $50,000, through a carrier to be selected by the County.
6.2.2 Disability Plan. The County will pay a maximum of fifty dollars ($50) per month, on behalf of each LEOFF II employee enrolled in the "Enhanced Plan" provided through Trusted Plans Service Corporation for coverage or through a carrier selected by the Guild upon no less than sixty (60) calendar days written notice to the County.

6.3 Change or Modification. The County and the Guild agree that carriers may be changed, or benefits modified upon mutual agreement and as provided herein.

6.4 LEOFF I.

6.4.1 Retirement. LEOFF I employees shall cease the accrual of their group insurance benefits provided for under this Agreement upon entry into the LEOFF retirement system.

6.5 Medical Coverage Dispute. The County and the Guild agree that any dispute over a denial of coverage under a Whatcom County Self-Insured Medical Plan may be appealed, through Human Resources to the County Executive. The step requirements under the grievance procedure are suspended during this appeal. The exclusive remedy shall be the grievance procedure for any disputes over a denial of coverage.

6.6 Medical Schedule of Benefits. The parties agree that the schedule of benefits for the previous year's Cap Plans (High Deductible Plans) and any Alternate plan (if any) may require modification in order that the Cap Plans for the succeeding Plan Year, can be provided to employees and their families within the County's contribution Cap amount established in section 6.7.1 (County Contribution). The parties agree that at any time the County may revise benefits to meet section 6.7.1 (County Contribution) limitations by following section 6.10 (Medical Advisory Committee); may update the summary plan description and schedule of benefits in order to be legally compliant with applicable law, to avoid unintended benefit reductions or enhancements consistent with industry standards (for example, limits on experimental procedures); administrator limitations, and may make changes in plan administrator or administration. The parties agree the County may, but shall not be required to, enhance the Cap Plans.

6.7 Medical Premiums.

6.7.1 County Contribution. Effective with 2012 coverage, the County shall pay a contribution cap amount of $1,039.50 to fund a medical Plan. Effective with 2014 coverage, the County shall pay a contribution cap amount of up to $1,089.50 to fund a medical plan.

6.7.2 Employee Contribution. Alternate plans, if any, may require employee contribution for sections 6.12.2 and 6.12.2.1 (Alternate – Contributory Plan).

6.8 Dental, Vision and Life Insurance Premiums. The County agrees to pay the appropriate monthly premium amounts and such increases as required to maintain the dental, vision, and life benefits listed in section 6.2 (Health & Welfare).
6.9 **Flex 125.** All bargaining unit employees are eligible to enroll in the County’s Flexible Spending Account Plan (“Flex 125 Plan”).

6.10 **Medical Advisory Committee.** In the event the Cap Plan schedule of benefits is to be modified, the County shall convene the Medical Advisory Committee. The Guild shall be given advance notice of such meeting and shall be afforded an opportunity to designate one of its members to attend and participate in the meeting. The Medical Advisory Committee shall not replace the parties’ RCW 41.56 obligations.

6.11 **Cap Plan Changes.** In the event the Cap Plans (High Deductible Plans) schedule of benefits are to be changed as set out in section 6.6 (Medical Schedule of Benefits) and the Guild is not in agreement with the County’s contemplated revision of benefits, the Guild shall have seven (7) calendar days from the date it receives written notice of the consultant’s Renewal Projection and Recommendation of change to state its objections and suggest alternatives that would be acceptable to the Guild without exceeding the contribution Cap in section 6.7.1 (County Contribution) for 2014 Cap Plans. The parties shall promptly (within one (1) calendar week) meet to discuss the Guild’s suggested alternatives. The County shall decide upon and announce any benefit changes with the publication of a “Benefit Alert” at least thirty (30) calendar days prior to the change being effective. In the event the Guild has not agreed to such changes, the Guild may elect from any of the applicable options listed in section 6.12 (Guild Options).

6.11.1 **Contributory Plan Changes.** In the event the Contributory Plan schedule of benefits are to be changed per section 6.12.2.1 (Alternate – 2014 Contributory Plan), the Guild shall have the same options as stated in section 6.11 (Cap Plan Changes) if they are not in agreement with the contemplated revision of benefits.

6.12 **Guild Options.** The following options are available to the Guild. The Cap Plans and any alternate offered OR the provisions of section 6.13 (Non-County Plan) shall apply to the entire Bargaining Unit. The Guild may choose during open enrollment:

6.12.1 **Cap Plan – High Deductible**

6.12.1.1 **Cap Plan - Qualified High Deductible Plan.** Employees electing to participate in the Cap – Qualified High Deductible Health Plan (QHDHP) for 2013 will receive one-time seed money in the amount of $1,250 for an individual OR $2,500 for an individual with dependents. One half of the appropriate seed money amount will be paid into participating employee’s HSA the month following approval of this Agreement in 2013 so long as the deputy has enrolled and is otherwise qualified to have an HSA account. The remaining amount will be paid throughout the remaining months of 2013.

6.12.1.1.1 **2014 Election.** Employees who do not elect to participate in the Cap – QHDHP in 2013 can elect to participate in the Cap – QHDHP offered in 2014. Employees will receive the same one-time seed money as outlined in 6.12.1.1 (Cap Plan – Qualified High Deductible Plan) in January if they are enrolled in the HSA.
6.12.1.2 New Hires. Employees hired on or after January 1, 2013 electing to participate in the Cap – QHDHP will receive one-time seed money in the amount of up to $1,000 for employee only OR up to $2,000 for an employee plus dependents deposited in an HSA with one half paid into the HSA the first paycheck they are eligible for medical benefits and enrolled in the HSA with either $45.45 OR $90.91 for the remaining months of that calendar year.

6.12.1.2 Cap Plan 2000 – Non-Qualified High Deductible 2013. Employees can elect to move in 2013 to the Cap 2000 Plan with a $2,000 deductible per individual and $6,000 maximum deductible for families with no payroll deductions.

6.12.1.2.1 Non-Qualified High Deductible 2014. The County anticipates the continuation of an employee Non-Qualified High Deductible option as would be constituted/revised following the application of section 6.6 (Medical Schedule of Benefits) with no payroll deductions.

6.12.2 Alternate – 2013 Contributory Plan. Employees can elect to continue the 2012 Cap medical deductible level ($500 individual/$1,500 family maximum) in 2013 via authorized monthly payroll deduction of $100.44 with two deductions in January to cover January and February coverage. Thereafter, the deduction will be split between two paychecks per month for the remainder of 2013 coverage.

6.12.2.1 Alternate – 2014 Contributory Plan. The County anticipates the continuation of a Contributory Plan. The Contributory Plan shall have benefits revised as needed pursuant to section 6.6 (Medical Schedule of Benefits) to adjust the schedule of benefits based on the consultant’s Renewal Projection and Recommendation with the County contribution of $1,089.50 and employee contribution of up to $100.44 per month for 2014. Any amount required to fund the Contributory Plan for 2014 that is above the County contribution of $1,089.50 per month will be paid by employees up to $100.44, through payroll deduction as outlined in section 6.12.2 (Alternate – 2013 Contributory Plan).

6.13 Non-County Plan. No later than fifteen (15) days following the County’s “Benefit Alert” regarding the Cap plan changes, or in any successor year until a new agreement has been adopted, the Guild may give notice the Guild has elected alternative coverage through non-County provider(s). The Guild shall provide to the County instructions for the tendering of the composite Cap Plan actuarial contribution in an amount up to what the County has adopted as the composite contribution cap amount for the applicable Cap Plan Year. Movement to a non-County plan shall be at the first of a month, at least 60 calendar days after notice.

6.13.1 Notice. For purposes of this section 6.11 (Cap Plan Changes) notice shall be delivered by the Guild to the County Human Resources Manager.

6.13.2 County Obligations With a Non-County Plan. Should the Guild elect alternative non-County medical coverage as herein provided, the County shall
continue coverage in the then constituted Cap Plan until such time as employees become covered by the alternative plan elected by the Guild. In no event shall the County be obligated to provide “double coverage” where the County would pay amounts to the Guild or a third party and simultaneously retain liability under the County Cap Plan for the payment of benefits. Commencing no less than the first of the month following the County’s receipt of the sixty (60) days written notice and the effective date of the Alternative non-County Plan:

- The County’s responsibility is limited to:
  o payment to the Guild, or Guild-designated party, the amount described in section 6.7.1 (County Contribution) for each eligible Guild Bargaining Unit member covered under this collective bargaining agreement, and
  o collection and transmittal of employee earnings via authorized payroll deduction to divert pursuant to section 6.9 (Flex 125).

- The County has no responsibility or liability for Guild Bargaining Unit employee’s claims or to pay benefits for claims incurred after the effective date of the non-County plan.

- Any refusal or action on the part of any non-County third-party plan selected by the Guild shall NOT be attributed to the County or constitute a breach of the collective bargaining agreement.

- With the exception of LEOFF I obligations, under no circumstances shall the County be responsible for paying any section 6.2 (Health & Welfare) medical benefits under this Article incurred by any bargaining unit employee or dependent.

6.14 Failure to Elect. In the event the Guild shall take no action as setout herein, the Guild shall be deemed to have elected and shall be covered by the Cap Plan (High Deductible Plans) as modified and adopted by the County for all successive plan years until a new agreement is adopted.

6.15 Retirement Health Savings Plan. The County agrees to make available to Guild members the County’s Retirement Health Savings Plan in accordance with and as allowed by IRS regulations. See section 7.1.2 (Excess Sick Leave Contributions).

ARTICLE 7 - SICK LEAVE ALLOWANCE

7.1 Sick Leave Usage. Sick leave shall include time off for the bona fide illness, accident or injury, dentist and doctor appointments of the employee. Use of sick leave for other than the purposes outlined in this Article may result in disciplinary action.

7.1.1 Family or Washington State Registered Domestic Partner. An employee may use sick leave to care for the child of the employee with a health condition that requires treatment or supervision or for the care of a spouse, Washington State
registered domestic partner, parent, parent-in-law, or grandparent of the employee (as defined in WAC 296-130-020) who has a serious health condition or during a health emergency. Employees must register their domestic partner with the State of Washington before being able to utilize accrued sick leave.

7.1.2 Excess Sick Leave Contributions. Employees with at least 1440 hours in their sick leave bank at the beginning and end of the calendar year (or at the beginning of a calendar year and upon termination in that same year) receive a contribution into their County Health Savings Account (HSA), if they have one, or if they do not have an HSA, into a Retirement Health Savings (RHS) contribution based upon additional hours accrued during that year: Hours accrued (to a maximum of 48) minus hours used, multiplied by 25%, multiplied by hourly rate of pay at year-end, equals RHS contribution. Hours used in this calculation are no longer available to the employee.

7.2 Paternity Leave. In addition to any sick leave usage qualifying under section 7.1.1 (Family or Washington State Registered Domestic Partner), sick leave to a maximum of forty hours shall be available for use by a male employee at the time of delivery of his child.

7.3 Notification. It is the employee's responsibility to notify Dispatch of their inability to work because of illness or injury prior to the beginning of the work day. In the event no sick leave notification is made within one (1) hour after the beginning of the work day, the Sheriff or designee shall consider and handle the employee's absence as an absence without pay, unless the employee later satisfactorily substantiates that it was impossible to make or cause such notification. In the case of an illness which will result in a protracted absence, a letter from the doctor giving an anticipated return date will waive the daily notification requirement.

7.4 Sick Leave Accrual. Cumulative sick leave shall accrue to each employee covered by this Agreement who has completed three (3) months of employment of eighty (80) compensated hours per calendar month, in the amount of one (1) day (8 hours) for each month of employment to a maximum of one thousand, four hundred and forty (1,440) hours PROVIDED FURTHER that no more than nine-hundred and sixty (960) hours shall be used as a base for calculating a LEOFF II employee's sick leave cash out. In general, eight (8) hours of sick leave is accrued each month even if an employee has accrued the maximum sick leave permitted under a Guild contract. The employee's total accrual reverts back to no more than one thousand, four hundred and forty (1,440) hours at the end of the year.

7.4.1 Employees Working <1.0 FTE. Employees working less than an assigned eight-hour schedule shall accrue sick leave benefits based on their average work assignment.

7.4.2 LEOFF I Accruals. LEOFF I employees may accrue sick leave up to a maximum of nine hundred and sixty (960) hours
7.5 **Eligibility Criteria.** To be eligible to accrue sick leave as provided herein, employees must receive compensation each month. The term compensation as used herein is defined to be payment of wages for work performed, vacation, accrued sick leave, other paid leave or income resulting from an industrial injury to a maximum of twelve (12) months from the date of injury; provided that said work, vacation, paid leave and or industrial injury income must equal or exceed payment for eighty (80) hours in a calendar month.

7.5.1 **Eligibility for Employees on Payroll on 6/15/94.** Employees on the payroll on June 15, 1994, will remain subject to the eligibility requirement of 50 compensated hours.

7.6 **Bonus Days.** An employee having accrued six-hundred (600) hours of sick leave on December 31 of any year shall receive an additional forty (40) hours of vacation to be used in the following calendar year.

7.7 **Termination Cashout.** An employee with three (3) or more years of employment with the County shall be entitled to cash upon termination in the amount of twenty-five percent (25%) of their sick leave bank up to a maximum of thirty (30) days (240 hours) at time of termination; PROVIDED, however, such employee has given at least thirty (30) days notice prior to termination; PROVIDED FURTHER, that this section shall not apply to any employee terminated for cause.

Any employee hired before November 18, 1985 shall be entitled to cash upon termination in the amount of fifty (50%) percent of their sick leave bank up to a maximum of sixty (60) days (480 hours) at the time of termination; PROVIDED, however, such employee has given at least thirty (30) days notice prior to termination; and PROVIDED FURTHER, that this section shall not apply to any employee terminated for cause.

7.8 **Proof of Illness.** Upon request of the County, the employee will provide proof of illness. Such request shall be made only where the employer has good cause to request such medical verification. Any medical information obtained shall be maintained in compliance with the medical confidentiality requirements of state or federal law.

7.9 **Accruals During Leaves or Layoff.** Sick leave shall continue to accrue during periods of approved leave of absence with pay. If an employee is on layoff, sick leave shall not accrue during such layoff; however, upon return to work, the sick leave accrual remaining after cashout at the time of layoff shall be made available to the employee and additional days shall accrue from the first month the employee returns to work.

7.10 **Accrual Deduction.** An employee's sick leave accumulation shall be reduced by the number of hours absent from work for the reasons set forth in section 7.1 (Sick Leave Usage).
7.10.1 LEOFF Impacts. This clause shall apply where sick leave compensation has been granted pursuant to the LEOFF System as well as for sick leave accrued pursuant to this Agreement. Nothing in this Agreement shall be construed as abridging any right employees may have under the LEOFF System. LEOFF I employees shall cease the accrual of their sick leave benefits provided under this Agreement upon entry into the LEOFF Retirement System.

7.11 Workers’ Compensation. Use of sick leave and Worker’s Compensation time loss payments shall be as provided in RCW 41.04 and when combined shall not exceed 100% of the employee’s wages.

7.12 Sick Leave Sharing. The County agrees to allow a yearly donation of twenty-four (24) hours under the County’s Sick Leave Sharing Program.

ARTICLE 8 - FAMILY CARE

The County agrees to provide unpaid leave to any eligible employee covered by this Agreement, consistent with the Washington State Family Leave Act, RCW Chapter 49.78, the Federal Family and Medical Leave Act, and any other applicable state or federal law. Employees are not required to use accrued vacation time or compensatory time off before commencing unpaid family leave. An employee who has previously used twelve (12) weeks of unpaid FMLA will, for the following four (4) years, use all but forty (40) accrued hours of allowable compensatory, vacation, sick, and personal holiday time before beginning unpaid leave during any subsequent twelve-month FMLA period. Employees seeking family care leave must comply with physician certifications as required by law.

ARTICLE 9 - UNEMPLOYMENT COMPENSATION

The County agrees to provide unemployment compensation for any employee covered by this Agreement who may be laid off for any reason, consistent with the laws of the State of Washington and the rules and regulations of the Employment Security Department.

ARTICLE 10 - JURY DUTY

When a regular employee covered by this Agreement is called upon for jury service in any municipal, county, state or federal court, the employee shall advise the Sheriff or designee upon receipt of such call and if taken from work for such service, shall be reimbursed as provided herein for any loss in wages while performing such service; PROVIDED that there shall be deducted from the wages of such employee an amount equal to the amount such employee received for jury duty.

ARTICLE 11 - LEAVES

11.1 Bereavement Leave. If an employee suffers a death in the immediate family, the employee shall be allowed not more than five (5) days (not to exceed 40 hours) off without loss in pay for bereavement in the death of spouse, registered domestic partner,
children, and parents, including step-parents and step-children of the employee and spouse or registered domestic partner. Employees must register their domestic partner with the State of Washington before being able to utilize bereavement leave. Three (3) days off for other immediate family members - defined to be brothers, sisters, grandchildren or grandparents of either the employee or the employee's spouse or registered domestic partner. In the event of a funeral or other memorial occurring as a result of the death of a current, lawful brother- or sister-in-law, the affected employee may have up to eight (8) hours of paid time off to attend the funeral or memorial if not covered as “other immediate family.” Employees desiring additional days off without pay or using accrued leave shall make a request through the Sheriff or designee for approval. Days off without pay exceeding five (5) days in a calendar year require the approval of the Executive. For the purposes of bereavement leave only, a “day” is defined as the number of hours an employee is assigned to work for the requested days off (not to exceed 40 hours).

11.2 Military Leave. Compensation and benefits during periods of military leave shall be as outlined in state law, USERRA and County policy. An employee taking military leave must give notice to his or her supervisor and Human Resources as far in advance as possible, pursuant to the law.

ARTICLE 12 - INITIATION FEE AND DUES CHECKOFF

12.1 Authorization for Deduction. For individuals who certify in writing that they authorize such deductions, Guild initiation fees and monthly dues shall be deducted from the employee's payroll and remitted to the Guild. Accompanying said monies shall be a list of employees and amounts to be credited to their account.

12.2 Hold Harmless. The Guild and each employee authorizing the assignment of wages for the payment of Guild dues hereby undertake to indemnify and hold the County harmless from all claims, demands, suits, or other forms of liability that may arise against the County for or on account of any deduction made from the wages of such employee.

ARTICLE 13 - WORK ASSIGNMENTS AND NON-WAGE REIMBURSEMENTS AND PAYMENTS

13.1 Fair Labor Standards Act (FLSA). The FLSA requires that premium pays be included in the "regular rate of pay," and used in calculating the overtime rate. Therefore all monthly premiums covered in this Article are part of the regular rate of pay, and added to the monthly salary before determining the hourly rate for overtime purposes. The Dive premium is added to the regular rate of pay for the week in which the dive occurred. All overtime worked in that week is paid at this higher rate.

13.2 Premiums. The following premiums shall be paid to employees assigned to Search & Rescue, Range Officer, Traffic Unit, Detectives, Explosives Expert, Residents, Arson Investigator, Field Training Officer, Polygraph Operator, Road Use, Crime
Prevention Officer, Marine Patrol Program Coordinator, and Civil – 3% of top-step deputy wage per month; Dog Handler – 3.5% of top-step deputy wage per month.

13.2.1 Premiums Constitute Full Compensation for Off Duty Time. Special premiums include full compensation for all off duty time spent by an employee that relates to the special assignment. For example, the premiums include full compensation for time spent by Dog Handlers caring for county-owned dogs at their residence; time spent by motorcycle employees caring for and cleaning their motorcycles at their residence; time spent by an Explosives Expert reading related materials at his residence; time spent by a Search and Rescue Officer on a weekend Training program on his own volition and without direction or request from the County; and all job related off duty time spent by the Road Use employee.

13.3 Dives. Employees shall be paid fifty dollars ($50) for each authorized dive other than training dives. The County shall replace the air necessary for such dives.

13.4 Traffic Unit. Assignment to the Traffic Unit shall be for a four (4) year tour of duty. Provided, however, employees who have served on the Traffic Unit may re-qualify for selection through a single or series of two (2) year appointments.

13.5 Detectives. Assignment as a Detective (including Drug Task Force) shall be for a four (4) year tour of duty. Provided, however, employees who have served as detective may re-qualify for selection through a single or series of two (2) year appointments provided up to three (3) detectives may re-qualify beyond the eight (8) consecutive years. To be eligible for the position of Detective, an employee must have service as an employee for a period of five (5) years and will be selected from among a list of employees who have previously expressed in writing to the Sheriff their desire to become a Detective, provided; however, the Sheriff may assign an employee with three (3) years of service upon finding that the employee is otherwise qualified for the assignment. Rules applicable to the selection of Detectives shall be established by mutual agreement between the Sheriff and the Guild.

13.6 Field Training Officer. Employees appointed as Field Training Officers must have at least three (3) years of Washington State Peace Officer experience and have completed probation prior to application and prior to assignment, successfully complete the state Field Training Officer program.

13.7 Resident Assignment. The Sheriff shall determine the geographic location for resident deputies, but shall bargain with the Guild regarding such assignment over wages, hours, and working conditions not already provided for in this Agreement.

13.7.1 Assignment. Assignment shall be for a two (2) year tour of duty provided that the term may be for a lesser period at the discretion of the Sheriff. When a vacancy occurs, the employee whose tour of duty is ending may request assignment for another tour before the position is opened to bid. If the Sheriff declines to reappoint, or if the employee makes no such request, the position will be opened for bid, with the senior
employee bidding being given first consideration. In the event no bids are received, the Sheriff will assign the most junior employee who has completed his/her probation period on or before the effective date of the opening. Provided no employee shall be required to serve a second tour prior to employees who have not served. Employees who have served four consecutive years may request to remain in this assignment through a single or series of one-year renewals, at the discretion of the Sheriff.

13.7.2 Housing. The County will furnish adequate housing at a mutually agreed upon location with the Guild and shall pay the costs of utilities which shall include electricity, water, garbage and basic telephone service. It is understood between the parties that housing, when furnished, is not considered a part of wages. Employees must reside in County, contractor-provided, or other housing, that is acceptable to the Sheriff.

13.7.2.1 Housing Agreement. Employees living in County-owned or contractor-provided housing will sign and abide by a housing agreement mutually agreed to between the County and the Guild.

13.7.2.2 Basic Telephone Service. The County will provide residents with a telephone for basic service (local calls). The cost of the basic telephone service will be borne by the County. At the option of the employee, they may elect to use the County phone for local personal use. Employees agree to provide for their own personal long distance phone usage. The County has the option to provide either a “hard-wired phone” or a cellular phone for basic telephone service, whichever is preferred by the Sheriff.

13.7.3 Work Schedule. The work week and days off shall be established so as to provide maximum service to the area. The work week shall consist of forty (40) hours. The work week shall be adjusted so the employee will be on duty an average of eight (8) hours a day during the forty (40) hour week. On duty time need not be in a continuous block of time.

13.7.4 Court Appearance. It is understood between the parties that Residents are required, by the very nature of their assignments, to be available for duty at various hours and, therefore, because of the inconvenience placed upon such employee, it is agreed that on any day in which they are required to appear in court, such time shall be considered as on-duty time and they shall be compensated as outlined in section 3.3 (Call Back to Duty) above.

13.7.5 Other Overtime. If a resident employee is called out for a special assignment such as search and rescue, or riot duty, or works in excess of forty (40) hours in a work week, the overtime and compensatory time provisions of Article 3, when pertinent, shall apply provided that the compensatory time bank maximum for residents shall be two hundred and forty (240) hours.
13.7.6 **Vacation Bidding.** Residents are not included on the seniority list for uniform employees for the purpose of Section 5.4.1 (Vacation Bidding) bidding for vacations.

13.7.7 **Moving Expenses.** The cost of moving of approved household goods only, for residents (both to and from County-provided residences) will be borne by the County per the Guidelines provided by the Washington State Department of General Administration, Office of State Procurement.

13.8 **Marine Patrol Program Coordinator.** The Coordinator will complete program-related reports and documents, maintain boats and related equipment, develop operations plans and coordinate marine patrols, training, and assignments.

13.9 **Crime Prevention Coordinator.** Because of the nature of this job, which includes evening and weekend meetings, hours will be adjusted by the assigned employee within a work week so that there will not be more than 40 hours in any one work week, without prior approval of overtime. Should the Department require attendance at a meeting outside normal work hours and there is less than three (3) days notice, overtime will be paid for such hours. Overtime will not be paid for hours over eight (8) hours worked in a day if it is a result of the assigned employee flexing time. Flexing time will be defined as the employee scheduling to work more than eight (8) hours in one day which is off-set by working less than eight (8) hours another day, in order to accommodate meetings or other activities within the forty (40) hour week.

13.10 **Clothing & Equipment Allowance.** New employees shall be allowed one thousand, three hundred dollars ($1,300) as an initial clothing & equipment allowance. In addition, the Sheriff's Office will issue a duty belt and the following to new employees: two handcuff cases, a magazine pouch, two sets of handcuffs, one aerosol restraint case, four gun belt keepers, a duty weapon, and a holster. These issued items are the property of the Sheriff's Office and are to be returned upon the employee's separation, unless an employee elects to purchase any item provided above at the original purchase price.

13.10.1 **Annual Allowance.** After the first year of employment and annually thereafter, a clothing & equipment allowance in the amount of eleven hundred dollars ($1,100) shall be paid to all employees.

13.10.2 **Use of Clothing & Equipment Allowance.** The clothing & equipment allowance shall be used to purchase uniforms and clothing required by the Sheriff's Office including all equipment for the safety and performance of the employees, including equipment for hazardous duty, except as provided elsewhere in section 13.10 (Clothing & Equipment Allowance). Equipment purchased by deputies with this allowance shall be the deputy's property.

13.10.3 **Special Clothing and Equipment.** Upon authorization by the Sheriff of specialized clothing or equipment required by an employee in the performance of their assigned duties, such clothing or equipment shall be provided to employees by the
County upon the processing of such payment authorization form provided by Finance and individually approved by the Sheriff. Such clothing or equipment shall remain the property of the County.

13.10.4 Payment of Clothing & Equipment Allowance. Clothing & equipment allowance when due, shall be included with regular monthly pay and per IRS regulations shall be subject to tax. Clothing & equipment allowance shall be paid the first pay period in February each calendar year.

13.10.5 Mandated Changes. Mandated changes in uniform and equipment by the Sheriff will coincide with the annual clothing & equipment allowance. If a mandated change is over the annual allowance, this section of the Agreement will be reopened for negotiations.

13.10.6 Clothing & Equipment Allowance “Ordinary Income.” It is agreed between the parties that all clothing & equipment allowance payments shall be considered “ordinary income” for income tax purposes, the plan will be considered a non-accountable plan, and Deputies will not be required to turn in receipts to the County.

13.10.7 Quartermaster or Warrant System Option. It is further agreed that the Sheriff’s Office reserves the right to establish a quartermaster or warrant system whereby uniforms, clothing and equipment covered by the allowance are procured and/or paid for by the County, provided the County will give the Guild sixty (60) days notice of its intent to do so and, on request, will meet and discuss the decision.

13.10.8 Firearms. The County shall supply each employee with a firearm selected by the Sheriff’s Office. Employees who have not been issued a department firearm will receive a department-issued firearm upon request, by seniority, provided that the department will not be required to fulfill more than ten (10) requests per year. The Sheriff’s Office shall replace department-issued firearms when the Office determines it is necessary.

13.11 Repair and Replacement. The cost of repair or replacement of clothing, including bullet proof vests, or personal equipment used in furtherance of job related duties and damaged or destroyed in the line of duty will be borne by the County including up to $35 for watches, but does not include jewelry or similar items. The Sheriff’s Office will determine whether an item shall be repaired or replaced. The Employer will repair or replace other authorized personal items damaged or destroyed beyond normal wear and tear while on duty. Personal items other than watches must be authorized by the Employer to be eligible for repair or replacement. For the purposes of this section: (1) an employee must notify the Employer in writing that he/she intends to carry the item while on duty and state the replacement value of said item and (2) the Employer must have given written authorization to repair or replace such item.

13.11.1 Amount of Replacement. The amount paid for replacement of a damaged item will be based on the general condition of the article. Whether damage was
done in line of duty will be determined by the Sheriff’s Office, subject to the grievance procedure outlined herein.

13.12 Vehicle Assignment. It is understood between the parties that assignment of a County vehicle to an employee is not part of the employee's wages.

13.13 Civil. Applicants must have two (2) years’ experience with the Whatcom County Sheriff's Office. Assignments shall be for a two-year rotational tour of duty. Employees who have served in a Civil assignment may re-qualify for selection through a single or series of one-year appointments up to a maximum of four (4) years. Because of the nature of this job, which on occasion includes evening and weekend assignments, hours will be adjusted by the assigned employee within a work week so that there will not be more than 40 hours in any one work week, without prior approval of overtime. Should the Department require related assignments outside normal work hours and there is less than three (3) days' notice, overtime will be paid for such hours. Flexing time will be defined as the employee scheduling or being assigned to work more than eight (8) hours in one day which is offset by working less than eight (8) hours another day, in order to accommodate other related civil assignments. Flextime is also defined as adjusting the standardized eight (8) hour shift to allow working an eight-hour block other than 0830 to 1630 hours. The schedule may be flexed by mutual agreement between the assigned employee and the Department with less than three days' notice. Assigned flextime shall be limited and reasonable to facilitate standard operations of the position. Responsibilities shall include, but not be limited to: service of civil process, warrants, fugitive tracking, domestic violence papers and restraining orders. The Civil premium does not apply to civil documents, harassment orders or warrants assigned to Patrol nor to probationary employees assigned to the Civil Division for training purposes.

13.14 Courthouse and Station Assignments. The Courthouse and Station Deputy shall be allowed to schedule up to one week of vacation for every two months worked so long as they are not on vacation at the same time. Assignment as a Courthouse or Station Deputy shall be for a two (2) month time period with the option for multiple assignments. Starting time for the two positions may vary, but will be eight (8) hours per day, Monday through Friday. On days when the Courthouse is closed, and employees are not assigned to duty, they may request duty if available and if not, shall use accruals.

13.15 Work Schedules. The County retains the right to make changes in scheduled working hours of specialty assignments as follows:

- For a purpose stated in this Agreement, if applicable;
- For a business necessity purpose, after notice to the Guild;
- By voluntary agreement with the employee and the Guild; and
- For temporary duration due to an emergency.
ARTICLE 14 - PHYSICAL EXAMS

14.1 Physical Examination. Any person to be newly employed or to be re-employed as a full commissioned employee shall be required to take and pass a physical examination in accordance with the requirements of the Civil Service Commission.

14.2 Frequency of Exams. Employees may have one (1) physical exam paid by the County each year that their health plan does not provide them with a physical.

14.2.1 Exams Ordered by the Sheriff’s Office. Additional physical and/or mental examinations may be ordered and will be paid for by the Sheriff’s Office, where reasonable concern exists about the employee’s ability to perform the essential functions of the job. The first physical shall be administered by the doctor of the employee’s choice. Any second or subsequent exam ordered by the Sheriff’s Office will be administered by a physician or psychiatrist selected by the Sheriff. No employee shall lose pay because a required physical and/or mental examination is scheduled during all or part of their normal work day. The County will comply with any confidentiality requirements of the Americans with Disabilities Act.

ARTICLE 15 - RULES OF OPERATION

The Sheriff’s Office may adopt reasonable written rules of operating the Sheriff’s Office and the conduct of employees provided, however, before such rules are posted, a copy shall be furnished to the Guild. The Guild shall be allowed not less than thirty (30) days in which to make known any objection they may have concerning such rules, except in the case of emergency, provided those rules are not subject to collective bargaining.

ARTICLE 16 - GUILD ACTIVITY

16.1 Guild Activity.

16.1.1 Negotiations. It is agreed that up to three (3) bargaining unit employees shall be allowed to participate in negotiations at any one time without loss in pay. Bargaining team members assigned to night shift will be released from the night shift immediately preceding or after the daytime meeting. Release time shall be four hours prior to the first negotiating meeting for a new contract and two hours prior to each scheduled negotiating meeting through the conclusion of negotiations. By mutual agreement, such times may be extended by the Sheriff or designee. Such employees shall not receive overtime pay while serving on the negotiating committee. The Guild will keep Human Resources advised of current members of the negotiating committee. The parties agree that at all times employees on duty are subject to a call to duty to meet staffing requirements.

16.1.2 Representation. Those members of the bargaining unit selected to serve as authorized representatives of the Guild shall be certified in writing to the County. The County shall afford designated bargaining unit members a reasonable amount of time while on duty to consult with or represent aggrieved employees and to
engage in official Guild business related to collective bargaining purposes, provided that the Guild officers or the aggrieved employee contacts the appropriate command level officer (or immediate supervisor, if not on duty) if meeting requires leaving assigned post. On-duty consultations with aggrieved employees or other protected Guild business shall be allowed up to thirty (30) minutes in any one day. Additional time will require the approval of the Sheriff or his designee. Such request shall be approved, provided the meeting can be conducted without unreasonably interfering with Sheriff’s Office operations.

16.2 Access Privilege for Guild’s Attorney. The Guild’s attorneys shall be allowed on the premises of the County to attend Civil Service meetings, grievance meetings, and collective bargaining sessions but shall only conduct business in conference rooms, interview rooms, or other places in the Sheriff’s Office approved by command staff on a case-by-case basis and shall not interfere with on-duty employees.

16.3 Bulletin Board. The County shall provide space for a bulletin board to be used by the Guild for official Guild business.

16.4 Special Conferences. An employee or employees designated by the Guild in writing to attend Guild-sponsored conventions and seminars shall be granted leave without pay for scheduled work hours lost for such purposes, provided that the total leave granted to all employees under this section shall not exceed eighty (80) hours per calendar year. The Guild must notify the County in writing, at least thirty (30) calendar days in advance of such seminar or convention, of the name(s) of the employees designated to attend the seminar or convention, and the dates of their absence. The County may refuse to grant leave to more than one (1) employee per shift under this section if, in the judgment of the County, the employee’s absence would adversely impact the operations of the County.

16.5 Access to Equipment. The County shall allow Guild representatives reasonable access to the telephone and photocopiers provided that no cost is incurred to the County. Appropriate uses will be determined by Guild officials and the Sheriff or his designee. The Employer shall allow Guild officials reasonable access to the telephone and photocopiers and computer e-mail system only for purposes of processing and gathering of information needed to evaluate, file or settle grievances, engage in collective bargaining and for the purpose of processing and gathering of information needed to evaluate, file and settle Civil Service complaints. The Guild agrees not to use the County’s photocopiers for other purposes, unless agreed to by the Sheriff.

ARTICLE 17 - NOTIFICATION OF SHERIFF’S OFFICE CHANGES

The Sheriff will notify the Guild in writing in advance of any intended changes that may affect wages, hours or working conditions of employees within the bargaining unit as required by RCW 41.56.
ARTICLE 18 - SEPARABILITY AND SAVINGS

If any article or section of this Agreement should be held invalid by operation of law or by any tribunal of competent jurisdiction, the balance of this Agreement shall continue in full force and effect. The article or section held invalid shall be modified as required by law or the tribunal of competent jurisdiction, or shall be re-negotiated for the purpose of an adequate replacement.

ARTICLE 19 – LONGEVITY/PERFORMANCE PREMIUM

Upon completion of the following years of service, employees shall receive longevity/performance premium in the amount indicated based on the top-step deputy wage. If an employee fails to achieve a rating of “satisfactory” on his/her annual performance evaluation, the applicable Longevity/Performance Premium shall be reduced by one percent (1%) for the year following the rating.

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ARTICLE 20 - GENERAL CONDITIONS

20.1 Range Placement. Employees shall be placed in a pay range that is consistent with their duties, responsibilities, and job content. When a promotion to a higher level of responsibility occurs, the employee will be placed in the pay step of the higher pay range that will provide not less than a three percent increase in salary.

20.1.1 Step Placement & Timing. Employees will be placed in the first step of their assigned pay schedule. All steps are annual.

20.1.2 Date of Step Advancement. Advancement to the next pay step shall occur on the first day of the month in which the anniversary date falls.

20.1.3 Promotion Anniversary Date. When an employee is promoted to a higher classification, the promotion date becomes the anniversary date for step advancement purposes.
20.1.4 Step Placement Above Entry. It is understood between the
parties that the Sheriff may place employees in a higher pay step at his discretion, subject
to the approval of the County Executive. The Guild shall be notified when this occurs.

20.2 Work in Higher Classification. Any employee required to perform work as a
sergeant, shall be paid at the entry rate of pay for sergeant provided, such duty assignment
totals eight or more hours.

20.3 Part-Time and Temporary Employees. Hourly rates shall be established for
employees working less than full-time by placing the employee in the appropriate salary
range based upon their employment with the County.

20.4 Travel Expenses. Employees traveling out of the County on official
business will be reimbursed for the reasonable cost of meals and expenses as may be
authorized by County policy.

20.5 Electronic Funds Transfer. All regular employees hired after the date of
ratification shall authorize paycheck deposit by electronic funds transfer (EFT) within thirty
(30) days of hire. Employees may temporarily stop EFT in emergency situations with at
least seven (7) days notice before a scheduled payday, but must restart EFT within three
(3) months.

20.6 Cell Phone. For employee safety and accessibility for emergency response,
the Sheriff may require each employee to obtain and maintain a personal cell phone as a
condition of employment. Employees who make their personal cell phones and numbers
available to the Sheriff’s Office for business calls and who are not supplied with a cell
phone by the Sheriff’s Office, shall be compensated $28 per month for all business use of
their phone without documentation. Commencing in 2013, the Sheriff will assign cell
phones as part of the Sheriff’s Office issued and owned equipment when assignment of a
Deputy reasonably requires such equipment.

20.7 Ability to Cross Border. All employees must maintain the ability to cross the
Canadian border. If an employee is unable to maintain his/her ability to cross the border,
the County and the Guild agree to meet and bargain the impact on said employees, if
necessary. Failure by an employee to comply with this section does not, in and of itself,
subject an employee to discipline.

ARTICLE 21 - SALARY SCHEDULE

21.1 Annual Salary Schedules. Employees on the payroll on the date of
ratification or hired after the date of ratification, shall be classified pursuant to Addendum A
and paid pursuant to Addendum B, which are a part of this Agreement by reference.

21.1.1 Wages.
• The 2011 hourly matrix shall be the hourly matrix for 2012.
• Effective retroactive to January 1, 2013, each top step deputy and top
step sergeant hourly wage rate shall be increased by two percent (2.0%). Employees
employed on the date this Agreement is adopted by the Council shall be paid two percent
(2.0%) of year-to-date gross earnings for all hours compensated in 2013 prior to
implementation of 2013 wage rates (less normal payroll taxes and deductions).
- Effective the first full pay period in January, 2014, each step in all
ranges of the 2013 hourly matrix shall be increased by two percent (2.0%).

ARTICLE 22 - GRIEVANCE PROCEDURE AND ARBITRATION

22.1 Definition. Grievance as used herein shall mean any dispute or controversy
which might arise as to the interpretation or application of this Agreement.

22.2 Grievance Procedure. The processing of grievances shall be according to
the following steps:

Step 1 – Initial Complaint. The employee and/or Guild representative must take up
the complaint with the employee’s immediate supervisor within thirty (30) calendar
days of when the employee or Guild knew, or reasonably should have known of the
facts giving rise to the alleged contract violation, or it shall be deemed null and void.
The supervisor shall attempt to resolve the grievance within fifteen (15) calendar
days. If it is not resolved within fifteen (15) calendar days after submission, the
matter may proceed to Step 2. The Sheriff’s Office will notify the Guild of its
response. Absent written agreement to the contrary settlements at this Step shall be
deemed informal and without precedential value.

Step 2 – Written Grievance. If there is no response at Step 1 or the grievance is
not resolved at Step 1, the employee or Guild representative, within the next fifteen
(15) calendar days may present the grievance, in writing to the next supervisor who
is at a level outside the bargaining unit in the chain of command. The writing shall
include the section of the agreement violated; a statement of the facts as seen by
the grieving party, the remedy sought and should be signed by the employee or
Guild member. If the grievance is not resolved at this level within twenty (20)
calendar days from the date it is received by a supervisor who is at a level outside
the bargaining unit, the matter may proceed to Step 3. The Sheriff’s Office will notify
the Guild of its response.

Step 3 - Grievance to the Sheriff or to the Guild. If the grievance is not resolved
at Step 2 the employee or the Guild, within the next fifteen (15) calendar days, may
present the written grievance to the Sheriff and a copy will be provided to Human
Resources. Grievances by the County shall be presented to the Guild at Step 3. If
not resolved at this level within the next twenty (20) calendar days, the filing party
may refer the dispute to arbitration as provided below.

22.3 Grievances of General Concern. Grievances of general concern to the
bargaining unit brought by the Guild may be initiated at Step 2 of section 22.2 (Grievance
Procedure). Grievances of discipline greater than a written reprimand and grievances of the County may start at Step 3 of section 22.2 (Grievance Procedure).

22.4 Failure to Respond. Failure by the responding party to respond within stated timeline at any step shall permit the filing party to advance the grievance to the next step without a response.

22.5 Arbitration. The Guild or County may demand arbitration within thirty (30) calendar days following the conclusion of Step 3 above by filing such demand by the County with the Guild and by the Guild with Human Resources. The County shall notify the County Executive of the dispute prior to arbitration.

22.5.1 Arbitrator Selection. The parties shall select an impartial arbitrator within ten working days after service of the demand for arbitration. If the parties fail to agree within this period upon an arbitrator who is able and willing to serve, either party may, within five (5) working days thereafter, request the State or Federal Mediation and Conciliation Service or AAA to submit a list of eleven (11) disinterested persons who are qualified and willing to act as an impartial arbitrator. From this list the County will strike two names, then the Guild two names until the single name remaining is appointed as the arbitrator.

22.5.2 Hearing Commencement. The arbitrator shall commence the hearing within a reasonable time after his selection and shall render his award in writing within thirty (30) days after the close of the arbitration hearing. The award of the arbitrator shall be rendered in writing together with his written findings and conclusions and shall be final and binding upon the parties to this Agreement and upon the complaining employee and employees, if any.

22.5.3 Arbitrator’s Fees. The arbitrator’s fees and expenses, the cost of any hearing room and the cost of the shorthand reporter and of the original transcript, if requested by the arbitrator, shall be borne equally by the County and the Guild. All other expenses and costs shall be borne by the parties incurring them.

22.5.4 Arbitration Venue. Venue for all grievance arbitrations shall be Whatcom County unless otherwise mutually agreed.

22.6 Time Limitations. The County and the Guild agree to comply with the time limitations set forth above and either party shall have the right to insist that the time limitations be complied with, provided, however, said time limitations may be waived by mutual agreement.

22.7 No Lockout, Strike or Slow Down. All grievances as herein defined shall be settled in accordance with the procedures outlined above and there shall be no lockout, strike, interruption of work, slow down, or other interferences with production during the life of this Agreement.
22.8 **Election of Remedies.** Any action appealed to the Civil Service Commission shall not be subject to the grievance procedure herein. Any matter taken to the grievance procedure may not be appealed to the Civil Service Commission.

**ARTICLE 23 - SENIORITY DEFINITION**

Seniority lists for each unit covered by this Agreement will be maintained separately for the purpose of layoff, recall, vacation, extra overtime, and shift bidding. Employees transferring from one unit to another will have their names placed at the bottom of the new unit list, provided however, total length of the service with the County will be credited to such employee for the purpose of vacations, sick leave, and longevity accrual. Seniority units shall consist of the following two units: (1) Sergeants; (2) all other deputy sheriff’s in bargaining unit.

**ARTICLE 24 - MANAGEMENT RIGHTS**

Any and all rights concerned with the management operations of the County and its Sheriff’s Office are exclusively that of the County unless otherwise provided by the terms of this Agreement. The County has the authority to adopt reasonable rules for the operation of the Sheriff’s Office and the conduct of its employees; provided, such rules are not in conflict with the provisions of this Agreement, bargaining rights, or with applicable law. The County has the right to discipline, temporarily lay off or discharge employees; to assign work and determine duties of employees; to schedule hours of work, to determine the number of employees to be assigned to duty at any time and such other rights as are normal to County government and not expressly limited in this Agreement or applicable laws.

**ARTICLE 25 - INDEMNITY AND HOLD HARMLESS AGREEMENT**

The Employer agrees to hold harmless employees for all damages, including attorney fees, in accordance with the terms of the County’s general liability policy (a copy of which has been provided to the Guild) or a policy which is substantially similar.

**ARTICLE 26 - TERMINATION CLAUSE**

26.1 **Duration.** This Agreement shall be in full force and effect from the date of Council adoption, to and including December 31, 2014, except as noted in this Agreement and shall continue in full force and effect from year to year thereafter, unless written notice of desire to cancel or terminate the Agreement is served by either party upon the other at least sixty (60) days prior to the date of expiration.
THIS AGREEMENT IS EXECUTED THIS 9th day of July, 2013, by the duly authorized representative of the parties hereto.

WHATCOM COUNTY DEPUTY SHERIFF'S GUILD

By: ____________________________
    Steve Harris
    President

WHATCOM COUNTY, WASHINGTON

By: ____________________________
    Jack Louws
    Whatcom County Executive

APPROVED AS TO FORM:

By: ____________________________
    Daniel K. Saboon
    Chief Civil Deputy Prosecutor

__________________________________________
    Date of Council Approval
ADDENDUM A

TO THE AGREEMENT
by and between
WHATCOM COUNTY, WASHINGTON
and
WHATCOM COUNTY DEPUTY SHERIFF’S GUILD

POSITION TITLE INDEX

<table>
<thead>
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<th>Range</th>
<th>Position</th>
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<tr>
<td>20, 21, 22, 23, 24, 25</td>
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## ADDENDUM B

### 2012 - effective the first full pay period in 2012

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<th>Range</th>
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<th>Step 2</th>
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<th>Step 4</th>
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### 2013 Hourly Matrix – effective retroactive to January 1, 2013

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<table>
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<th>Step 2</th>
<th>Step 3</th>
<th>Step 4</th>
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### 2014 Hourly Matrix – effective the first full pay period in 2014

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<th>Step 2</th>
<th>Step 3</th>
<th>Step 4</th>
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SIGNING BONUS
Employees employed on the date this Agreement is adopted by the Council will receive a one-time signing bonus of $400.00 (minus appropriate payroll taxes and deductions).

LONGEVITY (% of top deputy step)
The parties have agreed that in compensating employees for the longevity premium as set out in Article 19, the following compensation per hour shall be used in payroll calculations.

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<td>3.50%</td>
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<td>5.00%</td>
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<td>$35.04</td>
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ADDENDUM C
ADVICE OF ADMINISTRATIVE INVESTIGATION

Date:

To:

From:

Subj:

As required by section 2.7.1 (Due Process) of the Guild Collective Bargaining Agreement this document notifies you that you are the subject employee in connection with an Investigation that has been authorized by the Sheriff.

An interview will be performed at a later date. Prior to the interview, you will receive an Advice of Investigative Interview providing you with the name of the investigating officer, the name and rank of the interviewer and the names of others who will be in attendance, the specific allegations and the policy violations. All involved parties shall be bound to the NOTICE provisions contained at the end of this Advisement.

☐ THIS IS A CLASS I ADMINISTRATIVE INVESTIGATION

☐ THIS IS A CLASS II ADMINISTRATIVE INVESTIGATION

This investigation is to determine the facts and possible violations of Sheriff's Office Policy/Procedure, Rules and Regulations regarding:

Alleged Acts of Misconduct:

Alleged Policy Violations:
NOTICE:
Effective immediately, you are directed to have no communication regarding this matter, either on-duty or off-duty, with any person including potential witnesses or persons who may be materially involved with the administrative investigation.

This directive means you are prohibited from communicating to these individuals about this matter by any means to include, but not be limited to: fax, telephone, mail, electronic messaging, in-person, person to person relay or any other form of communication.

Failure to comply with this directive shall be considered Insubordination, and may result in discipline up to and including termination.

You are not prohibited from discussing this matter with your Guild/union representative, Guild legal advisor, or your personal attorney.

This directive will remain in effect until either the adjudication or conclusion of the administrative investigation. Adjudication or conclusion of the case is when the employee has been notified by the appointing authority of a finding.

Acknowledgment:
I certify that I have read this advisement form in its entirety (2 pages). I acknowledge that I understand the contents and that I have received a copy of this document.

Printed name

______________________________   ______________________
Signature                           Date

Investigation Advisement made by:   (Print name)

______________________________   ____________   ____________
Date                           Time                           Place
ADDENDUM D

ADVICE OF ADMINISTRATIVE INTERVIEW AS REQUIRED BY SECTION 2.7.3.1 (Interview Advisement) OF THE GUILD COLLECTIVE BARGAINING AGREEMENT

Date:

To:

From:

Subj:

☐ YOU ARE THE SUBJECT EMPLOYEE

☐ YOU ARE A WITNESS EMPLOYEE

in connection with an Investigation that has been authorized by the Sheriff.

The Officer in Charge of this Investigation is: ____________________________

This interview is to be performed by ____________________________ (name, rank)

and also in attendance will be ____________________________, all of whom shall be

bound to the NOTICE provisions contained at the end of this Advisement.

☐ THIS IS A CLASS I ADMINISTRATIVE INVESTIGATION

☐ THIS IS A CLASS II ADMINISTRATIVE INVESTIGATION

A. This investigation is to determine the facts and possible violations of Sheriff's Office

Policy/Procedurc, Rules and Regulations regarding:

Allegations:

For a Subject of the investigation, state the specific factual nature of investigation

For a Witness in the investigation, state the purpose of interview

Possible Policy/Rules/Regulations Violations include but are not limited to:

(this section is optional for notice to a witness employee)
B. Failure to fully cooperate by truthfully answering all questions specifically and directly related to the matter under investigation and/or by providing investigators with all potentially relevant information will result in disciplinary action, which may include discharge from the Sheriff's Office.

C. All Class I Administrative Investigations shall be audio recorded. Class II investigative interviews are generally not recorded, but will be audio recorded at the request of either party. In a Class II interview, should one party object to the use of an audio recording then a transcript shall be made and be the only official record. Class II transcription expenses shall be at the expense of the requesting party.

D. You may request and obtain the presence of a Guild/Union representative during the investigatory interview (if no request is made there shall be no obligation of representative presence) provided that:

1. The Guild/Union representative shall not disclose the nature or content of the interview to any person, except as necessary for the Guild to meet its duty of fair representation. The Guild/Union representative shall not obstruct the investigation, including revealing information to others except as permitted herein.

2. In addition to observing the interview, the Guild/Union representative, may reasonably participate in accordance with 1 above, by:
   a. Consulting with the employee before the interview begins;
   b. Reasonably raising valid objections and consulting with/advising the employee about a privilege she/he has the right to assert once questioning starts;
   c. Assisting the employee if questions are ambiguous or misleading by rephrasing the question or asking that the question be rephrased;
   d. Interceding if questions become harassing or intimidating; and
   e. Asking additional questions and seek to clarify responses.

3. During the investigatory interview, the Guild/Union representative may not;
   a. Interrupt if the employee is asked to give an initial version of events;
   b. Consult with the employee before he/she answers every question;
   c. Otherwise interfere with appropriate questioning by the investigator.

4. The Guild/Union representative may not be the spouse of the subject employee or a witness in the matter under investigation.

E. Employees subject to investigation shall be given at least two (2) hours notice before an interview. The failure of an employee subject to investigation to obtain a Guild/Union representative within a reasonable time, (generally two hours) is not an acceptable basis for unreasonably delaying an investigative interview with the understanding the interview shall be conducted at a reasonable hour, preferably at a time when the employee is on duty, or during the normal waking hours for the employee. Upon request, the employee will be granted a twenty-four (24) hour delay, unless the exigency of the investigation requires otherwise.
F. You have the right to suggest specific witnesses to be interviewed by the investigator. Upon notice of completion, you have the right to review and make corrections and/or additions to your transcript prior to the conclusion of the investigation.

G. Statements made to the investigator during an Administrative Investigation:

1. Will become part of the investigative file for the use of the Sheriff only to the extent permitted by law and subject to all legal protection available as a private confidential and privileged communication to the extent permitted by law; and

2. Will not be provided to other witnesses or interviewees involved in the investigation by the investigator such that the information is attributable to any individual identified by the investigator; and

3. Are not to be communicated to any person by you except to a Guild/Union representative if necessary to protect the legal rights of a witness or subject. You may consult with your private attorney.

4. Provided, that the referral of the summary of facts and findings to the involved employee’s chain of command, Human Resources, or the Prosecuting Attorney’s Office shall not constitute a breach of any privilege, privacy, or confidentiality; and provided further that should the involved employee choose to appeal the resulting personnel or disciplinary action and thus put at issue the merits of that action, statements given, and persons involved in the investigation may be asked by the Sheriff’s Office or the subject employee to give a sworn testimony regarding their involvement. If other disclosure is necessary, notice will be given to the Guild.

H. The investigator will read the following warning into the recording at the start of the interview:

You are about to be questioned as part of an administrative investigation being conducted by the Whatcom County Sheriff’s Office. You are hereby ordered to fully answer the questions that are put to you that relate to information you possess and/or your conduct and/or job performance, and to cooperate with this investigation. You are required to answer questions relating to the performance of your official duties or fitness for duties. Your failure to answer truthfully and cooperate with this investigation can be the subject of disciplinary action in and of itself, including dismissal. The statements you make or evidence gained as a result of this required cooperation may be used for administrative purposes but will not be used or introduced into evidence in a criminal proceeding.
NOTICE:
Effective immediately, except as otherwise provided above, you are directed to have no communication regarding this matter, either on-duty or off-duty, with any person including potential witnesses or persons who may be materially involved with the administrative investigation.
This directive means you are prohibited from communicating to these individuals about this matter by any means to include, but not be limited to: fax, telephone, mail, electronic messaging, in-person, person to person relay or any other form of communication.

Failure to comply with this directive shall be considered Insubordination, and may result in discipline up to and including termination.

You are not prohibited from discussing this matter with your Guild/union representative, Guild legal advisor, or your personal attorney.

This directive will remain in effect until either the adjudication or conclusion of the administrative investigation. Adjudication or conclusion of the case is when the employee has been notified by the appointing authority of a finding.

Acknowledgment:

I certify that I have read this advisement form in its entirety (4 pages). I acknowledge that I understand the contents and that I have received a copy of this document.

____________________________________
Printed name

____________________________________
Signature

Advisement made by: _______________________________(Print name)

_________________________   ___________________________   ___________________________
Date  Time  Place

Whatcom County Sheriff's Office ADVICE OF ADMINISTRATIVE INTERVIEW  Page 4 of 4

Deputy Initials
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
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<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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<td>6/3/13</td>
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**TITLE OF DOCUMENT:**

Agreement between the Health Dept. and the Opportunity Council

**ATTACHMENTS:**
- Contract Info Sheet
- Memo to Executive
- 2 Originals of Contract Amendment

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( X ) NO</th>
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<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( ) NO</td>
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</table>

<table>
<thead>
<tr>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes</th>
<th>( X ) NO</th>
</tr>
</thead>
</table>

**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.)

This contract provides funding to the Opportunity Council for operational costs for the transitional housing program, case management activities for a continuum of housing services, limited transportation assistance, and hygiene product distribution for DSHS Medical Care Recipients. The amendment provides funding for hygiene products, transportation assistance and program personnel for the second half of 2013.

**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.
Enclosed are two (2) originals of a contract amendment between Whatcom County Health Department and Opportunity Council for your review and signature.

- **Background and Purpose**
  This amendment funds the transportation and hygiene product assistance programs for the last half of 2013. In the last six months, this program has provided transportation and hygiene product assistance to 372 and 277 individuals respectively. Through its homeless housing programs, Opportunity Council provides a continuum of housing services including emergency and transitional housing, prevention assistance, ongoing rental subsidies, and case management support for individuals and families, including to those waiting for housing assistance. This contract funds operating costs for transitional housing, case management support for a continuum of housing services, and limited transportation and hygiene product assistance for DSHS Medical Care Recipients.

- **Funding Amount and Source**
  The funding source for this contract is the Washington State Department of Commerce (DOC) Consolidated Homeless and Housing and Essential Needs (HEN) Grants, and County-held SHB 2060 Housing Program funds. This amendment adds $22,610 from the State Hen Grant for the last half of 2013. These funds are included in the 2013 budget. Council approval is required as the value of this amendment is more than a 10% increase from the previously approved contract budget. An agenda bill is attached.

- **Differences from Previous Contract**
  This amendment adds funding from the Department of Commerce to provide hygiene products, transportation assistance, and program personnel for the last half of 2013.

The contract history is:
- Original amount $ 246,776
- Amendment #1 $ 33,773
- Amendment #2 $ 282,611
- Amendment #3 $ 20,626
- Amendment #4 $ 22,610
- Revised total maximum consideration not to exceed $ 606,396

Please contact Gail de Hoog at extension 30693 if you have any questions regarding this amendment.

Encl.
# WHATCOM COUNTY CONTRACT INFORMATION SHEET

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Whatcom County Health Department</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Administrator:</td>
<td>Gail de Hoog</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Opportunity Council</td>
</tr>
<tr>
<td>Is this a New Contract?</td>
<td>No</td>
</tr>
<tr>
<td>Is this a grant agreement?</td>
<td>No</td>
</tr>
<tr>
<td>Is this contract grant funded?</td>
<td>No</td>
</tr>
<tr>
<td>Is this the result of a RFP or Bid process?</td>
<td>No</td>
</tr>
<tr>
<td>Is this contract excluded from E-Verify?</td>
<td>No</td>
</tr>
<tr>
<td>If no, include Attachment D Contractor Declaration Form</td>
<td>If yes, indicate qualified exclusion(s) below:</td>
</tr>
<tr>
<td>Contract Amount (sum of orig contract amount and any prior amendments)</td>
<td>$583,786.00</td>
</tr>
<tr>
<td>This Amendment Amount:</td>
<td>$22,610.00</td>
</tr>
<tr>
<td>Total Amended Amount:</td>
<td>$606,396.00</td>
</tr>
<tr>
<td>Scope of Services:</td>
<td>[Insert language from contract (Exhibit A) or summarize; expand space as necessary]</td>
</tr>
<tr>
<td>This contract provides funding to the Opportunity Council for operational costs for the transitional housing program, case management activities for a continuum of housing services, limited transportation assistance, and hygiene product distribution for DSHS Medical Care Recipients. The amendment provides funding for hygiene products, transportation assistance and program personnel for the second half of 2013.</td>
<td></td>
</tr>
<tr>
<td>Term of Contract: 1/1/12 – 12/31/13</td>
<td>Expiration Date: 12/31/13 (Can extend to 12/31/14 per Section 10.2)</td>
</tr>
</tbody>
</table>

**Contract Routing Steps & Signoff: [sign or initial]** | **[indicate date transmitted]**
---|---
1. Prepared by: | [pj]
2. Attorney reviewed: | [gallery]
3. AS Finance reviewed: | [mcd]
4. IT reviewed if IT related: | [checkmark]
5. Corrections made: | [checkmark]
6. Attorney signoff: | [checkmark]
7. Contractor signed: | [checkmark]
8. Submitted to Exec Office: | [checkmark]
9. Council approved (if necessary): | [checkmark]
10. Executive signed: | [checkmark]
11. Contractor Original Returned to dept: | [checkmark]
12. County Original to Council | [checkmark]
WHATCOM COUNTY HEALTH DEPARTMENT CONTRACT EXTENSION

Whatcom County # 201111047

PARTIES:
Whatcom County
Whatcom County Courthouse
311 Grand Avenue
Bellingham, WA 98225

AND CONTRACTOR:
Opportunity Council
1111-Cornwall Avenue
Bellingham, WA 98225

AMENDMENT NUMBER: 4

CONTRACT PERIODS:
Original: 01/01/2012 – 12/31/2012
Amendment #1: 07/16/2012 – 12/31/2012
Amendment #2: 01/01/2013 – 12/31/2013
Amendment #3: 05/20/2013 – 12/31/2013
Amendment #4: 07/01/2013 – 12/31/2013

THE CONTRACT IDENTIFIED HEREIN, INCLUDING ANY PREVIOUS AMENDMENTS THERETO, IS HEREBY EXTENDED AS SET FORTH IN THE DESCRIPTION OF THE EXTENSION BELOW BY MUTUAL CONSENT OF ALL PARTIES HERETO

DESCRIPTION OF EXTENSION:

1. Remove Exhibit B "Compensation" and replace it with the attached Exhibit B which increases section C, Housing and Essential Needs budget by $22,610.

2. The effective date of the extension is July 1, 2013 regardless of the date signed.

3. Funding for this extended contract period (01/01/2013 – 12/31/2013) is not to exceed $325,847

4. The funding for the total contract period (01/01/2012 – 12/31/2013) is not to exceed $606,396.
ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO REMAIN IN FULL FORCE AND EFFECT.

ALL PARTIES IDENTIFIED AS AFFECTED BY THIS EXTENSION HEREBY ACKNOWLEDGE AND ACCEPT THE TERMS AND CONDITIONS OF THIS EXTENSION.

Signature is required below.

==============================================================
APPROVAL AS TO PROGRAM: Anne Deacon, Human Services Manager Date 6/18/13

DEPARTMENT HEAD APPROVAL: Regina A. Delahunt, Health Department Director Date 6/17/13

APPROVAL AS TO FORM: Elizabeth L. Gallery, Civil Deputy Prosecutor Date 6/19/13

FOR THE CONTRACTOR: David W. Finet

Contractor Signature  | EXECUTIVE DIRECTOR  | Date 6/13/2013

STATE OF WASHINGTON)  
COUNTY OF WHATCOM  

"On this 13th day of June, 2013, before me personally appeared and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof:

[Signature]  
NOTARY PUBLIC in and for the State of Washington Residing at Bellingham.

My Commission expires: 9/6/2014

FOR WHATCOM COUNTY:

Jack Louws, County Executive Date

STATE OF WASHINGTON)  
COUNTY OF WHATCOM  

On this _____ day of __________________, 2013, 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.

[Signature]  
NOTARY PUBLIC in and for the State of Washington Residing at Bellingham.

My Commission expires:
<table>
<thead>
<tr>
<th>Funding Source/Line Item activity</th>
<th>Invoice Support Required</th>
<th>Estimated Unit Cost</th>
<th>Budget</th>
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<tbody>
<tr>
<td><strong>A. 2060 Activities</strong></td>
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<td></td>
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</tr>
<tr>
<td>Repairs and maintenance</td>
<td>Copies of invoices detailing service provided and vendor paid</td>
<td>$6,000</td>
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<tr>
<td>Administrative / Indirect Rate</td>
<td>10% Subtotal R&amp;M</td>
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<tr>
<td>Utilities</td>
<td>Copies of invoices detailing service provided and vendor paid</td>
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<tr>
<td><strong>SUBTOTAL 2060</strong></td>
<td></td>
<td><strong>$7,000</strong></td>
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<tr>
<td><strong>B. Consolidated Homeless Grant</strong></td>
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<tr>
<td>Housing Case Management</td>
<td>Report of staff name, position and hours worked</td>
<td>$30.07/hr</td>
<td>$227,010</td>
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<tr>
<td><strong>Subtotal HCM</strong></td>
<td></td>
<td><strong>$227,010</strong></td>
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<tr>
<td>Transitional Housing Facility Support</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Property Management Personnel</td>
<td>Report of staff name, position and hours worked</td>
<td>$28.56/hr</td>
<td>$5,695</td>
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<td>Utilities</td>
<td>Copies of invoices detailing service provided and vendor paid</td>
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<td>$14,000</td>
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<td>Administrative / Indirect Rate</td>
<td>10% Subtotal Trans Hsg</td>
<td>1,970</td>
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<td><strong>SUBTOTAL CHG</strong></td>
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<td><strong>$248,675</strong></td>
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<td><strong>C. Housing and Essential Needs</strong></td>
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<td>Hygiene Product Assistance</td>
<td>Copies of invoices detailing service provided and vendor paid</td>
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<td>$42,764</td>
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<td>Transportation Assistance</td>
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<td>$16,000</td>
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<td>Personnel</td>
<td>Report of staff name, position and hours worked</td>
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<td>Administrative / Indirect Rate</td>
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<td>$3,972</td>
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<tr>
<td><strong>SUBTOTAL HEN</strong></td>
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<td><strong>$70,172</strong></td>
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<tr>
<td><strong>TOTAL CONTRACT</strong></td>
<td></td>
<td><strong>$325,847</strong></td>
<td></td>
</tr>
</tbody>
</table>

I. Invoicing

The Contractor shall submit itemized invoices on a monthly basis in a format approved by the County. Monthly invoices must be submitted by the 15th of the month following the month of service. In the event there is a conflict within this agreement in regards to the payment of invoices, Exhibit B controls.

1. The Contractor shall submit invoices to (include contract/PO #):
   Attention: Business Office
   Whatcom County Health Department
   509 Girard Street
   Bellingham, WA 98225
2. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The County may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.

3. Invoices must include the following statement, with an authorized signature and date:

   I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.

4. Duplication of Billed Costs or Payments for Service: The Contractor shall not bill the County for services performed or provided under this contract, and the County shall not pay the Contractor, if the Contractor has been or will be paid by any other source, including grants, for those costs used to perform or provide the services in this contract. The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.
Agreement between the Health Dept. and North Sound Mental Health Administration

ATTACHMENTS:
Contract Info Sheet
Memo to Executive
3 Originals of Contract Agreement

SEPA review required? ( ) Yes ( X ) NO
SEPA review completed? ( ) 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.)

This contract provides local behavioral health funding to the Crisis Stabilization beds program at the Crisis Triage Facility as well as operational funding for the Rainbow Center. The beds and the Rainbow Center are operated by Whatcom Counseling and Psychiatric Clinic and are funded in part by the North Sound Mental Health Administration (NSMHA).

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
RE: North Sound Mental Health Administration, (NSMHA) for Whatcom Counseling and Psychiatric Clinic (WCPC) Crisis Stabilization Bed Program at the Triage Facility, and the Rainbow Center Contract Amendment 3

DATE: June 18, 2013

Enclosed are three (3) originals of a contract amendment between Whatcom County and the North Sound Mental Health Administration for your review and signature.

- **Background and Purpose**
  The North Sound Mental Health Administration (NSMHA) currently contracts with Whatcom Counseling and Psychiatric Clinic (WCPC) as the sole provider of Crisis Stabilization Beds located at our Crisis Triage Facility as well as the Rainbow Center in Bellingham. State funding cuts for mental health programs have prompted NSMHA to reduce funding for these local services. NSMHA has therefore reduced their reimbursement to WCPC for the Rainbow Center to a level that no longer covers the actual cost of operations. The Whatcom County Behavioral Health Advisory Board and the Behavioral Health Revenue Advisory Committee (BHRAC) support these programs as critical components of our continuum of care service system, and support the utilization of local funds to keep the programs operational.

- **Funding Amount and Source**
  This amendment, in the amount of $50,000, is funded with local Chemical Dependency/Mental Health Program Funds. County Council approval is required because this amendment exceeds a 10% increase in compensation. An Agenda bill is attached.

- **Differences from Previous Contract**
  This amendment adds $50,000 and makes no change to the scope of work.

  The contract history is:
  - Original amount $286,000
  - Amendment #1 $411,156
  - Amendment #2 $227,655
  - Amendment #3 $ 50,000
  - Revised total maximum consideration not to exceed $974,811

Please contact Anne Deacon at extension 50877 if you have any questions regarding this amendment. Encl.
## WHATCOM COUNTY CONTRACT INFORMATION SHEET

**Originating Department:** Whatcom County Health Department

**Contract Administrator:** Anne Deacon

**Contractor's / Agency Name:** North Sound Mental Health Administration (NSMHA)

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is this a New Contract?</td>
<td>No</td>
</tr>
<tr>
<td>If not, is this an Amendment or Renewal to an Existing Contract?</td>
<td>Yes</td>
</tr>
<tr>
<td>Yes __ No X__</td>
<td></td>
</tr>
<tr>
<td>Yes X__ No __</td>
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<tr>
<td>If yes, previous number(s):</td>
<td>201103018-2</td>
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<tr>
<td>Is this a grant agreement?</td>
<td>Yes</td>
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<tr>
<td>Yes __ No X__</td>
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</tr>
<tr>
<td>If yes, grantor agency contract number(s)</td>
<td></td>
</tr>
<tr>
<td>CFDA number</td>
<td></td>
</tr>
<tr>
<td>Is this contract grant funded?</td>
<td>No</td>
</tr>
<tr>
<td>Yes __ No X__</td>
<td></td>
</tr>
<tr>
<td>If yes, associated Whatcom County grant contract number(s)</td>
<td></td>
</tr>
<tr>
<td>Is this contract the result of a RFP or Bid process?</td>
<td>Yes</td>
</tr>
<tr>
<td>Yes __ No X__</td>
<td></td>
</tr>
<tr>
<td>If yes, RFP and Bid number(s)</td>
<td></td>
</tr>
<tr>
<td>Cost Center: 124100</td>
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<tr>
<td>Is this contract excluded from E-Verify?</td>
<td>No</td>
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<tr>
<td>Yes X__</td>
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<tr>
<td>If no, include Attachment D Contractor Declaration Form</td>
<td></td>
</tr>
<tr>
<td>If yes, indicate qualified exclusion(s) below:</td>
<td></td>
</tr>
<tr>
<td>__ Contract less than $100,000.</td>
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<tr>
<td>X Professional services agreement for certified/licensed professional</td>
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<tr>
<td>__ Work is for less than 120 days</td>
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<tr>
<td>__ Contract for Commercial off the shelf items (COTS)</td>
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<tr>
<td>X Interlocal Agreement (between Govt.)</td>
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<tr>
<td>__ Public Works Dept. - Local Agency/Federally Funded FHWA</td>
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<tr>
<td>Contract Amount: (sum of orig contract amt and any prior amendments)</td>
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<tr>
<td>$ 924,811.00</td>
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<td>This Amendment Amount:</td>
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<td>$ 50,000.00</td>
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<td>Total Amended Amount:</td>
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<tr>
<td>$ 974,811.00</td>
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<tr>
<td>If a Professional Services Agreement is more than $15,000 or a Bid is</td>
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</tr>
<tr>
<td>more than $35,000, please submit an Agenda Bill for Council approval</td>
<td></td>
</tr>
<tr>
<td>and a supporting memo. Any amendment that provides either a 10% increase</td>
<td></td>
</tr>
<tr>
<td>or more than $10,000, whichever is greater, must also go to Council</td>
<td></td>
</tr>
<tr>
<td>and will need an agenda bill and supporting memo. If less than these</td>
<td></td>
</tr>
<tr>
<td>thresholds, just submit to Executive with supporting memo for approval.</td>
<td></td>
</tr>
</tbody>
</table>

**Scope of Services:** [Insert language from contract (Exhibit A) or summarize; expand space as necessary]

This contract provides local behavioral health funding to the Crisis Stabilization beds program at the Crisis Triage Facility as well as operational funding for the Rainbow Center. These beds are operated by Whatcom Counseling and Psychiatric Clinic and are funded in part by the North Sound Mental Health Administration (NSMHA).

**Term of Contract: 4/1/11 – 12/31/13**

**Expiration Date: 12/31/13**

**Contract Routing Steps & Signoff:** [sign or initial] [indicate date transmitted]

1. Prepared by: pi
   - Date: 5/30/13 [electronic]
2. Attorney reviewed: lgally
   - Date: 6/4/13 [electronic]
3. AS Finance reviewed: mdc
   - Date: 6/3/13 [electronic]
4. IT reviewed if IT related: no
   - Date: [electronic] hard copy printed
5. Corrections made: no
   - Date: 6/13/13
6. Attorney signoff: no
   - Date: 6/25/13 [summary via electronic; hardcopies]
7. Contractor signed: yes
8. Submitted to Exec Office: no
9. Council approved (if necessary): no
10. Executive signed: no
11. Contractor Original Returned to dept: yes
12. County Original to Council: yes

---

207
WHATCOM COUNTY HEALTH DEPARTMENT CONTRACT AMENDMENT

Whatcom County # 201103018

PARTIES:
Whatcom County
Whatcom County Courthouse
311 Grand Avenue
Bellingham, WA 98225

AMENDMENT NUMBER: 3

CONTRACT PERIODS:
Original: 04/01/2011-12/31/2011
Amendment 1: 01/01/2012-12/31/2012
Amendment 2: 01/01/2013 – 12/31/2013
Amendment 3: 07/15/2013 – 12/31/2013

AND CONTRACTOR:
North Sound Mental Health Administration (NSMHA)
117 N. 1st Street, Suite 8
Mount Vernon, WA 98273-2858

THE CONTRACT IDENTIFIED HEREIN, INCLUDING ANY PREVIOUS AMENDMENTS THERETO, IS HEREBY AMENDED AS SET FORTH IN THE DESCRIPTION OF THE AMENDMENT BELOW BY MUTUAL CONSENT OF ALL PARTIES HERETO

DESCRIPTION OF AMENDMENT:

1. Amend Interlocal Cooperative Agreement, by deleting the first sentence of Section 2 ‘RESPONSIBILITIES’ and replacing it with the following:

“For the 2013 contract period, the County will provide up to $118,304 for Crisis Stabilization facility based services to include Medical personnel who are on-site and on-call. The County will provide an additional amount of $159,351 to support operation of the Rainbow Center. Monies from local Behavioral Health Revenue, also known as the Chemical Dependency/Mental Health Program Fund will fund the total contract amount to NSMHA, not to exceed $277,655.”

2. Amend the Interlocal Agreement by deleting Section 4 narrative and replacing it with the following:

“The County shall pay to NSMHA an amount not to exceed $286,000.00 in calendar year 2011, $411,156.00 in calendar year 2012, and $277,655.00 in calendar year 2013. These monies shall be used exclusively to fund the Crisis Stabilization services at the Triage facility, services of medical personnel who are on-site and who provide on-call services to the Triage facility, and operations of the Rainbow Center in accordance with the terms stated in Section 2 of this Agreement.”

3. The effective date of the amendment is July 15, 2013.
ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO REMAIN IN FULL FORCE AND EFFECT.

ALL PARTIES IDENTIFIED AS AFFECTED BY THIS AMENDMENT HEREBY ACKNOWLEDGE AND ACCEPT THE TERMS AND CONDITIONS OF THIS AMENDMENT.

Signature is required below.

APPROVAL AS TO PROGRAM:
Anne Descom, Human Services Manager 6/18/13

DEPARTMENT HEAD APPROVAL:
Regina A. Delahunt, WCHD Director 6/20/13

APPROVAL AS TO FORM:
Elizabeth L. Gallery, Civil Deputy Prosecutor 6/21/13

FOR THE CONTRACTOR:

Joe Valentine, Executive Director 6-13-13

Contractor Signature

Print Name and Title

STATE OF WASHINGTON
COUNTY OF WHATCOM

On this _______ day of ____________________, 2013, before me personally appeared ________, to me known to be the ________________ 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:

FOR WHATCOM COUNTY:

Jack Louws
County Executive

STATE OF WASHINGTON
COUNTY OF WHATCOM

On this _______ day of ____________________, 2013, 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:
**Local Agency Standard Consultant Agreement - Supplement No. 2 (BergerABAM, Inc.)**

**ATTACHMENTS:**

1. Memo
2. Project Summary Sheet
3. Contract Information Sheet
4. Local Agency Standard Consultant Agreement - Supplement No. 2

**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 Supplement No. 2 will provide additional environmental permitting coordination, cathodic protection design, and a temporary sedimentation pond design to bring the project to the 100% PS&E level.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

- **Related County Contract:**
  - WCC No. 201108020-1

- **Related File Numbers:**
  - CRP No. 910001

- **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](http://www.co.whatcom.wa.us/council).
**WHATCOM COUNTY CONTRACT INFORMATION SHEET**

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Public Works</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Administrator:</td>
<td>James E. Lee, P.E., Engineering Manager</td>
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<tr>
<td>Contractor’s / Agency Name:</td>
<td>BergerABAM, Inc.</td>
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<table>
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<th>Is this a New Contract?</th>
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</thead>
<tbody>
<tr>
<td>If not, is this an Amendment or Renewal to an Existing Contract?</td>
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<tr>
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<thead>
<tr>
<th>Is this a grant agreement?</th>
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<th>X No</th>
</tr>
</thead>
<tbody>
<tr>
<td>If yes, grantor agency contract number(s):</td>
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<td></td>
</tr>
<tr>
<td>CFDA number:</td>
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<table>
<thead>
<tr>
<th>Is this contract grant funded?</th>
<th>Yes</th>
<th>X No</th>
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<th>X No</th>
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<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this contract excluded from E-Verify?</th>
<th>Yes</th>
<th>X No</th>
</tr>
</thead>
<tbody>
<tr>
<td>If no, include Attachment D Contractor Declaration</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If yes, indicate qualified exclusion(s) below:
- Contract less than $100,000.
- Work is for less than 120 days
- Interlocal Agreement (between Govt.)

<table>
<thead>
<tr>
<th>Contract Amount: (sum of orig contract and any prior amendments)</th>
<th>$163,838.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>This Amendment Amount:</td>
<td>$38,117.00</td>
</tr>
<tr>
<td>Total Amended Amount:</td>
<td>$201,955.00</td>
</tr>
</tbody>
</table>

If a Professional Services Agreement is more than $15,000 or a Bid is more than $35,000, please submit an Agenda Bill for Council approval and a supporting memo. Any amendment that provides either a 10% increase in amount or more than $10,000, whichever is greater, must also go to Council and will need an agenda bill and supporting memo. If less than these thresholds, just submit to Executive with supporting memo for approval.

**Scope of Services**

BergerABAM, Inc. has completed the design to the 90% PS&E level for the project. In order to complete the design, a supplement is required to cover additional environmental permitting coordination, cathodic protection design, and a temporary sedimentation pond design. These efforts will bring the project to the bid ready, 100% PS&E level. Construction is planned to start in summer 2014. This project is listed as Item No. 30 in the 2013 Annual Construction Program.

**Term of Contract: N/A**

Expiration Date: December 31, 2013
MEMORANDUM

To: The Honorable Jack Louws, Whatcom County Executive, and Honorable Members of the Whatcom County Council

Through: Frank M. Abart, Director

From: Joseph P. Rutan, P.E., County Engineer/Assistant Director
       James E. Lee, P.E., Engineering Manager

Date: June 26, 2013
Re: Portal Way Dakota Creek Bridge No. 500 Seismic Retrofit CRP No. 910001; Whatcom County Contract No. 201108020-1
Local Agency Standard Consultant Agreement - Supplement No. 2

Attached please find two (2) originals of Supplement No. 2 for the above-referenced Local Agency Standard Consultant Agreement between BergerABAM, Inc. and Whatcom County.

Requested Action
Public Works respectfully requests that the County Executive, upon approval by the Whatcom County Council, sign the attached Supplement No. 2 contract with BergerABAM, Inc.

Background and Purpose
BergerABAM, Inc. has completed the design to the 90% PS&E level for the project. In order to complete the design, a supplement is required to cover cathodic protection design, a temporary sedimentation pond design, and additional environmental permitting coordination. These items became necessary through the design process under the original contract. These efforts will bring the project to the bid ready, 100% PS&E level. Construction is planned to start in summer 2014. This project is listed as Item No. 30 in the 2013 Annual Construction Program.

Funding Amount and Source
The original contract amount was $163,838. This supplement adds an additional $38,117 to the existing design contract with BergerABAM, Inc. for a new total contract amount of $201,955.

The original contract amount was funded through local road funds, but the project has recently received $2,778,296 federal Bridge Replacement Advisory Committee monies. These grant funds will cover Supplement No. 2’s additional preliminary engineering costs and construction costs. These funds are 100% funded and require no local match.

Please contact Kevin Thompson at extension 50690 if you have any questions or concerns regarding these items.
The Local Agency of Whatcom County desires to supplement the agreement entered into with BergerABAM Inc. and executed on 9/14/2011 and identified as Agreement No. 201108020.

All provisions in the basic agreement remain in effect except as expressly modified by this supplement.

The changes to the agreement are described as follows:

I

Section 1, SCOPE OF WORK, is hereby changed to read:

See attached Exhibit A.

II

Section IV, TIME FOR BEGINNING AND COMPLETION, is amended to change the number of calendar days for completion of the work to read: No change.

III

Section V, PAYMENT, shall be amended as follows:

See attached Exhibits E and G.

as set forth in the attached Exhibit A, and by this reference made a part of this supplement.

If you concur with this supplement and agree to the changes as stated above, please sign in the appropriate spaces below and return to this office for final action.

By: BergerABAM Inc. By: Whatcom County

Consultant Signature

Approved as to form:

[Signature]

Date: 6-27-13

Revised 9/2005
EXHIBIT A
CONSULTANT SCOPE OF WORK
SEISMIC RETROFIT - PORTAL WAY DAKOTA CREEK BRIDGE NO. 500
SUPPLEMENT NO. 2

PROJECT DESCRIPTION
This supplement (No. 2) supplements the original contract, and provides additional budget to the CONSULTANT to provide additional engineering services related to finalizing the plans, specifications, and estimate (PS&E) documents for the seismic retrofit of the existing Portal Way Dakota Creek Bridge No. 500. In addition, one new task is added, for which the services are described in Task 8 below.

ASSUMPTIONS
The finalization of the PS&E documents and engineering support for preparation of the permits is expected to be substantially complete 1 November 2013, with construction beginning in early 2014. Construction support services, load rating, and record drawings, will be addressed in a separate supplement.

CHANGES TO SCOPE

TASK 2 - PROJECT DESIGN - SUPPLEMENT
The CONSULTANT shall perform the following additional design services.

1. **Subconsultant Coordination**: The CONSULTANT will coordinate with their subconsultant and incorporate their work product into the contract documents as required. It is anticipated there will be an additional drawing and bid items added to the contract documents.

2. **Contract Document Final Review**: The drawings, specifications, and bid items will undergo an internal final review. The review will focus on incorporating all changes to the contract documents since the last submittal. The review will also check for consistency between the contract documents, quantities, constructability, and coordination between disciplines (i.e., civil, structural, etc.).

3. **Sediment Pond**: The CONSULTANT will investigate the feasibility to construct and locate a settling pond within the project limits. It is assumed that no settling pond details will be included in the contract plans, but that a schematic sketch will be prepared to illustrate a concept for locating a settling pond. It is also assumed that the CONSULTANT will prepare contract language to define the performance requirements of the settling pond, including references to applicable permit requirements.

TASK 7 – CORROSION ENGINEERING - SUPPLEMENT
Tinnea & Associates, under a subconsultant agreement with BergerABAM, will perform the following additional services.
Following the recommendations in our inspection report, Tinnea & Associates proposes to assist BergerABAM by providing the following.

**Task 7.1 - Predesign**
Tinnea & Associates will mobilize to provide corrosion control and cathodic protection for the Dakota Creek Bridge, including, but not limited to, review of our previous report, existing drawings, and preparation of AutoCAD 2012 borders for insertion in the bid package to be assembled by BergerABAM.

**Task 7.2 - Cathodic Protection Design**

1. Cathodic Protection Design
   a. Tinnea & Associates will produce a corrosion control design that will employ galvanic cathodic protection (CP) anodes.
   b. Tinnea & Associates will review the reinforcement density in the multiple areas where corrosion damage has been noted.
   c. The final CP design will review our test results from our inspection of the Dakota Creek Bridge.
   d. The spacing, sizing, and type of CP anodes employed will be determined from Items b and c, above.
   e. Tinnea & Associates will also work with BergerABAM staff on the concrete repair construction documents to ensure that they are complementary with the installation of CP anodes. This will include making sure that patch materials employed work well with CP systems.

2. Design Drawings
   a. Tinnea & Associates will prepare drawings and details in AutoCAD 2012.

3. Specifications
   a. Tinnea & Associates will prepare specifications for the CP system.
   b. Tinnea & Associates will work with BergerABAM in development of concrete repair specifications to ensure that they are complementary with the installation of CP anodes.

4. Review

5. Communications
   a. Tinnea & Associates has included time for e-mails and telephone calls.
   b. Tinnea & Associates assumes that there will be no meetings at either BergerABAM or in Whatcom County.

**Task 7.3 - Project Management and QA/QC**

**TASK 8 - (NEW) ENVIRONMENTAL SUPPORT**
The CONSULTANT will provide engineering support to the County, in support of preparation of the environmental permits. For the purposes of the budget, 40 hours have been allowed.
## DIRECT SALARY COSTS (DSC)

<table>
<thead>
<tr>
<th>Classification</th>
<th>Man Hours</th>
<th>Rate</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Manager</td>
<td>34</td>
<td>$69.11</td>
<td>$2,350</td>
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<tr>
<td>Project Engineer</td>
<td>75</td>
<td>$45.67</td>
<td>$3,425</td>
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<tr>
<td>Design Engineer</td>
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<td>$39.18</td>
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<tr>
<td>CAD Operator</td>
<td>26</td>
<td>$35.22</td>
<td>$916</td>
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<tr>
<td>Clerical</td>
<td>18</td>
<td>$29.62</td>
<td>$533</td>
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</table>

BERGER/ABAM Hours, TOTAL 203

Subtotal Direct Salary Costs (DSC) = $9,183

Salary Escalation (SE) = 0.0% of DSC = $ -

Subtotal (DSC + SE) = $9,183

Overhead (OH) 155.0% of (DSC + SE) = $14,233

Fixed Fee (FF) 30.0% of (DSC + SE) = $2,755

TOTAL SALARY COSTS (DSC + SE + OH + FF) = $26,171

## DIRECT NONSALARY COSTS (DNSEC)

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Rate</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mileage for Site Visits &amp; Meetings</td>
<td>200 miles</td>
<td>$0.565</td>
<td>$113</td>
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<tr>
<td>Misc.</td>
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<td></td>
<td>$100</td>
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</tbody>
</table>

TOTAL REIMBURSABLE EXPENSES (DNSEC) = $213

TOTAL BERGER/ABAM FEE (DSC + SE + OH + FF + DNSEC) = $26,384

## SUBCONSULTANTS

<table>
<thead>
<tr>
<th>Consultancy</th>
<th>Task</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tinnea &amp; Associates, Corrosion Engineering</td>
<td>7</td>
<td>$11,733</td>
</tr>
</tbody>
</table>

TOTAL SUBCONSULTANT FEES = $11,733

TOTAL ADDITIONAL AMOUNT = $38,117
### EXHIBIT E - CONSULTANT FEE DETERMINATION

**WHATCOM COUNTY BRIDGE REHABILITATION**

2/21/2013

BergerABAM

<table>
<thead>
<tr>
<th>TASK DESCRIPTION</th>
<th>Project Manager</th>
<th>Project Engineer</th>
<th>Design Engineer</th>
<th>CAD Operator</th>
<th>Clerical</th>
<th>Berger ABAM Totals</th>
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<tbody>
<tr>
<td>TASK 1 - Project Administration</td>
<td>16</td>
<td>43</td>
<td>50</td>
<td>26</td>
<td>10</td>
<td>24</td>
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<tr>
<td>TASK 2 - Project Design</td>
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<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Coordination</td>
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<td>Design Review</td>
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<td>24</td>
<td>32</td>
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<td>10</td>
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<td>2</td>
<td>16</td>
<td>8</td>
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<td>Specifications</td>
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<td>4</td>
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<td>8</td>
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<td>Additional Drawings</td>
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<td></td>
<td></td>
<td></td>
<td>51</td>
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<tr>
<td>Drawing #1 (Cathodic Protection)</td>
<td>4</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Drawing #2 (Environmental Coordination)</td>
<td>2</td>
<td>12</td>
<td>12</td>
<td></td>
<td></td>
<td>26</td>
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<tr>
<td>Settling Pond</td>
<td>1</td>
<td>6</td>
<td>12</td>
<td></td>
<td></td>
<td>19</td>
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<tr>
<td>TASK 8 - Environmental Support (Allowance)</td>
<td>8</td>
<td>32</td>
<td>-</td>
<td>-</td>
<td></td>
<td>40</td>
</tr>
<tr>
<td>TOTAL HOURS</td>
<td></td>
<td>34</td>
<td>75</td>
<td>50</td>
<td>26</td>
<td>18</td>
</tr>
</tbody>
</table>
Exhibit G-1
Subconsultant Fee Determination - Summary Sheet
(Mandatory when Subconsultants are utilized)

Project: Dakota Creek Bridge Design

Sub Consultant: Tinnea & Associates, LLC

Direct Salary Cost (DSC):

<table>
<thead>
<tr>
<th>Classification</th>
<th>Man Hours</th>
<th>Rate</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal</td>
<td>4</td>
<td>67.55</td>
<td>$ 270.20</td>
</tr>
<tr>
<td>Principal Engineer</td>
<td>12</td>
<td>62.26</td>
<td>$ 747.12</td>
</tr>
<tr>
<td>CP Specialist</td>
<td>34</td>
<td>47.04</td>
<td>$ 1,599.36</td>
</tr>
<tr>
<td>Corr. Technologist II</td>
<td>5</td>
<td>38.08</td>
<td>$ 190.40</td>
</tr>
<tr>
<td>CADD II</td>
<td>36</td>
<td>30.46</td>
<td>$ 1,096.56</td>
</tr>
</tbody>
</table>

Total DSC = $ 3,903.64

Overhead (OH Cost – including Salary Additives):

OH Rate x DSC of 168.0 % x $ 3,903.64 = $ 6,558.12

Fixed Fee (FF):

FF Rate x DSC of 30.0 % x $ 3,903.64 = $ 1,171.09

Reimbursables:

Specs / Drawings $ 100.00 x 1 $ 100.00

Itemized

= $ 100.00

SubConsultant Total:

= $ 11,732.85

Grand Total:

= $ 11,732.85

Prepared By: John S. Tinnea, President

Date: 02/08/2013
<table>
<thead>
<tr>
<th>Item</th>
<th>Principal</th>
<th>Principal Engineer</th>
<th>CP Specialist</th>
<th>Corrosion Technology II</th>
<th>CADD II</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task 100 - Pre-design</td>
<td>$67.55</td>
<td>$62.26</td>
<td>$47.04</td>
<td>$38.08</td>
<td>$30.46</td>
<td>$13.00</td>
</tr>
<tr>
<td>Task 200 - Design</td>
<td>2.00</td>
<td>6.00</td>
<td>1.00</td>
<td>4.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Task 300 - Project Mgt &amp; QA/QC</td>
<td>2.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total Hours:**
- Principal: 4.00
- Principal Engineer: 12.00
- CP Specialist: 34.00
- Corrosion Technology II: 5.00
- CADD II: 36.00
- Subtotal Fully Burdened Labor: $270.20

**Subtotal Fully Burdened Labor:**
- Principal: $747.12
- Principal Engineer: $1,599.36
- CP Specialist: $190.40
- Corrosion Technology II: $1,096.58
- Total: $3,903.84

**OH (165%)**
- Fixed Fee (30%): $6,558.12

**Sub Total:** $11,632.85

**Subcontractors:**
- Subtotal: $
- 4% Markup: $
- Total Subcontractors: $

**Other Direct Charges (ODCs):**
- Misc. printing: $100.00

**ODC Subtotal:** $100.00

**Markup (at cost):**
- Total ODCs: $100.00

**TOTAL:** $11,732.85
April 25, 2013

Chuck Spry  
BERGERABAM ENGINEERS  
33301 9th Ave S  
Suite 300  
Federal Way, Washington 98003

SUBJECT: HOURLY RATE STATEMENT  
PORTAL WAY DAKOTA CREEK BRIDGE NO. 500

Dear Chuck:

Below please find our highest anticipated hourly billing rate regarding the corrosion repair project on Whatcom County’s Portal Way Dakota Creek Bridge No. 500. These rates are fully burdened and are the lowest rates we charge our clients.

<table>
<thead>
<tr>
<th>Classification</th>
<th>Hourly Billing Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal</td>
<td>$201.30</td>
</tr>
<tr>
<td>Principal Engineer</td>
<td>$185.53</td>
</tr>
<tr>
<td>CP Specialist</td>
<td>$140.18</td>
</tr>
<tr>
<td>Corrosion Technologist II</td>
<td>$113.48</td>
</tr>
<tr>
<td>CADD II</td>
<td>$90.77</td>
</tr>
</tbody>
</table>

All direct reimbursable costs will be billed without markup. Travel costs will be invoiced in accordance and compliance with the current WSDOT Accounting Manual M 13-82, Chapter 10. Please let me know if you have any questions at (206) 328-7872 or rтинеа@tinеа.net.

Sincerely,
TINNEA & ASSOCIATES, LLC

Ryan Tinnea  
Project Engineer  
RJT/me

Ref 1312702/tinnea rate letter.docx
**WHATCOM COUNTY COUNCIL AGENDA BILL**

**CLEARANCES**

<table>
<thead>
<tr>
<th>Originator: James P. Karchar, P.E.</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>GPK</td>
<td>6-25-13</td>
<td></td>
<td>07/9/2013</td>
<td>Finance/Council</td>
</tr>
</tbody>
</table>

**Division Head:** Joe Ruian, P.E. 6-25-13

**Dept. Head:** Frank Abart 6/25/13

**Prosecutor:** Daniel Elhonom 6/25/13

**Purchasing/Budget:** Brad Bennett 6/27/13

**Executive:** Jack Louws 6/27/13

**TITLE OF DOCUMENT:**

Construction Contract Award for Hannegan Rd. Pavement Rehabilitation—Hemmi Rd. to Scott Ditch Bridge CRP No. 913001

**ATTACHMENTS:**

1. Memo
2. Resolution amending County Road Project (CRP) No. 913001 and awarding construction contract
3. Approval to Award Construction Contract endorsed by Executive
4. Project Summary and Vicinity Map
5. Project Cost Breakdown
6. Bid Tabulation
7. Low Bid Proposal

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>(X) NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( ) NO</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.)

Resolution amending CRP No. 913001 and authorizing additional funds for the award of the Hannegan Rd. Pavement Rehabilitation—Hemmi Rd to Scott Ditch Bridge contract to Granite Construction Company as low bidder in the amount of $1,629,380.00.

**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](http://www.co.whatcom.wa.us/council).
Memorandum

To: The Honorable Jack Louws, Whatcom County Executive and The Honorable Members of the Whatcom County Council

Through: Frank M. Abart, Director

From: Joseph P. Rutan, P.E., County Engineer/Assistant Director
James P. Karcher, P.E., Engineering Manager

Date: June 26, 2013

Re: Hannegan Rd. Pavement Rehabilitation-Hemmi Rd. to Scott Ditch Bridge CRP No. 913001
Construction Contract Award

Attached for your review and signature is the standard construction contract award package for the Hannegan Rd. Pavement Rehabilitation-Hemmi Rd. to Scott Ditch Bridge, CRP 913001. This package consists of the following: agenda bill, resolution to amend the CRP and award the contract, approval of contract award, project summary and vicinity map, project cost breakdown, tabulation of all bids and the low bid proposal.

Requested Action
Public Works respectfully requests that the County Council authorize the County Executive to enter into a contract with the low bidder, Granite Construction Company, in the amount of $1,629,380.00 including all taxes. This recommendation is based on a review of the 2 bids received.

Background and Purpose
This project consists of pavement rehabilitation of Hannegan Rd. between Hemmi Rd. and Scott Ditch Bridge, a total of approximately 4 miles. The project is listed as Item No. 4 on the 2013 Annual Construction Program that was adopted by the Council on September 25, 2012.

Funding Amount and Source
$1,500,000 in RATA funds have been secured for construction of this project with the remainder being funded with Whatcom County local funds.

Please contact Jim Karcher at extension 50633 if you have any questions or concerns regarding the terms of this agreement.

In accordance with W.C.C. 3.08.230, I concur with this recommendation:

Chris Mohnkern, Purchasing Coordinator

Date
RESOLUTION NO. ______

AMENDING COUNTY ROAD PROJECT No. 913001 AND AUTHORIZING ADDITIONAL FUNDS FOR THE AWARD OF A CONTRACT FOR "HANNEGAN RD. PAVEMENT REHABILITATION—HEMMI RD TO SCOTT DITCH BRIDGE."

WHEREAS, this project is included in the officially adopted 2013 Annual Construction Program as Item No. 4;

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council:

That CRP No. 913001 is formally amended to include the construction of the "Hannegan Road Pavement Rehabilitation-Hemmi Road to Scott Ditch Bridge";

The Contract for this project is awarded to Granite Construction Company in the amount of their bid of $1,629,380.00;

An appropriation from the officially adopted Road Fund Budget and based on the County Engineer’s estimate is hereby made in the amounts and for the purposes shown;

<table>
<thead>
<tr>
<th>PURPOSE</th>
<th>AMOUNT OF APPROPRIATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preliminary Engineering</td>
<td>$ 60,000</td>
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<tr>
<td>Right-of-Way</td>
<td>$ 0</td>
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<tr>
<td>Subtotal</td>
<td>$ 60,000</td>
</tr>
<tr>
<td>Construction Contract</td>
<td>$1,629,380</td>
</tr>
<tr>
<td>Construction Engineering/Testing/Contingency</td>
<td>$ 185,620</td>
</tr>
<tr>
<td>Total</td>
<td>$1,875,000</td>
</tr>
</tbody>
</table>

BE IT FURTHER RESOLVED that the construction is to be accomplished by Contract in accordance with RCW 36.77.020 et. seq.

APPROVED this _____ day of __________, 20____.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Clerk of the Council

Kathy Kershner, Council Chair

APPROVED AS TO FORM:

Daniel L. Gibson
Chief Civil Deputy Prosecutor
Hannegan Rd. Pavement Rehabilitation—Hemmi Rd. to Scott Ditch Bridge

CRP No. 913001

APPROVAL FOR CONTRACT AWARD

Approval is hereby granted to award the Contract as follows:

Project: Hannegan Rd. Pavement Rehabilitation—Hemmi Rd. to Scott Ditch Bridge;
CRP No. 913001

To: Granite Construction Company

In the amount of their bid proposal for $1,629,380.00 including all taxes.

Jack Louws, Whatcom County Executive
Approving Authority

Date

Daniel L. Gibson
Chief Civil Deputy Prosecutor

Date
Hannegan Road Pavement Rehabilitation
CRP # 913001

Construction Funding Year(s): 2013

Project Narrative:
This project is located between Hemmi Road and Scott Ditch Bridge No. 245 in Sections 4, 9, 16 of T39N, R3E and Section 33 of T40N, R3E. This project involves the pavement rehabilitation of approximately 4 miles of roadway. This project is listed #4 on the 2013-2018 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting and construction to be completed in 2013.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $1,875,000</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date: $0</td>
<td>Federal</td>
</tr>
<tr>
<td></td>
<td>State $1,500,000 (RATA)</td>
</tr>
<tr>
<td></td>
<td>Local $375,000</td>
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</tbody>
</table>

Environmental Permitting: Floodplain
Right-of-Way Acquisition (Estimate): N/A
County Forces (Estimate): N/A
# Project Cost Breakdown

**Hannegan Rd. Pavement Rehabilitation**  
**Hemmi Rd. to Scott Ditch Bridge**  
**CRP No. 913001**

<table>
<thead>
<tr>
<th>Funding Source</th>
<th>Whatcom County</th>
<th>RATA Funds</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preliminary Engineering</td>
<td>$10,000</td>
<td>$50,000</td>
<td>$60,000</td>
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<tr>
<td>Right of Way</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Contract</td>
<td>$179,380</td>
<td>$1,450,000</td>
<td>$1,629,380</td>
</tr>
<tr>
<td>Construction Engineering, Testing and Contingency</td>
<td>$185,620</td>
<td>$0</td>
<td>$185,620</td>
</tr>
<tr>
<td>Total</td>
<td>$375,000</td>
<td>$1,500,000</td>
<td>$1,875,000</td>
</tr>
</tbody>
</table>
BID PROPOSAL
FOR
HANNEGAN ROAD PAVEMENT REHABILITATION
HEMMI RD TO SCOTT DITCH BRIDGE
CRP No. 913001

Date June 18, 2013

TO: Whatcom County Executive and Council
    Whatcom County Courthouse
    311 Grand Avenue
    Bellingham, Washington 98225

Gentlemen:

This certifies that the Undersigned has examined the location of the project site and the conditions of work; and has carefully read and thoroughly understands the contract documents entitled: "Hannegan Road Pavement Rehabilitation-Hemmi Rd to Scott Ditch Bridge, CRP No. 913001" Whatcom County, Washington, including the "Bid Procedures and Conditions," "Specifications and Conditions," "Contract Forms," "Construction Plans," and "Appendix," governing the work embraced in this project, and the method by which payment will be made for said work. The Undersigned hereby proposes to undertake and complete the work embraced in this project in accordance with said contract documents, and agrees to accept as payment for said work, the schedule of lump sum and unit prices as set forth in the "Bid" below.

The Undersigned acknowledges that payment will be based on the actual work performed and material used as measured or provided for in accordance with the said contract documents, and that no additional compensation will be allowed for any taxes not included in each lump sum or unit price, and that the basis for payment will be the actual work performed and measured or provided for in accordance with the said contract documents.

The Undersigned certifies that it is not currently disqualified from bidding on any public works contract under RCW 39.06.010 or RCW 39.12.065(3).
<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>UNIT MEASURE</th>
<th>ITEM DESCRIPTION</th>
<th>APPROX. QUANTITY</th>
<th>UNIT PRICE IN FIGURES</th>
<th>EXTENDED PRICE IN FIGURES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>LUMP SUM</td>
<td>MOBILIZATION</td>
<td>1</td>
<td>L.S.</td>
<td>93,000.00</td>
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<tr>
<td>2</td>
<td>LUMP SUM</td>
<td>SPCC PLAN</td>
<td>1</td>
<td>L.S.</td>
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<tr>
<td>3</td>
<td>LUMP SUM</td>
<td>TRAFFIC CONTROL SUPERVISOR</td>
<td>1</td>
<td>L.S.</td>
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<tr>
<td>4</td>
<td>HOUR</td>
<td>FLAGGERS AND SPOTTERS</td>
<td>2,000</td>
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<td>98,000.00</td>
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<tr>
<td>5</td>
<td>HOUR</td>
<td>OTHER TRAFFIC CONTROL LABOR</td>
<td>350</td>
<td>$49.00 per Hour</td>
<td>17,150.00</td>
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<tr>
<td>6</td>
<td>LUMP SUM</td>
<td>OTHER TEMPORARY TRAFFIC CONTROL</td>
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<td>L.S.</td>
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<tr>
<td>7</td>
<td>HOUR</td>
<td>PORTABLE CHANGEABLE MESSAGE SIGN</td>
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<tr>
<td>8</td>
<td>SQUARE FOOT</td>
<td>CONSTRUCTION SIGNS CLASS A</td>
<td>560</td>
<td>$35.00 per S.F.</td>
<td>19,600.00</td>
</tr>
<tr>
<td>9</td>
<td>CUBIC YARD</td>
<td>REMOVING ASPHALT CONCRETE PAVEMENT INCLUDING HAUL</td>
<td>130</td>
<td>$15.00 per C.Y.</td>
<td>1,950.00</td>
</tr>
<tr>
<td>10</td>
<td>CUBIC YARD</td>
<td>ROADWAY EXCAVATION INCLUDING HAUL</td>
<td>850</td>
<td>$19.00 per C.Y.</td>
<td>16,150.00</td>
</tr>
<tr>
<td>11</td>
<td>DOLLAR</td>
<td>MISC. ROADWAY REPAIRS (Force Account)</td>
<td>EST</td>
<td>EST</td>
<td>15,000.00</td>
</tr>
<tr>
<td>12</td>
<td>SQUARE YARD</td>
<td>PLANING BITUMINOUS PAVEMENT INCLUDING HAUL</td>
<td>56,000</td>
<td>$11.00 per S.Y.</td>
<td>616,000.00</td>
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<tr>
<td>13</td>
<td>DOLLAR</td>
<td>CRACK SEALING (Force Account)</td>
<td>EST</td>
<td>EST</td>
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<tr>
<td>14</td>
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<td>PAVING FABRIC</td>
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<tr>
<td>15</td>
<td>SQUARE YARD</td>
<td>COMPOSITE PAVING GRID INTERLAYER</td>
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<tr>
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<td>SQUARE YARD</td>
<td>GEOGRID FOR SOIL REINFORCEMENT</td>
<td>1,800</td>
<td>$4.00 per S.Y.</td>
<td>7,200.00</td>
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</tbody>
</table>

BP 1
<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>UNIT MEASURE</th>
<th>ITEM DESCRIPTION</th>
<th>APPROX. QUANTITY</th>
<th>UNIT PRICE IN FIGURES</th>
<th>EXTENDED PRICE IN FIGURES</th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
<td>TON</td>
<td>HMA CLASS 3/8 INCH</td>
<td>3,400</td>
<td>$6700 per TON</td>
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<td>18</td>
<td>TON</td>
<td>HMA CLASS 1/2 INCH</td>
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<td>19</td>
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<td>CALC</td>
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<td>COMPACTION PRICE ADJUSTMENT</td>
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<tr>
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<td>CALC</td>
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<td>LUMP SUM</td>
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<tr>
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<td>EST</td>
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<td>24</td>
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<td>CRUSHED SURFACING BASE COURSE</td>
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<td>$31,500.00</td>
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<tr>
<td>25</td>
<td>TON</td>
<td>LIGHTWEIGHT FILL</td>
<td>375</td>
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<td>26</td>
<td>LINEAR FOOT</td>
<td>REMOVING AND RESETTING BEAM GUARDRAIL</td>
<td>200</td>
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<tr>
<td>27</td>
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<tr>
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<tr>
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<tr>
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<td>32</td>
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<td>33</td>
<td>HUND</td>
<td>TYPE 2 - RAISED PAVEMENT MARKERS</td>
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<td>$330 per HUND</td>
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<td>ITEM NO.</td>
<td>UNIT MEASURE</td>
<td>ITEM DESCRIPTION</td>
<td>APPROX. QUANTITY</td>
<td>UNIT PRICE IN FIGURES</td>
<td>EXTENDED PRICE IN FIGURES</td>
</tr>
<tr>
<td>---------</td>
<td>--------------</td>
<td>------------------------------</td>
<td>------------------</td>
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<tr>
<td>34</td>
<td>EACH</td>
<td>MONUMENT</td>
<td>8</td>
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<td>EACH</td>
<td>RAISE EXISTING MONUMENT</td>
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<td>$200.00</td>
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<td>SAWCUT PAVEMENT</td>
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<tr>
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<td>LINEAR FOOT</td>
<td>BRIDGE TRANSVERSE JOINT</td>
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<td>QUARRY SPALLS</td>
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<td>PLASTIC STOP LINE</td>
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<td>TOTAL BID: (Bid Items 1-39)</td>
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<td>$1,629,380.00</td>
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</tbody>
</table>

All unit prices extended & totals checked 6/20/13

BP 3A
NON-COLLUSION DECLARATION

HANNEGAN ROAD PAVEMENT REHABILITATION

HEMMI RD TO SCOTT DITCH BRIDGE

CRP No. 913001

I, by signing the proposal, hereby declare, under penalty of perjury under the laws of the United States that the following statements are true and correct:

1. That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.

2. That by signing the signature page of this proposal, I am deemed to have signed and have agreed to the provisions of this declaration.

NOTICE TO ALL BIDDERS

To report bid rigging activities call:

1-800-424-9071

The U.S. Department of Transportation (USDOT) operates the above toll free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m. Eastern Time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of USDOT's continuing effort to identify and investigate highway construction contract fraud and abuse, and is operated under the direction of the USDOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.
BIDDER IDENTIFICATION

The name of the Bidder submitting this proposal, the address and phone number to which all communications concerned with this proposal shall be made, and the number which has been assigned indicating the Bidder is licensed to do business in the State of Washington are as follows:

Firm Name: GRANITE CONSTRUCTION COMPANY

Address: 3876 Hannegan Road
Bellingham, WA 98226

Telephone: 360 676 2450

Contractor's WA Registration Number: GRANICC916DL

Contractor's WA UBI Number: 409 023 062

Contractor's WA Employment Security Department Number: 223166009

Contractor's WA Excise Tax Registration Number: 409 023 062

The Firm submitting this proposal is a: [X] Corporation
[ ] Sole Proprietorship
[ ] Partnership

The names and titles of the principal officers of the corporation submitting this proposal, or of the partnership, or of all persons interested in this proposal as principals are as follows:

Please see attached

NOTE: Signatures of this proposal must be identified above. Failure to identify the Signatories will be cause for considering the proposal irregular and for subsequent rejection of the bid.
BID PROPOSAL SIGNATURE AND ADDENDUM
ACKNOWLEDGMENT

The bidder is hereby advised that by signature of this proposal he/she is deemed to have
acknowledged all requirements and signed all certificates contained herein. The undersigned hereby
agrees to pay labor not less than the prevailing rates of wages or less than the hourly minimum rate
of wages as specified in the Specifications and Conditions for this project.

CASH  □  IN THE AMOUNT OF ____________________________ DOLLARS

CASHIER'S CHECK □ ____________________________ DOLLARS

CERTIFIED CHECK □ ($ ____________) PAYABLE TO WHATCOM COUNTY

PROPOSAL BOND  □  IN THE AMOUNT OF 5% OF THE BID.

Receipt is hereby acknowledged by Addenda(s) No.(s) 1, 2, & ______

SIGNATURE OF AUTHORIZED OFFICIAL(S)

(PROPOSAL MUST BE SIGNED)

[Signature]  

Martin P. Matheson, VP Washington Region (Seal)

FIRM NAME: GRANITE CONSTRUCTION COMPANY

STATE OF WASHINGTON )

) ss.

COUNTY OF ____________ )

On this 18th day of June, 2013, before me personally appeared

Martin P. Matheson ______________________

and who executed the above instrument and who acknowledged to me the act of signing thereof.

[Seal]

[Signature]  

CAROL A. CHONZENA  NOTARY PUBLIC

STATE OF WASHINGTON  7-2-2016

NOTARY PUBLIC, in and for the

State of Washington, residing at: Sultan

My Commission Expires: 7-2-2016

This proposal form is not transferable and any alteration of the firm's name entered hereon without
prior permission from Whatcom County will be cause for considering the proposal irregular and for
subsequent rejection of the bid.
BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, Granite Construction Company of Indiana, as principal, and the Federal Insurance Company of Washington, as Surety, are held and firmly bound unto Whatcom County, a Municipal Corporation in the State of Washington, in the full and penal sum of five percent (5%) of the total bid amount appearing on the bid proposal of said principal for the work hereinafter described, for the payment of which, well and truly to be made, we bind our heirs, executors, administrators and assigns, and successors and assigns, jointly and severally, firmly by these presents.

The condition of this bond is such that, whereas, the principal herein is herewith submitting his or its bid proposal for HANNEGAN ROAD PAVEMENT REHABILITATION-HEMMI RD TO SCOTT DITCH BRIDGE, CRP No. 913001 bid proposal, by reference thereto, being hereby made a part hereof.

NOW, THEREFORE, if the said bid proposal submitted by the said PRINCIPAL be accepted, and the contract be awarded to said PRINCIPAL, and if said PRINCIPAL shall duly make and enter into and execute said contract and shall furnish the performance bond as required by the bidding and contract documents within a period of twenty (20) days from and after said award, exclusive of the day of such award, then its obligation to pay the above-mentioned penal sum as liquidated damages shall be null and void, otherwise it shall remain and be in full force and effect.

SIGNED AND SEALED this 10th day of June, 2013.

Granite Construction Company

Principal
By [Signature]
(Seal)

Federal Insurance Company

Surety
By [Signature]
Ashley Stinson, Attorney-In-Fact

The Attorney-in-fact who executes this bond on behalf of the surety company, must attach a copy of his power-of-attorney as evidence of his authority.
ACKNOWLEDGMENT

State of California
County of Santa Cruz

On June 10, 2013 before me, M.I. Barron, Notary Public

(insert name and title of the officer)

personally appeared Ashley Stinson

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature M.I. Barron, Notary Public

(Seal)
Know All by These Presents, That FEDERAL INSURANCE COMPANY, an Indiana corporation, VIGILANT INSURANCE COMPANY, a New York corporation, and PACIFIC INDEMNITY COMPANY, a Wisconsin corporation, do each hereby constitute and appoint Jititha Dasai, John D. Gilliland, Catherine Gustafson, Cynthia P. Johnson, Kathleen Schreckengost, Ashley Stinson and Lillian Tse of Watsonville, California—

each as their true and lawful Attorney- in- Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surely thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bond bonds) given or executed in the course of business on behalf of Granite Construction Incorporated and all Subsidiaries alone or in joint venture

in connection with bids, proposals or contracts to or with the United States of America, any State or political subdivision thereof or any person, firm or corporation, and the execution of such bond or obligation by such Attorney- in- Fact in the Company’s name and on its behalf as surely thereon or otherwise, under its corporate seal, in pursuance of the authority hereby conferred shall, upon delivery thereof, be valid and binding upon the Company.

In Witness Whereof, said FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY have each executed and attested these presents and affixed their corporate seals on this 10th day of April, 2013.

Dawn M. Chloros, Assistant Secretary

STATE OF NEW JERSEY

ss.

County of Somerset

On this 10th day of April, 2013 before me, a Notary Public of New Jersey, personally came Dawn M. Chloros, to me known to be Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY, the companies which executed the foregoing Power of Attorney, and the said Dawn M. Chloros, being by me duly sworn, did deponent and say that he is Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY and knows the corporate seal thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of the By- Laws of said Companies; and that he signed said Power of Attorney as Assistant Secretary of said Companies by his authority, and that he is acquainted with David B. Norris, Jr., and knows him to be Vice President of said Companies; and that FEDERAL INSURANCE COMPANY, said Companies, and the said David B. Norris, Jr., subscribed to said Power of Attorney to the genuine handwriting of David B. Norris, Jr., and was thereto subscribed by authority of said By- Laws and in deponent’s presence.

KATHERINE J. ADELAAR
NOTARY PUBLIC OF NEW JERSEY
No 2316685
Commission Expires July 16, 2014

CERTIFICATION

Extract from the By- Laws of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY:

"All powers of attorney for and on behalf of the Company may and shall be executed in the name and on behalf of the Company, either by the Chairman or the President or a Vice President or an Assistant Vice President, jointly with the Secretary or an Assistant Secretary, under their respective designations. The signature of such officers may be engraved, printed or lithographed. The signature of each of the following officers: Chairman, President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Assistant Secretaries or other Attorneys- in- Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached."

I, Dawn M. Chloros, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY (the “Companies”) do hereby certify that:

(i) the foregoing extract of the By- Laws of the Companies is true and correct,
(ii) the Companies are duly licensed and authorized to transact surety business in all 50 of the United States of America and the District of Columbia and are authorized by the U.S. Treasury Department; and Federal and Vigniant are licensed in Puerto Rico and the U.S. Virgin Islands, and Federal is licensed in American Samoa, Guam, and each of the Provinces of Canada except Prince Edward Island; and
(iii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Warren, NJ this June 10, 2013

Dawn M. Chloros, Assistant Secretary

IN THE EVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT ADDRESS LISTED ABOVE, OR BY Telephone (908) 903- 3493 Fax (908) 903- 3656 e-mail: surety@chubb.com

Form 15-10- 01548- U (Rev. 10-02) CORP CONSENT
SUB-CONTRACTOR LIST
Prepared in Compliance with RCW 39.30.060 as amended.

TO BE SUBMITTED WITH THE BID PROPOSAL

Project Name: Hannegan Road Pavement Rehabilitation – Hemmi Rd to Scott Ditch Bridge
CRP No. 913001

Failure to list subcontractors who are proposed to perform work of heating, ventilation and air conditioning, plumbing as described in Chapter 18.106 RCW, and electrical work as described in Chapter 19.28 RCW, will result in your bid being nonresponsive and therefore void.

Subcontractor(s) that are proposed to perform work of heating, ventilation and air conditioning, plumbing as described in Chapter 18.106 RCW, and electrical work as described in Chapter 19.28 RCW must be listed below. The work to be performed is to be listed below the subcontractor’s name.

If no subcontractor is listed below, the bidder acknowledges that it does not intend to use any subcontractor to perform those items of work.

<table>
<thead>
<tr>
<th>Subcontractor Name</th>
<th>Work to be Performed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<tr>
<td></td>
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<table>
<thead>
<tr>
<th>Subcontractor Name</th>
<th>Work to be Performed</th>
</tr>
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<tbody>
<tr>
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<table>
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<th>Subcontractor Name</th>
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<td>Name</td>
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<tr>
<td>Roberts, James H.</td>
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<td>Chief Executive Officer</td>
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<td>Donnino, Michael F.</td>
<td>Senior Vice President</td>
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<td>Desai, Jigisha (NMN)</td>
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<td>Watts, Richard A.</td>
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<td>General Counsel</td>
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<td>Case, Thomas S.</td>
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<td>Franich, John A.</td>
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<td>Krzeminski, Laurel J.</td>
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<td>Director of Business Development</td>
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<td>Welcott, Scott D.</td>
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<td>Gallo, Ronald L.</td>
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<td>Controller</td>
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<td>Jasper, Jason M.</td>
<td>Group Counsel</td>
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<td>(NMN)</td>
<td>Assistant Secretary</td>
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GRANITE CONSTRUCTION COMPANY
CERTIFICATE OF SECRETARY

RESOLVED, that effective April 1, 2013 through December 31, 2013, the individuals named on the attached Exhibit 1 are authorized to negotiate, execute and attest electronic and paper documents necessary for the conduct of the Company’s affairs with respect to the submission and execution of construction project bids, bid proposals, bid addenda and all other bid-related documents prepared and submitted on behalf of the Company not to exceed $25 million, relating to any and all domestic construction projects arising out of the Company’s operations.

RESOLVED, that effective April 1, 2013 through December 31, 2013, the individuals named on the attached Exhibit 2 are authorized to negotiate, execute and attest electronic and paper documents necessary for the conduct of the Company’s affairs with respect to the submission and execution of construction project bids, bid proposals, bid addenda and all other bid-related documents prepared and submitted on behalf of the Company not to exceed $75 million, relating to any and all domestic construction projects arising out of the Company’s operations.

I, Richard A. Watts, do hereby certify that I am duly qualified as Secretary of GRANITE CONSTRUCTION COMPANY, a California corporation (the “Company”); that the foregoing is a true and correct copy of resolutions duly adopted effective April 1, 2013 by unanimous written consent of the Executive Committee of the Board of Directors, held without a meeting in accordance with the provisions of Article III, Section 9 of the Bylaws of the Company; that the Directors acting were duly and regularly elected; and that the resolution adopted has not been modified or repealed and is still in full force and effect.

Dated: April 4, 2013

[Signature]
Richard A. Watts
EXHIBIT 1

AUTHORIZED SIGNERS
Granite Construction Company
Washington Region

DESIGNATED SIGNERS
Cevin Ladwig Sr., Operations Manager
Thomas S. Zamzow, Project Executive – Large Projects
Ron D. Egg, Large Project Estimator
Travis Walken, Chief Estimator
J. Peter Welch, Senior Estimator
Sonny Chavez, Business Manager
Jeremy Deemer, Senior Project Manager
Paul Harding, Area Manager
Rich D. Henderson, Large Project Estimator
Carter Rohrbough, Operations Manager
Andrew B. Thompson, Senior Project Manager
Michael A. Stein, Everett Area Manager

ATTESTORS
Cevin Ladwig Sr., Operations Manager
Thomas S. Zamzow, Project Executive – Large Projects
Ron D. Egg, Large Project Estimator
Travis Walken, Chief Estimator
J. Peter Welch, Senior Estimator
Sonny Chavez, Business Manager
Jeremy Deemer, Senior Project Manager
Paul Harding, Area Manager
Rich D. Henderson, Large Project Estimator
Carter Rohrbough, Operations Manager
Andrew B. Thompson, Senior Project Manager
Michael A. Stein, Everett Area Manager
EXHIBIT 2

AUTHORIZED SIGNERS
Granite Construction Company
Northwestern Group

DESIGNATED SIGNERS
Rod Cooper, VP Nevada Region
Martin P. Matheson, VP Washington Region
Brad Sweet, VP Utah Region
Derek Betts, VP Alaska Region
David B. Smith, VP Large Projects
### 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>6/28/13</td>
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**TITLE OF DOCUMENT:** Approval to Repair Freightliner Basket Truck

**ATTACHMENTS:** Memos from Finance and Public Works

**SEPA review required?** ( ) Yes ( x ) NO  
**SEPA review completed?** ( ) Yes ( ) 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.)

Public Works is requesting approval to repair the boom on a 1998 Freightliner basket truck at Altec. The estimated total cost for the work is $41,423.42. Public Works has adequate funds in their repair budget for this service.

---

**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.
21 June 2013

TO: Jack Louws, County Executive
FROM: Brad Bennett, Administrative Services Finance Manager
SUBJECT: Repairs to Freightliner Bucket Truck

- **Background**

Public Works is requesting approval to have preventative maintenance, inspection services, and repair on the Altec boom that is installed on a 1998 Freightliner basket truck. The sole source for this service is Altec and the total estimated cost is $41,423.42.

- **Funding**

Adequate funds are available in the ER&R repair and maintenance budget.

I recommend approval.

[Signature]
Admin Services Finance Manager

Approved as recommended:

_________________________________________
County Executive

Date of Council Action ____________________
MEMORANDUM

TO: Brad Bennett, AS Finance Manager
THROUGH: Frank M. Abart, PW Director
FROM: Eric L. Schlehuber, PW Equipment Services Manager
       Jeff Gollon, PW Maintenance & Operations Superintendent
RE: Sole Source – Bucket Truck Repair Service
    1998 Freightliner LRVIII55 Basket Truck (Eq. 306)
DATE: May 22, 2013

- Requested Action
  After researching the costs for the preventative maintenance, inspection and boom repair for the 1998 Freightliner LRVIII55 Basket Truck (Eq. 306), I am requesting Executive and Council approval to award this repair service from the sole source of this particular service, Altec of Portland, Oregon, in the approximate amount of $41,423.42.

- Background and Purpose
  The Maintenance & Operations Division of the Public Works Department uses this equipment on various county road projects as part of the annual road maintenance and repair program along with the vegetation management program. Due to equipment age, it is imperative that additional service is required this year to repair and/or replace damaged, worn, or missing parts to extend the equipment life along with meeting state requirements for structural load and stability for this equipment.

<table>
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<th>DESCRIPTION</th>
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<tr>
<td>Preventative Maintenance, Inspection, and Boom Repair Service</td>
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<tr>
<td>(1998 Freightliner LRVIII55 Basket Truck)</td>
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<tr>
<td><strong>BASE PRICE</strong></td>
<td><strong>SALES TAX @ 8.5%</strong></td>
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<tr>
<td>$38,178.27</td>
<td>$3,245.15</td>
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- Funding Amount and Source
  Adequate funds exist in the 2013 ER&R repairs and maintenance budget. I am requesting Executive and Council approval to award this repair service as a "sole source" to Altec in Portland, Oregon for the base price of $38,178.27 per unit, plus sales tax of $3,245.15, for a total of $41,423.42.

Please approve this request and forward to the Executive and the Whatcom County Council for approval at the June 18, 2013 Whatcom County Council Meeting. Please contact Eric L. Schlehuber at extension 50607, if you have any questions or concerns.

Encl.
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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TITLE OF DOCUMENT: DLR Group Contract Amendment #2

ATTACHMENTS: Cover memo
Contract Amendment with Attachment A

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.)

Work will include supplemental services required to complete preferred site analysis. These supplemental services include Geotech and Environmental Soil Assessment (ESA) phase II work.

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 CONTRACT INFORMATION SHEET

**Originating Department:** Executive Office  
**Contract Administrator:** Dewey Desler/Tawni Helms  
**Contractor's / Agency Name:** DLR Group

<table>
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<tr>
<th>Is this a New Contract?</th>
<th>Yes <em>X</em> No <em>X</em></th>
<th>If not, is this an Amendment or Renewal to an Existing Contract?</th>
<th>Yes <em>X</em> No <em>X</em></th>
<th>If yes, previous number(s): 201301018</th>
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<td>Is this a grant agreement?</td>
<td>Yes <em>X</em> No <em>X</em></td>
<td>If yes, grantor agency contract number(s)</td>
<td>CFDA number</td>
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<td>Is this contract grant funded?</td>
<td>Yes <em>X</em> No <em>X</em></td>
<td>If yes, associated Whatcom County grant contract number(s)</td>
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<td>Is this contract the result of a RFP or Bid process?</td>
<td>Yes <em>X</em> No <em>X</em></td>
<td>If yes, RFP and Bid number(s) RFQ 12-50</td>
<td>Contract</td>
<td>Cost Center: 345100</td>
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<td>Is this contract excluded from E-Verify?</td>
<td>Yes <em>X</em></td>
<td>If no, include Attachment D Contractor Declaration Form</td>
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**Contract Amount:** Sum of orig contract amount and any prior amendments  
$453,902.00  
**This Amendment Amount:**  
$38,000.00  
**Total Amended Amount:**  
$491,902.00

If a Professional Services Agreement is more than $15,000 or a Bid is more than $35,000, please submit an Agenda Bill for Council approval and a supporting memo. Any amendment that provides either a 10% increase in amount or more than $10,000, whichever is greater, must also go to Council and will need an agenda bill and supporting memo. If less than these thresholds, just submit to Executive with supporting memo for approval.

**Scope of Services:** Supplemental services are necessary to fulfill the contractual obligations of the contract. Work will include supplemental services required to complete preferred site analysis. These supplemental services include Geotech and Environmental Soil Assessment (ESA) phase II work.

**Term of Contract:** 8 months  
**Expiration Date:** September 27, 2013
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Tawni Helms, Administrative Services Coordinator
RE: Jail Planner Contract
DATE: June 24, 2013

Enclosed are two (2) originals of a contract amendment between Whatcom County and DLR Group for your review and signature.

- Background and Purpose
Last August, following the recommendations of the Jail Task Force, Whatcom County posted a “Request for qualifications” (12-50) for a Jail Planner. Resulting from a thorough selection process, DLR Group was chosen to provide Jail Planner services to Whatcom County.

Initial analysis of the preferred site requires supplemental services not included in the original scope of work. Further assessment of the site includes a Geotech study and Environmental Site Assessment (ESA) Phase II at a cost that exceeds the contract’s 10% contingency.

Because Administration did not request full expenditure authority of the Council approved Jail Project Budget a supplemental budget request is necessary to amend the contract and scope of work.

It is critical the County proceeds expeditiously with this work, as outlined in Attachment A in order to complete the Supplemental Environmental Impact Statement. If problems are identified with the site as a result of these studies the County will have the option to assess the viability of the preferred site before expending additional resources. Therefore, the Administration recommends approval of this contract amendment prior to obtaining expenditure authority through the supplemental budget process. Project budget supplemental #1 will be introduced to the Council on July 9th for Council action on July 23rd.

- Funding Amount and Source
Funding source for supplemental services related to the Jail Planner work is the Jail Project 2013-2014 Fund. Cost Center 3451000 $38,000.

Please contact Tawni Helms at extension 50124, if you have any questions or concerns regarding the terms of this agreement.
Amendment No. 2
Whatcom County Contract No. 201301018
CONTRACT BETWEEN WHATCOM COUNTY AND
DLR Group

THIS AMENDMENT is to the Contract between Whatcom County and DLR Group, dated January 30, 2013 and designated “Whatcom County Contract No.201301018”. In consideration of the mutual benefits to be derived, the parties agree to the following:

This Amendment increases the maximum consideration by $38,000. to a total consideration of $491,902.00. Fund sources for the supplemental services are as follows:

Jail Project Fund 2013-2014 GeoTech Study and ESA Phase II work $38,000.

This Amendment also adds the following to the Scope of Work, Exhibit A and more clearly defined in Attachment A:

Additional work includes a GeoTech Study and Environmental Site Assessment (ESA) Phase II.

Unless specifically amended by this agreement, all other terms and conditions of the original contract shall remain in full force and effect.

This Amendment takes effect: June 26, 2013, regardless of the date of signature.

IN WITNESS WHEREOF, Whatcom County and DLR Group have executed this Amendment on the date and year below written.

DATED this ____________ day of ________________, 2013.

CONTRACTOR:

CONTRACTOR

______________________________
BILL VALDEZ, PRINCIPAL IN THE FIRM

STATE OF WASHINGTON)
)
COUNTY OF WHATCOM)

On this __ day of __________, 20__, before me personally appeared Bill Valdez to me known to be the Principal of the DLR Group 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 ____________________________. My commission expires ____________.
WHATCOM COUNTY:

Approved as to form:

[Signature] 7/1/13
Chief Civil Deputy Prosecutor Date

Approved:
Accepted for Whatcom County:

By: ______________________________
    Jack Louws, Whatcom County Executive

STATE OF WASHINGTON )
    ) ss
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:

DLR GROUP
901 Fifth Avenue
Suite 700
Seattle, WA 98164

Contact Name: Bill Valdez
Contact Phone: 206-461-6000
Contact FAX: 206-461-6049
June 27, 2013

Mr. Bill Valez
DLR Group
901 Fifth Avenue, Suite 700
Seattle, WA 98164

Re: Proposal for Geotechnical Engineering Feasibility and Preliminary Environmental Study
Proposed New Whatcom County Sheriff’s Office and Jail Facility
Ferndale, Washington
13-4-1100-110

Dear Lori Bill:

Thank you for inviting Hart Crowser to submit this recommended scope of work and associated estimate of costs to provide geotechnical feasibility services related to construction of a new jail facility and sheriff’s office in Ferndale. This proposal is based on our previous work in the general area, a site visit and information provided by you.

Project Understanding

We understand that the project consists of the construction of a new jail facility and Sheriff’s office that consists, from a structural perspective, of a series of high bay single-story heavy structures and associated parking and stormwater facilities. The site is located south of Ferndale just west of Interstate 5 along Labounty Drive. The area is currently a large meadow with tall grass. At the time of our site visit much of the site was in a soft, wet and spongy condition indicative of a thick topsoil horizon in areas. We also understand that there may be a source of soil and groundwater contamination on the property to the southwest and west of the proposed property as a result of operations of an existing rendering plant and a former hazardous waste landfill site at that location. We therefore also propose to conduct a limited environmental assessment of the site in conjunction with our geotechnical work for greater efficiency. In addition, you have indicated that there are two Underground Storage Tanks (USTs) along the north side of the existing rendering plant and that the County would like to know if there is the potential that these tanks are leaking to groundwater and if that groundwater might be entering the Wetland Mitigation property along the north boundary of the rendering plant. All of our field personnel are cross trained in environmental and geotechnical work so that we can mobilize both studies concurrently using the same people and equipment.
GEOTECHNICAL PROJECT APPROACH AND SCOPE

Geologically, the site is mapped on the border between alluvial soils to the northwest and glacial marine drift to the southeast. Given the somewhat sloping nature of the site it is most likely that the site is underlain by drift soils which are typically very heterogeneous and likely consist of fine grained sands grading to silt and clay in some areas. There is standing water in some isolated areas and portions of the overall area have been mapped as wetlands. Groundwater levels are not known and from an earthwork and stormwater retention perspective it will be important to identify the depth to groundwater across the site.

We understand that the scope of work that you wish us to complete is oriented more toward a preliminary feasibility study in that the site has not yet been purchased. The intent is therefore to identify those geotechnical considerations that will have a significant impact on the cost of developing the site. Because of the potential high variability in subsurface conditions it is possible that our scope of work may need to be supplemented with respect to engineering explorations and analyses as the project proceeds through subsequent phases of development. We will seek your approval for any additional phases of work based on discussions with you and project needs.

The primary geotechnical issues on this site consist of the following:

- Required stripping depths and being able to reuse on site soils for structural fill, considering that some regarding of the sloping site will be necessary;

- Appropriate foundation types given the heavy loading and potentially soft soils at the site;

- The ability of the site to infiltrate groundwater as part of onsite groundwater retention.

Stormwater retention will be an important issue to address at this point. Based on conversations with the project civil engineer, Wilson Engineering, it is likely that Whatcom County will require an analysis of the feasibility of onsite stormwater infiltration. Based on requirements presented in the Department of Ecology Stormwater manual for Western Washington this would generally require the use of more detailed and time consuming Pilot Infiltration Tests. However, it may be the case that on site retention may not be feasible due to high groundwater and/or soils of excessively low permeability. We would therefore propose an approach whereby we would identify groundwater conditions across the site as well as grain size characteristics of the near surface soils (soils at elevations corresponding to planned infiltration facility elevations) through laboratory testing. Based on this preliminary evaluation we would attempt to determine the feasibility of onsite infiltration using general guidelines in the Ecology Storm Water manual that related infiltration rate to grain size of the soil. During subsequent design phases it is likely that the County will require the use of Pilot
Infiltration testing to obtain design values that can be used to determine optimal location and depth of the infiltration facilities.

We recommend a subsurface exploration program that addresses the following set of preliminary data needs:

- Foundation design for the buildings;
- Design of pavements, roadways, and utilities;
- Assessment of material for cuts and fills assuming on-site balance of cut and fill materials; and
- Design of stormwater infiltration facilities.

To accomplish this, we recommend an exploration program that consists of a series of hollow stem auger borings to depth and shallower backhoe excavated test pits. The borings will be used to assess conditions in areas of deeper cuts and in areas below the buildings. The borings will also be finished as groundwater monitoring wells in order to assess groundwater elevation across the site. The test pits will be used to assess near-surface conditions for pavements and utilities as well as on-site stormwater retention (via empirical correlations between grain size and infiltration rate).

We have budgeted for two borings to depths of approximately 50 feet each as well as 106 to 8 backhoe test pits. The test pits in the eastern portion of the site will be excavated to depths of about 8 to 10 feet for geotechnical purposes only. The other pits will be excavated to 15 feet or deeper if possible for geotechnical AND environmental purposes as discussed subsequently. In total, 100 linear feet of drilling are anticipated. Greater or lesser depths of borings may be required depending on the conditions encountered. Both borings will be completed as groundwater monitoring wells (total of 100 linear feet). One of these borings will be located near the southwest corner of the site, closest to the area of suspected contamination. In order to partially assess the presence of soil and groundwater contamination in this area.

We anticipate that the use of drilling equipment mounted on a tracked all-terrain chassis will be necessary due to the soft, nature of portions of the site uplands.

The borings and test pits will be coordinated in the field and observed by an engineering geologist from our firm who will collect samples and prepare continuous logs of the soil and groundwater conditions encountered.
Upon completion of the field and lab work, we will prepare a summary geotechnical report that will include the following information:

- Site plan showing the locations of the explorations advanced for this study;
- Logs of the explorations including the results of all field and lab testing;
- Discussion of subsurface conditions and influence of those conditions on project development;
- General recommendations for site preparation;
- General recommendations for design of foundations (assuming shallow foundations) including allowable bearing pressure, minimum footing dimensions, depth of embedment, and resistance to lateral loads;
- Seismic design criteria based on IBC criteria;
- General estimates of total and differential settlement under both static and dynamic (i.e., earthquake) conditions;
- General recommendations for design of pavements and slabs on-grade;
- General recommendations for permanent cuts and fills and retaining structures;
- General recommendations for infiltration rates to be used in design of on-site stormwater retention facilities;
- General recommendations for design of subgrade walls and retaining walls;
- General recommendations for subsurface drainage;
- General recommendations for selection, placement, and compaction of structural fill including an assessment of the suitability of on-site soils for reuse as structural fill;
- General recommendations for design of bedding and backfilling for utilities; and
- Recommendations for additional studies.
ENVIRONMENTAL APPROACH AND SCOPE

Our understanding of the environmental condition of the property is based on and limited to the review of the two received documents.


Based on our review of these two documents, we understand that the proposed site is located adjacent to a former hazardous waste landfill/ pit that operated in the 1970s through the 1980s. Several environmental investigations have been conducted by the U.S. Environmental Protection Agency (EPA) on the adjacent site to evaluate soil, groundwater, and surface water quality. In 2003, EPA provided a no further action designation for the site. This designation was based on a Preliminary Assessment/ Site Inspection conducted by EPA's contractor (Weston Solutions, Inc.) in 2002.

The 2008 Test Pit Soil Sample Results report included chemical results from three of nine test pits advanced north of the former hazardous waste landfill/pit. The chemical results of soil samples analyzed did not indicate detectable concentrations of petroleum above the laboratory detection limit and only low concentrations of heavy metals were detected.

All of the test pits were advanced to 18 feet below ground surface. Water seepage was noted on the sidewalls at depths of approximately 15 to 16 feet. No water samples were collected. There were no observations noted of ash material or any environmental concerns during the test pit excavations.

The test results from previous investigations between 1980 and 2002 indicated elevated concentrations of heavy metals in surface water and groundwater. Other suspect contaminants include petroleum pesticides, solvents, PCBs, and semi-volatiles in soil, groundwater, and surface water. Washington State Department of Ecology (Ecology) lists the confirmed affected media and contaminants are metals in the groundwater and surface water and pesticides in the soil.

Since the adjacent site has been previously investigated; EPA granted a NFA designation; and test pits advanced on the proposed site reportedly did not indicate impacts from the former hazardous waste landfill/pit, we propose to conduct environmental screening of the subsurface media during the geotechnical explorations.
The purpose of the environmental screening of the site is to further assess the potential environmental risks on the site from past uses on and surrounding the site, particularly the adjacent former hazardous waste landfill pit. It's our understanding that the site has not been purchased and an environmental screening of the site will assist in generally identifying potential environmental cleanup costs of the site.

If the environmental screening results indicate environmental impacts, we will provide a recommendation for additional environmental assessment and/or characterization on the proposed jail site.

Based on our review of the above mentioned reports, we recommend the following screening and sampling of the soils and water groundwater during the geotechnical exploration field program:

- Visually observe the soil and groundwater conditions of each test pit, particularly environmentally screening for unusual fill material (e.g. ash, black sludge, discolored soil);

- Document the depth of water seeping (if any) through the sidewalls of each test pit;

- Collect a water sample (if enough is produced from the seeps) from at least three test pits for possible metals, volatile organic compounds (VOCs), and/or petroleum chemical analyses;

- Collect a soil sample from unusual fill layer (if observed) for possible chemical analyses; and

- Collect and analyze a groundwater sample from the new monitoring wells (2 to be installed as part of this proposed geotechnical exploration program).

The screening and sampling of soils and water from the borings and test pits will be conducted by the same geologist in the field performing the geotechnical field work.

If the field observations and screening indicates the need for chemical analyses on specific soil and water samples, we will seek your authorization. At a minimum we have included a budget to conduct chemical analyses (total metals, VOCs, petroleum, and pesticides) on one groundwater sample from one of the new geotechnical monitoring wells;

We have included a contingency budget for similar chemical analyses on soil and grab water samples based on three soil samples and three grab water samples from seepage in select test pits.

The results will be presented in a technical memorandum separate from the geotechnical feasibility study.
Based upon our recent conversations with you, we understand that there may be one or two USTs immediately north of the good side of the Rendering Plant and that Whatcom County is concerned about the potential of liquids from these tanks affecting the groundwater which could be flowing toward the Wetland Mitigation Site. We recommend an approach similar to the environmental approach above. We propose to advance a series of four deep backhoe test pits at the corners of the Wetland Mitigation Area (closest to the suspected location of the tanks) and obtain water samples from these test pits if possible.

This effort is summarized as a separate line item in our costs below. You have indicated that you do not currently know the contents of the tanks. Therefore, we have assumed the same suite of tests assumed for the hazardous waste area to the south. We will advise our analytical costs once you learn the contents of the tanks.

Costs - Geotechnical

We estimate costs for the preliminary geotechnical design phase to be as follows:

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<th>Item</th>
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**Total Estimated Geotechnical Cost**

$26,300

Costs - Environmental (Hazardous Waste Landfill Area)

We estimate costs for the environmental screening at the site to be as follows:

<table>
<thead>
<tr>
<th>Item</th>
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<tr>
<td>Field Screening and Equipment Rental</td>
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<td>Chemical Analyses (1 groundwater samples)</td>
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<td>Data Analysis and Reporting</td>
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**Total Estimated Environmental Cost**

$2,950

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All Rights Reserved. Information is proprietary and company-confidential.
Costs – Environmental (Rendering Plant Area)

We estimate costs for the environmental screening at the site to be as follows:

- Subcontract Backhoe: $1,500
- Field Screening and Equipment Rental: $250
- Field Services: $820
- Chemical Analyses (4 ground water samples): $400*
- Data Analysis and Reporting: $1,000

Total Estimated Environmental Cost: $5,950

*Note: This amount is a placeholder number and will be revised once the suspected contents of the tanks are known.

Contingency – Chemical Analyses – Hazardous Waste Landfill Area

Three soil and three grab water samples (6 total): $2,800

Therefore, the total estimated baseline cost will be $35,200 + $2,800 plus a possible contingency of $2,800.

We have made the following assumptions:

- We will be provided with right-of-entry to the site during normal business hours for the purpose of completing all explorations;
- We will be provided with maps showing the accurate locations of all underground utilities;
- We have assumed that adequate soils can be encountered within the upper 50 feet across the site. If site conditions are such that deeper borings are necessary this will represent an increased cost to the project;
- We have assumed that all excess soil cuttings can be left on site at the exploration locations and that no special handling or site restoration (due to disturbance of drilling and excavating equipment) is required.
We have assumed that we will be working a sufficient distance from any contaminated soil or groundwater associated with the rendering plant to the west such that a Health and Safety Plan associated with that potential contamination will not be required.

**SCHEDULE**

Given an executed contract and Notice to Proceed by July 2, we can begin our field explorations (both geotechnical and environmental) on July 3. Our field work can be completed within one week of mobilizing to the field. Preliminary engineering recommendations in outline format can be submitted (with a meeting to discuss) within three weeks of mobilizing to the field. A draft report can be submitted within four weeks of mobilizing to the field.

**Terms and Conditions**

The scope of work outlined above will be billed on a lump sum basis at the end of each month as a percent of project completed. Our services will be performed in accordance with the standard of care of our profession. If project requirements change, requiring additional work, we will notify you and seek your approval for an addendum to the lump sum cost. The attached Terms and Conditions and any exhibits or attachments referenced herein are incorporated into our agreement with you, and, by your authorization to proceed, you are agreeing to these Terms and Conditions.

Please acknowledge your acceptance of this work by having this letter agreement properly signed and returning a signed copy to us. Alternatively, please prepare the appropriate contract documents for our review and signature. Any changes to our agreement must be in writing and mutually agreed to. We intend to use the attached example Contract Change Form to effectively implement and document any changes. We suggest that any future work performed for you be completed as an amendment to this contract. We appreciate this opportunity to submit our proposal and look forward to your favorable consideration. If we may provide any additional information or clarification of this proposal, please call us.

Sincerely,

HART CROWER, INC.

GARRY E. HORMITZ, PE, LEG
Whatcom County Council Agenda Bill

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**TITLE OF DOCUMENT:**
Whatcom Rowing Association update and funding proposal for new boat house

**ATTACHMENTS:**

**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.)

Presentation from Whatcom Rowing Association - provide update and funding proposal for new boat house

**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 COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**
Pertussis Outbreak Update

**ATTACHMENTS:**
Whatcom County Pertussis Outbreak June 2013
Summary of Activities to Control Pertussis Outbreak of 2012

**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.)

To provide an update on Pertussis in Whatcom County utilizing the attached information and a short PowerPoint presentation.

**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 2012 Pertussis Outbreak Summary

In 2012 Washington State experienced a resurgence of pertussis (whooping cough) to epidemic proportions not seen since 2004. (See attached tables). Whatcom County was not spared during this outbreak and although the total numbers of cases exceeded the numbers experienced in 2004 (303 compared to 335) we were much more prepared to handle this increase in our community and to control the spread of disease than in the past. We did not want a repeat performance as in 2004 when pertussis was rampant in our childcare and school settings and the outbreak extended far into 2005.

Why was the response so different?

- The Communicable Disease & Epidemiology Division (CD&E) has been working on enhanced surveillance since the 2010 Olympics. We were watching the outbreak in California in 2010 and anticipated the arrival of pertussis as the disease moved up the I-5 corridor. We were ready for it.

- The Immunization team was proactive in procuring free vaccine at a time when demand was low. This allowed us to receive an initial 1,500 doses of Tdap and to start our vaccination campaign early on to target those individuals who would receive the most benefit. The health department eventually distributed over 3,000 doses. Lots of infants were protected.

- We have good partner relationships in our community. Pharmacists in Fairhaven, Everson and Bellingham, obstetricians, the Childbirth center at Peace Health, SeaMar and others all worked with us to distribute the free vaccine for those who didn’t have insurance or resources to get it.

- The CD&E nurses from both teams worked together to administer vaccine to pregnant WIC clients and their immediate family members who would be caring for the new babies. This empowered new families to protect their infants.

- Surge capacity needs were planned for and nurses from both CD&E programs assisted in case investigations, contact management and gave shots at outlying clinics to make sure our rural residents had access to vaccine.

These efforts worked. No babies died in Whatcom County. (See attached graph).

During the 2004-05 outbreak we did not have vaccinations available to give to older children and adults. This allowed pertussis to persist in the community because many people were not immune to the disease. But just having a vaccination available will not stop an outbreak unless you can get it into the arms of those who need it. Our successes were enhanced by good planning and partnering with the community but internal resources need to be maintained to continue surveillance, outreach efforts and provide the direction for managing outbreaks of disease in Whatcom County.
Comparison of Rates of Pertussis in 2012 and 2004-2005 in WA State Counties

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Statewide Total cases 4,921 rate 73.1

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*Incidence rates not calculated for less than 5 cases
SUMMARY OF ACTIVITIES TO CONTROL PERTUSSIS OUTBREAK OF 2012: WHATCOM COUNTY HEALTH DEPARTMENT

Pertussis Cases 2011-2013

Community Partners Engaged

Free Dtap?

WIC shots

Community Clinics
3/12, 5/12, 6/12, 10/12

Probable
Confirmed
Infants

Community Partners included Pharmacists, Interfaith, SeaMar, OB-GYN offices, Childbirth Center
Communicable Disease & Epidemiology

Pertussis Outbreak 2011-12
Empowering the Community

2010-2011
The California Epidemic Unfolds

- WCHD was aware of the epidemic in California (Situation Awareness)
- The press was reporting infant deaths due to Whooping Cough (pertussis). 10 infants died in the epidemic in California
- Based on initial forecasts, we anticipated that pertussis would soon hit our community:
  - In the fall of 2011, WCHD immunization program receives grant for free Tdap vaccine
  - (1,300 doses on their way)

---

Pertussis cases and hospitalizations in Calif. by month of onset, 2010-2011

Pediatric pertussis cases by age and race/ethnicity -- California, 2010
A Lesson in Geography

Uh-Oh It's Here!
Snohomish Health District is reporting an increase in pertussis

Health officials saw 16 cases of whooping cough, also called pertussis, in January, which is not an unusual statistic. But the number rose nearly 69 percent in February, with 27 cases reported in the first 24 days of the month (source: Seattle Times, Mar 1, 2011)

The Whatcom County Situation
- Sudden increase in confirmed cases
- Sudden increase in hospitalized infants

Our Local Actions
- Monitor the situation
  - WCHD no longer offering adult vaccines
- Make a plan
- Work with our partners
  - Provider awareness
  - Hospital on-board
  - Pharmacy & provider contracts for free Tdap
- Get our "ducks in order"
Cocooning Activities Begin
Cocooning: protecting the infant through vaccination of caregivers

- Tdap offered through WIC vouchers
  - Began November 2011
- Pharmacy agreements signed
  - Give free Tdap
  - Give to adults who have contact with babies
  - Who qualifies (low income, no insurance or underinsured)
  - Hoagland’s, Fairhaven Pharmacy, Nooksack Valley Drug
- Partnered with Providers for Free Tdap
  - Lummi, Interfaith, Nooksack, PHMG OB, SeaMar

Efforts Increase to Protect those Babies
“Surround Your Baby with a Vaccinated Family”

- Visuels
- Event Posters
- News Releases: newspaper and radio
- Vouchers
  - Hospital CBC giving vouchers to all families
  - OB’s on board and giving vouchers
- Providers vaccinating their adults with private insurance and adolescents with VFC vaccine

Community Clinics Offered

- Tdap Clinics organized
  - March 2012: Bellingham Technical College
  - May 2012: Bellis Fair Mall
  - Partnered with BTC student nurses
  - May & June 2012: Childcare clinics for staff (on site)
  - June 2012: School clinics
    - Blaine, Kendall, Ferndale and Mt Baker
    - Partnered with Medical Reserve Corp nurse volunteers
  - October 2012: Bellingham Technical College

Total doses administered to date: 3,240

Did Our Efforts Work????

- Young parents empowered to protect their babies
- Pharmacies and other partners feel a part of helping their community
- Media increased demand for vaccine
- Constant communication with providers
- No infant deaths!
Did Our Efforts Work????

*What do you think?*

Questions?

Photo courtesy of
Kathleen Winter, California Dept of Health
Kathleen.winter@cdph.ca.gov
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**
Resolution restoring the WRIA 1 Planning Unit

**ATTACHMENTS:**

**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.)

Resolution restoring the WRIA 1 Planning Unit to assist the Whatcom County Council regarding water resources

**COMMITTEE ACTION:**

**COUNCIL ACTION:**
5/21/2013: Introduced  
6/04/2013: Referred to Public Works Committee on July 9.

**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.
RESOLUTION NO. 2013-____

RESTORING THE WRIA 1 PLANNING UNIT TO ASSIST THE WHATCOM COUNTY COUNCIL REGARDING WATER RESOURCES

WHEREAS, in 1998, the Washington State Legislature adopted ESHB 2514, 90.82 RCW, the Washington State Watershed Planning Act (WPA); and

WHEREAS, the RCW 90.82.005 states, “The purpose of this chapter is to develop a more thorough and cooperative method of determining what the current water resource situation is in each water resource inventory area of the state and to provide local citizens with the maximum possible input concerning their goals and objectives for water resource management and development”; and

WHEREAS, RCW 90.82.005 states, “The legislature finds that the local development of watershed plans for managing water resources and for protecting existing water rights is vital to both state and local interests. The local development of these plans serves vital local interests by placing it in the hands of people: Who have the greatest knowledge of both the resources and the aspirations of those who live and work in the watershed; and who have the greatest stake in the proper, long-term management of the resources. The development of such plans serves the state’s vital interests by ensuring that the state’s water resources are used wisely, by protecting existing water rights, by protecting instream flows for fish, and by providing for the economic well-being of the state’s citizenry and communities. Therefore, the legislature believes it necessary for units of local government throughout the state to engage in the orderly development of these watershed plans”; and

WHEREAS, RCW 90.82.030 (1) states, “All WRIA planning units established under this chapter shall develop a process to assure that water resource user interests and directly involved interest groups at the local level have the opportunity, in a fair and equitable manner, to give input and direction to the process”; and

WHEREAS, on May 5, 1998, Whatcom County Council unanimously adopted Resolution 1998-024 whereby Whatcom County affirmed its duty under RCW 90.82 to serve as “watershed planning lead agency” among the initiating governments; and

WHEREAS, on December 22, 1999, the WRIA 1 Planning Unit (“Planning Unit”) was formed through adoption of the Watershed Management Project Planning Unit Process and Procedural Agreement. The Planning Unit included a broad range of water resource user interests and directly involved interest groups. Governmental participants included Whatcom County, PUD No. 1 of Whatcom County, the City of Bellingham, the State Department of Ecology, the Small Cities Caucus, the Water Districts Caucus, the Diking and Drainage Districts Caucus and the Port of Bellingham. Non-governmental participants included the following caucuses: agriculture, fishers, forestry, land development, environmental, private well owners, and non-municipal water systems; and

WHEREAS, in 2005 the Planning Unit approved and Whatcom County adopted the WRIA 1 Watershed Management Plan (WMP); and

WHEREAS, in 2007 the Planning Unit approved and Whatcom County adopted the WRIA 1 Detailed Implementation Plan (DIP), which was required pursuant to RCW 90.82.043; and
WHEREAS, both the WMP and DIP called for the Planning Unit to continue functioning to address, without limitation, instream flows and WMP updates; and

WHEREAS, Whatcom County Council has consistently recognized that review and approval of watershed plans and plan amendments shall be conducted by the Planning Unit in a continuous improvement process in the manner provided for by the Council-adopted WMP and DIP; and

WHEREAS, the Planning Unit has not met since June 30, 2009 and is consequently unable to carry out its role as contemplated in the adopted WMP and DIP; and

WHEREAS, Whatcom County Charter states in Section 2.20 (c) that the legislature has the power to "establish, abolish, combine and divide by ordinance, non-elective administrative offices and executive departments and to establish their powers and responsibilities"; and

WHEREAS, Whatcom County Charter states in Section 2.20 (d) that the legislature has the power to "adopt by ordinance comprehensive plans, including improvement plans for the present and future development of the county," and further, that "The enumeration of particular legislative powers shall not be construed as limiting the legislative powers of the County Council."

NOW, THEREFORE BE IT RESOLVED:

Section 1: Finding. The Council finds that the Planning Unit is the advisory board established and responsible for recommending WRIA 1 water resource plans under RCW 90.82, including, without limitation, development of instream flow recommendations, and which is fully representative of the interests of local citizens in WRIA 1.

Section 2: Council Authority. The County Council has sole authority under Chapter 90.82 to approve and adopt by ordinance WRIA 1 water resource plans and plans necessary for implementation thereof.

Section 3: Request for Information. The County Council requests that the County Executive report regularly to the Whatcom County Council, the legislative branch of the WRIA 1 Lead Agency, on the status of the Planning Unit.

Section 4: Cooperation of County Officials. It is the policy of the County Council that Whatcom County shall support the Planning Unit as necessary to fulfill all its functions and obligations.

Section 5: Governance and Structure. The County Council supports a Planning Unit that meets regularly and conducts all meetings under the Open Public Meetings Act. It is the policy of the County Council that the Planning Unit shall review its adopted governance structure and operating rules as it deems necessary, so as to maintain a process to assure that water resource user interests, and directly involved interest groups at the local level have the opportunity, in a fair and equitable manner, to give input and direction to the process.

Section 6: Review and Approval of Watershed Plans. The County Council requests that the Planning Unit regularly review and approve assessments of the current water resource situation, including, but not limited to water availability, instream flow, water quality, and habitat. As provided in the Watershed Planning Act, amendments to the WMP will be submitted to Whatcom County Council for approval.

Section 7: Coordinate with salmon recovery board. The County Council requests that the Planning Unit review the progress of salmon recovery efforts and provide input to the salmon recovery board.
Section 8: Review and Comment on Water Resource Issues. The Whatcom County Council finds that the Planning Unit, by virtue of its expertise, experience, and inclusiveness, can add significant value for the Council and Executive by providing review and recommendations of water resources issues that come before the Council. The Council requests that the Planning Unit provide such review.

APPROVED this ____ day of ________, 2013.

ATTEST: WHATCOM COUNTY COUNCIL

Dana Brown-Davis, Clerk of the Council WHATCOM COUNTY, WASHINGTON

Kathy Kershner, Council Chair

APPROVED AS TO FORM:

________________________________________
Civil Deputy Prosecutor
Briefing on the 2016 urban growth area review process.

ATTACHMENTS:

1. Cover letter

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.)

Under the Growth Management Act, Whatcom County and the seven cities within the County must update their comprehensive plans and review their urban growth areas by June 30, 2016. The County and cities are coordinating these reviews. County Planning and Development Services would like to provide a quarterly update to the Council.

COMMITTEE ACTION:  

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:
AB2013-127

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.
June 24, 2013

To: Jack Louws, The Honorable Whatcom County Executive
   The Honorable Whatcom County Council

From: Matt Aamot, Senior Planner

Through: Mark Personius, AICP, Long Range Planning Division Manager

RE: 2016 Urban Growth Area Review – Quarterly Briefing

Whatcom County has initiated a multi-year project to update the Whatcom County Comprehensive Plan and conduct the urban growth area (UGA) review by June 30, 2016, as required by the Growth Management Act. The Comprehensive Plan update and UGA review will be conducted in close coordination with the seven cities in Whatcom County.

The County and cities have entered into a cost sharing agreement to provide funds for consultant services to assist with the planning process. The consultant, BERK, is currently working on a report relating to:

- County-wide population projections and allocations to UGAs and other areas; and
- County-wide employment projections and allocations to UGAs and other areas.

This report, which should be issued in July or August, will provide preliminary technical growth allocations based on state forecasts, historical data and other factors. After reviewing the consultant report, the cities and County will consider policy-based allocations of population and employment to UGAs. These policy-based recommendations may take into consideration factors such as city goals & policies, infrastructure capacity and land availability. The County Planning Commission will hold a public hearing and make initial recommendations on these projections and allocations by the end of 2013.

It is anticipated that the County Council and city councils will consider a multi-jurisdictional resolution relating to preliminary population and employment allocations in the first quarter of 2014. This would provide a common starting point for conducting environmental review, analyzing land capacity, developing draft land use planning proposals and developing draft capital facility plans. Final growth allocations would be adopted in the 2016 Comprehensive Plan update.

Thank you for your consideration of this matter. We look forward to discussing the comp plan update and UGA review process with you.
WHATCOM COUNTY COUNCIL AGENDA BILL

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TITLE OF DOCUMENT: Cornwall Church Development Agreement

ATTACHMENTS:

1) Ordinance
2) Hearing Examiners Recommendation and Conditions
3) Development Agreement

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.)

The applicants, Cornwall Church, are proposing a development agreement pursuant to RCW 36.70B.170-.210 and WCC 16.16.260(E) to mitigate wetland and wetland buffer fill in order to create additional parking pursuant to Conditional Use Permit (CUP) 2012-00001.

COMMITTEE ACTION:

COUNCIL ACTION:
6/18/2013: Introduced

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 Members

THROUGH: Sam Ryan

FROM: Amy Keenan, AICP, Senior Planner

DATE: May 29, 2013

SUBJECT: Cornwall Church Development Agreement

The applicants, Cornwall Church, have applied for a conditional use permit (CUP) and development agreement for mitigation for wetland and buffer fill to create additional parking spaces at 4518 Northwest Drive in the Rural (R5A) zone.

The site includes approximately 49 acres of land. Development on the site includes the church, parking, potable water and fire flow tanks and a stormwater detention pond. Several wetlands and associated buffers are located throughout the property.

The Whatcom County Hearing Examiner held an open record public hearing on the CUP and the development agreement on May 22, 2013. The Hearing Examiner reviewed the record, the staff report and the proposed development agreement and approved the CUP on May 28, 2013. The Hearing Examiner also prepared the attached Findings of Fact, Conclusions of Law and Recommendation to the Whatcom County Council for review and consideration for the development agreement.

Allowing the wetland and buffer fill with mitigation will allow the church to expand their parking area to serve the needs of the congregation.
ORDINANCE TO ENTER INTO A DEVELOPMENT AGREEMENT TO MITIGATE FOR WETLAND AND WETLAND BUFFER FILL IN ORDER TO CREATE ADDITIONAL PARKING PURSUANT TO CONDITIONAL USE PERMIT (CUP) 2012-00001.

WHEREAS, notice of the Whatcom County Hearing Examiner public hearing for the development agreement was published in the Bellingham Herald on May 9, 2013; and,

WHEREAS, notice of the Whatcom County Hearing Examiner public hearing was posted on the subject site; and,

WHEREAS, notice of the subject development agreement was sent to state and local agencies, and property owners within 1000 feet of the site, on February 15, 2013; and,

WHEREAS, the SEPA Official issued a Determination of Non-significance on April 15, 2013; and,

WHEREAS, the Whatcom County Hearing Examiner held a public hearing relating to the subject development agreement on May 22, 2013 and recommended approval of the development agreement; and,

WHEREAS, the Whatcom County Hearing Examiner received testimony and prepared the Findings of Fact, Conclusions of Law, and Recommendation to the Whatcom County Council for Council review and consideration.

The Council makes the following findings of fact and conclusions:

FINDINGS OF FACT

1. The applicant is requesting a Zoning Conditional Use Permit and Council Approval of a Development Agreement to allow 9,200 square feet of wetland and buffer fill on the Cornwall Church campus at 4518 Northwest Drive.

2. The proposed wetland and buffer fill will allow for construction of 126 additional parking spaces in the southwest corner of the site. The applicant will also re-stripe the existing parking lot to create additional compact parking spaces for a total of 673 parking spaces.

3. The Development Agreement, pursuant to WCC 16.16.260(E) and
RCW 36.70B.170-.210 includes a mitigation plan that has been approved by the United States Army Corps of Engineers and Whatcom County Planning and Development Services. The mitigation plan includes 1.96 acres of wetland and buffer enhancement in the north and northwestern portion of the property. At least 1.27 acres of that total will be wetland enhancement.

4. The proposal is consistent with the general purpose and intent of the critical area ordinance as well as the Whatcom County Comprehensive Plan.

5. A Zoning Conditional Use Permit for the parking lot and the interior remodel of approximately 11,900 square feet of the existing gymnasium and second floor space with multipurpose spaces and additional classrooms was approved by the Whatcom County Hearing Examiner on May 28, 2013.

CONCLUSION

This proposal meets all of the legal requirements as noted within the Findings of Fact, Conclusions of Law, and Recommendation to the Whatcom County Council. The Development Agreement will result in enhancement of wetland and wetland buffers to fully mitigate the impacts to critical areas on the site. The subject development agreement is consistent with WCC 16.16.260(E) and RCW 36.70B.170 through .210 and serves the public interest.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The development agreement, is hereby adopted as shown in 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 _________, 2013

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

WHATCOM COUNTY, WASHINGTON
Dana Brown-Davis, Council Clerk

APPROVED as to form:

Civil Deputy Prosecutor

Kathy Kershner, Council Chair

( ) Approved  ( ) Denied

Jack Louws, Executive

Date: ____________________
WHATCOM COUNTY HEARING EXAMINER

RE: Zoning Conditional Use Permit Application for Cornwall Church ) CUP2012-0001 ) and Associated Development Agreement ) ) FINDINGS OF FACT, ) CONCLUSIONS OF LAW, ) DECISION ON CUP2012-0001 AND ) RECOMMENDATION TO THE ) WHATCOM COUNTY COUNCIL ON ) DEVELOPMENT AGREEMENT

SUMMARY OF APPLICATION, DECISION, AND RECOMMENDATION

Application: The Applicant is requesting a Zoning Conditional Use Permit and approval of an associated Development Agreement to allow construction of a new 126 space parking lot and re-striping of the existing lot in order to add additional compact spaces. The proposed project will bring the total parking space count to 673 spaces. In addition, the Applicant also seeks to remodel a portion of the existing gymnasium space to provide a multi-purpose room and classrooms, and to add a second floor space within the existing building envelope.

The associated Development Agreement between Whatcom County and the Applicant, along with the attached mitigation plan, is to allow approximately 9,299-square feet of wetlands in the southwest corner of the site to be filled and for full mitigation by wetland and wetland restoration, as described in the Mitigation Plan attached to the Development Agreement, as Exhibit C.

Decision: The Whatcom County Hearing Examiner grants approval to CUP2012-0001, subject to conditions.
Recommendation: The Hearing Examiner recommends that the Whatcom County Council approve the associated Development Agreement prepared by Cornwall Church and Whatcom County Planning and Development Services, in consultation with the Washington State Department of Ecology and the U.S. Army Corps of Engineers.

FINDINGS OF FACT

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted and evidence presented at the public hearing.

I.

Applicant: Cornwall Church

Site Location/Address: 4518 Northwest Drive
Bellingham, Washington 98226

Legal Description: A portion of Section 02, Township 38 North, Range 02 East, W.M.

Assessor’s Parcel Number(s): 380202 410033, 380202 282077, and 380202 358085

Zoning: Rural (R5A)

Comprehensive Plan: Rural

Subarea: Urban Fringe

Total Acreage: Approximately 49 acres

Roads: Private internal access roads

Water Supply: Group ‘B’ Well

Sewage Disposal: Onsite septic system

Fire Protection: Fire District 8

Law Enforcement: Whatcom County Sheriff’s Office
Public Schools: Bellingham School District

Topography: The site slopes from the southeast corner down toward the lowest spot in the northwest corner. There are significant slopes running north/south through the central portion of the property.

Vegetation: The eastern portion of the site is forested and mostly undeveloped. The northwestern portion of the site contains mowed grass areas and wetlands.

Adjacent Land Uses:  
- North: Single Family Residential/Forested  
- East: Single Family Residential/Forested  
- South: Single Family Residential  
- West: Light Industrial/Single Family Residential

SEPA Review: Determination of Non-Significance, issued April 15, 2013

Authorizing Ordinances and Policies:  
- Whatcom County Comprehensive Land Use Plan  
- Whatcom County Code Chapter 15, Building Code  
- State Environmental Policy Act (SEPA). Washington Administrative Code Chapter 197-11, Whatcom County Environmental Policy Administration Chapter 16.08  
- Whatcom County Code Chapter 16.16, Critical Areas  
- Whatcom County Code Title 20, Official Whatcom County Zoning Ordinance  
- Whatcom County Code Title 24, Health Regulations  
- Revised Code of Washington 36.70B.170 through .210

Legal Notices:  
- Published – Notice of Public Hearing, May 9, 2013

Hearing Date: May 22, 2013

Parties of Record

Mike York  
Cornwall Church  
4518 Northwest Drive  
Bellingham, WA 98226

Tony Freeland  
Freeland and Associates  
220 West Champion Street, Suite 290  
Bellingham, WA 98225
Exhibits

1  Land Use Application, with attachments
   1-1  Supplemental Conditional Use Application
   1-2  Project Summary
   1-3  Revised Distribution List, Notice/Comment Form, SEPA Checklist, SEP2012-0003 / CUP2012-0001
   1-4  Mailing Labels
   1-5  Determination of Completeness, January 18, 2012
   1-6  Fee Responsibility
   1-7  Agent Authorization
   1-8  Customer Receipt
   1-9  Statutory Warranty Deed
   1-10 Land Disturbance Application
   1-11 Preliminary Traffic and Concurrency Information
   1-12 Staff Scheduling Email, April 25, 2013
   1-13 Hearing Examiner Checklist

2-1 Proposed Parking Plan, Development Agreement/CUP, dated March 5, 2013
2-2 Site Plan: Cornwall Church Gymnasium Remodel, Feb 5, 2013

3  Proposed Development Agreement with attachments
   3-1 Exhibit A: Statutory Warranty Deed
   3-2 Exhibit B: Army Corps of Engineers, letter, dated Apr 15, 2013 to Cornwall Church
      re: request for permit modification: mitigation plan
   3-3 Exhibit C: Mitigation Plan, prepared by NWC, LLC, revised Feb 20, 2013
   3-4 Exhibit D: Proposed Parking Site Plan
   3-5 Exhibit E: Parking Summary Graph
   3-6 Exhibit F: Site Plans, prepared by Freeland & Associates, July 10, 2012

4  SEPA DNS, April 15, 2013, with Checklist attached
5 Legal Notice of Application and Optional SEPA DNS, January 27, 2012, with Bellingham Herald Tear-Sheet, legal published March 20, 2013 [revised application]


7 Certificate of Posting, Notice of Public Hearing, May 8, 2013

8 Legal Notice of Public Hearing, May 9, 2013

9 Certificate of Mailing, Notice of Revised Application, March 20, 2013

10 Staff Report, dated May 22, 2013

11 Agency Comments:
   ~ Natural Resources Supervisor, May 9, 2013
   ~ Division of Engineering, March 15, 2013
   ~ DOE to Lyn Morgan Hill re: Final Mitigation Plan, Apr 29, Feb 13-14, 2013 [email]
   ~ Army Corps of Engineers, April 15, 2013 re: mitigation plan
   ~ Plans Examiner, May 6, 2013
   ~ Building Services Manager/Deputy Fire Marshal, May 6, 2013
   ~ Environmental Health, April 19, 2013 [Revised]


13 Public Comments:
   ~ RESources, February 13, 2013
   ~ Nancy Ivarinen, March 3 and 4, 2013
   ~ Kathryn Berger, March 4, 2013
   ~ Carol Hamilton, March 4, 2013
   ~ Paul Stuart, March 4, 2013
   ~ Patti Papetti, March 4, 2013
   ~ Frank and Gail Wiltse, stamped received Feb 25, 2013
   ~ Brad and Jaynie Gablehouse, Feb 24 and 27, 2013
   ~ Gary and Marguerite Garon, Feb 28, 2013


15 Mitigation Plan, prepared by NWC, LLC, dated January 28, 2013

16 Letter dated February 3, 2013, from Jensen Engineering, Inc. re: on-site sewage disposal system and feasibility for expansion/remodel of facility
II.

The Applicant is requesting a Zoning Conditional Use Permit and Whatcom County Council Approval of a Development Agreement, subject to the mitigation plan, in order to allow approximately 9,200-square feet of wetlands onsite to be filled. The proposed construction is to add a new parking lot with 126 spaces in the southwest corner of the site. The Applicant also proposes to re-stripe the existing parking lot in order to reduce the size of the spaces to allow more compact spaces. The proposed project will bring the count to 673 total parking spaces.

In addition, the Applicant also proposes to remodel a portion of the existing gymnasium to create a multi-purpose room and classrooms, and add a second floor space within the existing building envelope.

A Development Agreement has been entered into, by, and between Whatcom County and Cornwall Church, pursuant to the authority granted by RCW 36.70B.170 through .210, and WCC 16.16.260E. The open record public hearing for the Development Agreement was conducted concurrently with the CUP Application hearing. The Development Agreement sets forth the wetland mitigation for impacts associated with the development of the new parking lot.

III.

Whatcom County Planning and Development Services has recommended Zoning Conditional Use Permit Approval, as well as, Approval of the Development Agreement.

The Findings of Fact, Conclusions of Law, and Recommendation of Whatcom County Planning and Development Services are set forth in the Staff Report, Exhibit No. 10, a copy of which is attached hereto and incorporated herein by this reference. The Findings of Fact reached by Whatcom County Planning and Development Services are supported by the record as a whole and are hereby adopted by the Hearing Examiner, through this
reference, as Findings of Fact herein.

IV.

The Hearing Examiner has concluded that Approval of the Development Agreement will result in mitigation and wetland restoration which will fully mitigate the impacts to the critical areas on the development site. The Hearing Examiner concludes that the Development Agreement will result in positive mutual benefits to both the church and the public.

V.

There were written concerns about the project and what appropriate mitigation would be. These concerns were submitted in response to the Notice of Application and/or as comments on the SEPA Threshold Determination of Non-Significance.

These concerns have been addressed in the Development Agreement and in the Conditions of Approval recommended by Staff, and attached to this Approval of the Zoning Conditional Use Permit by the Hearing Examiner.

There were no public concerns or opposition expressed at the Public Hearing, which indicates public acceptance of the project, subject to the Conditions requested by Staff, and acceptance of the Development Agreement and proposed Mitigation Plan.

VI.

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following

CONCLUSIONS OF LAW

i.

Religious facilities are a Conditional Use in the Rural zone. Subject to Conditions of
Approval attached to this Decision, and full implementation of the proposed Development Agreement, the proposed development will be consistent with the Conditional Use Permit Criteria, and the Permit should be approved by the Hearing Examiner.

II.

RCW 36.70B.170 through .210, allows a local government to enter into a Development Agreement, subject to the requirements of RCW 36.70B.170 through .210.

Whatcom County Planning and Development Services, after consultation with the Washington State Department of Ecology and the U.S. Army Corps of Engineers, has recommended approval of the proposed Development Agreement with Cornwall Church.

The Hearing Examiner concludes that the Development Agreement is consistent with the requirements of RCW 36.70B.170 through .210, and with the applicable development regulations of Whatcom County, adopted pursuant to RCW 36.70A.

The Hearing Examiner also concludes that the development is consistent WCC 16.16.260E, and with other applicable zoning regulations, including the Critical Areas Ordinance.

The Hearing Examiner concludes that the proposed wetland mitigation is likely to result in a public benefit, which will more than offset the wetland impacts of the development. The Hearing Examiner should recommend to the Whatcom County Council Approval of the Development Agreement, Exhibit No. 3 in the Hearing Examiner’s file, a copy of which is attached hereto.

III.

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

The Whatcom County Hearing Examiner hereby approves the Cornwall Church Zoning Conditional Use Permit Application, allowing construction of a new parking lot with 126 spaces, modification of the existing parking lot through re-striping, and interior improvements to the existing church building to create additional space for Sunday School programs, located at 4518 Northwest Drive, Bellingham, Washington, subject to the conditions set forth below.

RECOMMENDATION

The Whatcom County Hearing Examiner recommends that the Whatcom County Council Approve the proposed Development Agreement, prepared by Cornwall Church and Whatcom County Planning and Development Services, in consultation with the Washington State Department of Ecology and the U. S. Army Corps of Engineers.

CONDITIONS OF APPROVAL

A. Critical Areas
   1. All compensatory mitigation shall be installed prior to final approval of the parking area. An As-built Report prepared by the qualified consultant shall be submitted and approved prior to final approval of the parking area.

   2. An Assignment of Savings (AOS) shall be submitted to Whatcom County Planning and Development Services prior to installation of the parking area and compensatory mitigation. This form is required to be completed, with bank approval. The amount of the Assignment will be 125% of the cost of the mitigation (planting, installation, monitoring, etc). Per the approved mitigation plan, the AOS shall be in the amount of $11,401.14. The original notarized form shall be returned to Whatcom County. As soon as the mitigation has been installed and inspected, please provide invoices for the cost of plants, installation, report, etc. These funds can be released from the bank account and the remaining funds must remain in the account for an additional five years to ensure maintenance of the mitigation. At the end of the 5-year period, if the mitigation has been successful, this remaining fund amount will be released.

   3. A Land Disturbance Permit shall be obtained from Whatcom County Planning and Development Services prior to grading/fill and installation of compensatory mitigation.
4. The mitigation area shall be placed in a conservation easement filed with the County Auditor in accordance with WCC 16.16. The mitigation area shall be protected with signage in accordance with WCC 16.16.265.

B. Planning Division

1. Consistent with the plans on file, date stamped March 6, 2013, the use and location on the site shall not be modified or changed in any way without further approval of the Whatcom County Hearing Examiner.

2. The Applicant must comply with all conditions of the Development Agreement.

3. Pursuant to WCC, Title 14, the owners of the property upon which this Conditional Use Permit Approval is granted shall sign a statement of acknowledgment containing a disclosure that pertains to the use of natural resources in Whatcom County. This disclosure shall be made on forms provided by Whatcom County, which shall then be recorded in the Whatcom County Auditor's Office.

4. The Applicant shall submit a final landscape plan consistent with the requirements of WCC 20.36.653 and WCC 20.80.300. The landscape plan shall include landscape modules in the gravel parking area and shall include screening consistent with WCC 20.80.350.

5. All compact stalls must be marked.

6. Wheel blocks shall be installed to designate parking spaces within the gravel parking area.

7. All landscaping and required irrigation shall be installed prior to occupancy. The County may accept, for a period of up to one year, a performance bond or other monetary security, as approved by the Prosecuting Attorney, in lieu of immediate installation, for 125 percent of the labor and materials cost to install the approved landscaping and required irrigation. A landscaping maintenance bond or other approved monetary security, for 10 percent of the labor and materials cost to install the approved landscaping, shall be submitted prior to occupancy or release of any landscaping performance security held by Whatcom County. The maintenance security shall be released in two years, after completion of the landscaping, if the landscaping has been maintained in a healthy, growing condition, and if any dead or dying plants have been replaced.

8. Pursuant to WCC 20.84.210, Conditional Use Permits shall be nontransferable unless said transfer is further approved by the Hearing Examiner.

9. The Applicant shall complete construction, or if no construction is contemplated as a part of this permit, shall demonstrate compliance with all of the conditions of this permit within twenty-four (24) months of the date of the issuance of this Decision.
Failure to complete construction or demonstrate compliance shall result in the expiration of this permit. Substantial progress toward completion may satisfy the terms of this condition if approved by Whatcom County Planning & Development Services and the Hearing Examiner. The Applicant or permit holder may apply for an extension for a term of up to one year upon a showing that substantial progress has been made toward completion of compliance. An extension shall be granted if the Hearing Examiner finds that the Applicant or permit holder will suffer a substantial hardship if the extension is denied. The Hearing Examiner may grant an extension for any other good cause shown, in his discretion, but extraordinary circumstances must be shown to obtain an extension of more than one year. The Hearing Examiner shall obtain the comments of Whatcom County Planning and Development Services before granting any extension.

C. Whatcom County Building
1. A commercial building permit is required for each building structure of this proposal. Such permits will be reviewed under the current adopted edition of the International Building Code (IBC) and must comply with all other applicable Codes and Ordinances adopted by Whatcom County.

2. A pre-application screening is required, prior to building permit application, to determine submittal requirements. The Applicant shall contact the Building Services Division to schedule the screening.

D. Whatcom County Fire Marshal
1. Based on the proposed expansion of interior floor area and expansion of exterior vehicle parking area, the minimum fire flow is required to increase to a minimum storage capacity of 130,000 gallons with an increase of minimum delivery capacity to 2000 gpm at 20 psi.

2. All vehicle parking shall be within a minimum distance of 500 feet from a fire hydrant, measured in a line drivable by fire apparatus.

3. A separate permit from the Fire Marshal's Office is required for any changes and revisions in order to separate fire protection/suppression systems.

E. Whatcom County Public Works - Engineering
1. All development shall comply with Whatcom County Development Standards.

2. An Engineered Stormwater Design Report shall be submitted for review and approval with any clearing/land disturbance permit application. The Stormwater Report shall address water quality and quantity and shall meet current Whatcom County Standards.

3. As per Chapter 2, Sec. 218, (B), the Applicant shall post a maintenance security with the Division of Engineering for any proposed drainage facilities. The security shall be
for an amount of 10% of the engineer’s construction cost estimate or $5,000 (whichever is greater). The security shall be in effect for two years from the date of provisional acceptance of the new drainage facilities.

4. Prior to any Certificate of Occupancy an As-built drawings (Record Drawings) for the new drainage system/facility must be provided to Engineering Services Division for permanent file record.

NOTICE

This Approval is subject to all of the above-stated conditions. Failure to comply with them may be cause for its revocation. Complaints regarding a violation of the conditions of this permit should be filed with Whatcom County Planning and Development Services. The Hearing Examiner may not take any action to revoke this approval without further public hearing.

Violations of this title shall constitute Class I civil infractions pursuant to RCW 7.80.120. The maximum penalty and the default amount for such violations shall be consistent with Chapter 7.80.RCW.

NOTICE OF APPEAL PROCEDURES FROM FINAL DECISIONS OF
THE WHATCOM COUNTY HEARING EXAMINER

This action of the Hearing Examiner is final. The following review procedure is available from this decision and may be taken by the applicant, any party of record, or any County department.

Appeal to County Council. Within ten business days of the date of the decision a written notice of appeal may be filed with, and all required filing fees paid to, the Whatcom County Council, Courthouse - 1st Floor, 311 Grand Avenue, Bellingham, WA 98225. The appeal notice must state either:

1) The specific error of law which is alleged, or
2) How the decision is clearly erroneous on the entire record.

More detailed information about appeal procedures is contained in the Official Zoning Ordinance at Section 20.92.600-.830. A copy of this document is available for review at the County Council Office. After an appeal has been filed and the Council office has received the hearing record and transcript of the public hearing, the parties will be notified of the time and date to file written arguments.

DATED this 28th day of May 2013.

Michael Bobbink, Hearing Examiner
WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES
STAFF REPORT

Hearing Date: May 22, 2013

The application of Cornwall Church
for a Zoning Conditional Use Permit
and Development Agreement

| CUP2012-00001 | FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS |

I. SUMMARY OF APPLICATION AND RECOMMENDATIONS

Summary: The applicant is requesting a zoning Conditional Use Permit and a Development Agreement to create additional parking spaces for Cornwall Church. As part of the conditional use permit the applicant is also proposing interior improvements to the church building to create additional space for Sunday school programs.

Recommendation: The Technical Review Committee recommends approval of the request.

II. PRELIMINARY INFORMATION

A. BACKGROUND INFORMATION

Owner/Applicant: Cornwall Church
4518 Northwest Drive
Bellingham, WA 98226

Authorized Agent: Tony Freeland
Freeland and Associates
220 West Champion Street, Suite 290
Bellingham, WA 98225

Site Location/Address: 4518 Northwest Drive

Legal Description: A portion of Section 02, Township 38 North, Range 02 East W.M.

Assessor’s Parcel Number(s): 380202410033, 380202282077 and 380202358085

Zoning: Rural (R5A)
Comprehensive Plan: Rural
Subarea: Urban Fringe
Total Acreage: Approximately 49 acres
Roads: Private internal access roads
Water Supply: Group ‘B’ well
Sewage Disposal: Onsite septic system
Fire Protection: Fire District 8
Law Enforcement: Whatcom County Sheriff’s Office
Public Schools: Bellingham School District
Topography: The site slopes from the southeast corner down to toward the lowest spot in the northwest corner. There are significant slopes running through north/south through the central portion of the property.
Vegetation: The eastern portion of the site is forested and mostly undeveloped. The northwestern portion of the site contains mowed grass areas and wetlands.
Adjacent Land Uses: North: Single Family Residential/Forested
East: Single Family Residential/Forested
South: Single Family Residential
West: Light Industrial/Single Family Residential
SEPA Review: Determination of Non-significance issued April 15, 2013

B. AUTHORIZING CODES, POLICIES, PLANS, AND PROGRAMS:

1. Whatcom County Comprehensive Plan
2. Whatcom County Code Chapter 15, Building Code
3. State Environmental Policy Act (SEPA). Washington Administrative Code Chapter 197-11, Whatcom County Environmental Policy Administration Chapter 16.08
4. Whatcom County Code Chapter 16.16, Critical Areas
5. Whatcom County Code Title 20, Official Whatcom County Zoning Ordinance
6. Whatcom County Code Title 24, Health Regulations

III. APPLICATION PROPOSAL

The proposal includes construction of approximately 43,458 square feet of additional parking area with associated stormwater treatment and detention facilities for a total of approximately 673 parking spots for the Cornwall Church campus on Northwest Drive.

The church has 529 existing parking stalls located at 4518 Northwest Drive. The proposal involves retaining 327 of the existing standard parking stalls, restriping 205 existing standard parking stalls to create compact parking stalls, 15 ADA accessible parking stalls and 126 new compact stalls. To accommodate the creation of the 126 new parking stalls the applicant has proposed placing the parking in the lower southwestern portion of the property which is approximately 43,458 square feet.

Three Category IV wetlands area located in this area (two of the wetlands are not regulated by the Whatcom County Critical Areas Ordinance pursuant to WCC 16.16.610.E) and the applicant has proposed to impact approximately 9200 square feet of wetland and 30,000 square feet of buffer. A development agreement, pursuant to RCW 36.70B.170-.210 and WCC 16.16.260(E), has been proposed to mitigate for the parking lot development within the critical areas wetland and buffers. The mitigation is proposed to occur in the north/northwestern corner of the property.

Stormwater runoff from the proposed parking lot will receive treatment through rain gardens located in the landscape area and will receive flow control mitigation through a washed rock detention basin.

In addition to the parking lot expansion the applicant is also proposing to remodel approximately 11,900 square feet of the existing gymnasium space into a multi-purpose room, classroom, and smaller gymnasium space. An additional second floor space within the building envelope for another multi-purpose space and additional classrooms will also be constructed. The exterior of the building will have a new egress stairway and new structurally-independent canopy at the entry.

The development agreement is necessary for the wetland and buffer impacts and for the increase in the compact parking space allowance. The development agreement is not necessary for the internal expansion of the existing building.

IV. SITE DESCRIPTION

The subject property is located at 4518 Northwest Drive just to the north of the City of Bellingham Urban Growth Area (UGA).

The site is fairly flat along the Northwest Road frontage, with a 15% slope toward the east, and currently consists of open pasture on the west and woodland on the east.
The property has approximately 630 feet of frontage on Northwest Drive, and 1,320-feet of frontage on an unconstructed portion of West Horton Road at the rear.

The site has several wetlands and associated buffers located throughout the property in the northwest, northeast and the southwest corners. There are three small wetlands located in the southwest corner which is proposed to be the site of the parking lot. Wetland fill has been proposed with mitigation for wetland and buffer impacts occurring in the northwestern portion of the property.

Existing development on the site includes the 72,376 square foot church which includes education and youth meeting rooms, worship assembly area, office, gym and recreation areas and storage. There are 465 existing parking spaces located within the parking lot area and an additional 64 parking spaces in the maintenance road area. Two (2) water tanks for potable water and fire flow are located to the east of the gravel maintenance road. There is one (1) stormwater detention pond with two (2) cells which is located immediately north of the northern most parking lot area.

The proposed site is surrounded by single family residential and forested areas on the north, east and southern borders. The site is bordered by Northwest Drive on the western border with a light impact industrial use and single family residential uses.

Neighboring properties zoning:

- **North:** Rural (R5A)
- **East:** Rural (R5A)
- **South:** Urban Residential - Mixed Use (URMX)
- **West:** Light Impact Industrial (LII)

**V. PUBLIC NOTICE AND COMMENT**

Requirements for public notice are contained in Chapter 2.33 WCC.

**Notice of Application:** The Notice of Application for this proposal was published on January 27, 2012. The fifteen (15) day comment period ended on February 13, 2012.

A Revised Notice of Application to revise the project description was published on February 15, 2013. The fifteen (15) day comment period ended on March 4, 2013.

A final Revised Notice of Application to clarify parking details was published on March 20, 2013.

**Notice of Public Hearing:** The Notice of Public Hearing for this application was published in a one-time newspaper publication in the Bellingham Herald.
Public Comments: During the public comment period the County received verbal and written comments regarding this proposal. The comments were mostly regarding potential impacts to wetlands and wildlife and impacts of additional traffic on Northwest Drive. Please see the findings of fact discussions regarding critical areas and roads for further analysis of critical area and traffic impacts.

VI. STATE ENVIRONMENTAL POLICY ACT (SEPA)

The State Environmental Policy Act (SEPA) requires applicants to disclose potential impacts to the environment as a result of their project. The Environmental Checklist submitted by the applicant adequately discloses anticipated environmental impacts as a result of this project. Whatcom County codes and regulations adequately mitigate for these anticipated environmental impacts. Therefore, a Determination of Non-Significance (DNS) is the appropriate threshold determination for this project. The DNS was issued on April 15, 2013 and no appeals were filed.

VII. FINDINGS OF FACT and CONSISTENCY WITH REGULATIONS

A. Whatcom County Comprehensive Plan

Zoning regulations are meant to implement the goals and policies of the County’s Comprehensive Plan. Conditional uses are those uses that may be approved if it is determined that the specific use requested is consistent with the general and specific objectives of the Whatcom County Comprehensive Plan.

This proposal for an expansion of parking area and an internal remodel are expansions to the existing church facility which was approved as a conditional use under CUP2000-00012 in August 2000 by the Whatcom County Hearing Examiner. At the time of the approval it was determined that the proposed church was consistent with the Whatcom County Comprehensive Plan. This proposal will not alter the basic use of the land for church purposes but will add additional parking area and classroom/assembly space within the church.

B. Roads and Bridges (WCC Chapter 12.08)

WCC Chapter 12.08 adopts and gives authorization for development standards for development within Whatcom County. Whatcom County shall establish uniform, comprehensive and distinct requirements which shall be applied to all developments. These requirements shall be established as “Whatcom County development standards” and shall exist to provide clear development guidelines for all construction activity within the county. These standards shall establish administrative and technical requirements for the implementation of land use regulations and shall provide the basis by which developments are evaluated to ensure compliance with county regulations.
The Whatcom County Public Works Engineer Department reviewed the proposal and submitted a memo dated March 15, 2013 with the following discussion:

The applicant is requesting a Zoning Conditional Use Permit for the addition of 126 parking stalls benefitting Cornwall Church located at the above address. The applicant proposes to mitigate the additional impervious surface using low impact development (LID) techniques.

Northwest Drive is a county maintained road classified as an Urban Minor Arterial with 6,755 ADT (average daily trip) and speed limit of 45MPH.

Engineering Services have reviewed and approved required traffic analysis which included evaluation of left turn lane capacity on Northwest Drive. It was determined that existing 150ft of left turn lane is still sufficient length to accommodate additional traffic generated by this development.

Engineering Services also reviewed and approved applicant’s Land Disturbance Permit which included complete engineered stormwater design report and civil plans for the proposed parking lot.

**All appropriate permits must be obtained before construction. Obtaining a county permit does not replace or over-ride other state and federal statutes and regulations that may apply to this project.

*The Technical Review Committee has determined that the project meets the requirements of WCC Chapter 12.08.*

C. Building and Fire Code (WCC Title 15)

WCC Title 15 adopts and amends the applicable building and fire codes. The Building Official is authorized to promulgate such rules, policies and/or procedures as deemed necessary for the efficient operation of the permit process as administered by the department of building safety, designated in IBC Section 103.1, and hereby referred to as the building services division of the Whatcom County Planning and Development Services Department.

The proposed project consists of new parking areas and the following changes to the existing 62,764sf church facility:

1st Floor: Remodel the existing 11,375sf Gymnasium into a smaller Gymnasium, a Multi-Purpose Room, two Classrooms and Storage.

2nd Floor: Create new 7,305sf 2nd floor within ceiling area above the existing Gymnasium consisting of two new Classrooms with Storage and a new Multi-Purpose Room with a raised platform.
These conditions are based on review of the following documents that were submitted by the applicant:

- Whatcom County *Conditional Use Application*;
- Architectural drawings (dated 2.15.13).

The application was submitted on January 12, 2012 and is subject to review under Title 15 (ORD 2010-041).

During this review, Building Services noted the following initial Building Permit conditions for approval in their May 6, 2013 memo. They are subject to change and additional conditions will be included when more detailed plans are submitted.

1. Due to the scope of the project, a WA State registered architect or professional engineer (PE) will be required to prepare the construction documents (IBC Section 107.3.4).

2. A structural analysis by a Washington State Professional Engineer (PE) will be required.

3. The following requirements/findings are from the 2009 IBC.
   a. Exiting shall meet the requirements of IBC Chapter 10 – Means of Egress.
   b. Minimum plumbing facilities (restrooms) are required in accordance with WA State Amendments (WAC) to IBC Chapter 29 – Minimum Plumbing Fixtures and Sanitation Facilities. Subject to Whatcom County Health Department approval, portable restrooms may be an acceptable alternate to permanent facilities.

4. The site and building(s) shall meet the barrier-free, handicap accessible requirements of IBC Chapters 10, 11 and Appendix E; ICC/ANSI A117.1-03; and WAC 51-50.


6. Ventilation shall comply with the current adopted edition of the International Mechanical Code (IMC).

7. Refer to the attached *General Conditions for Commercial Buildings* for additional building permit requirements.

*Whatcom County will be adopting the 2012 edition of most applicable Codes on July 1 of this year. All building permit applications submitted after June 30, 2013 will be reviewed under the new Codes.*
WCC Title 15 adopts and amends the applicable fire codes. The Fire Marshal is authorized to promulgate such rules, policies and/or procedures as deemed necessary for safety, designated in IBC Section 103.1, and hereby referred to as the Office of the Fire Marshal.

The Whatcom County Fire Marshal submitted a memo dated May 6, 2013 with conditions of approval.

_The Technical Review Committee has determined that the project meets the requirements of WCC Title 15._

**D. Critical Areas (Title 16)**

WCC Chapter 16.16 of the Whatcom County Code contains standards, guidelines, criteria and requirements intended to identify, analyze, preserve and mitigate potential impacts to the County’s critical areas and to enhance and restore degraded resources such as wetlands, riparian stream corridors or habitat, where possible.

The following critical areas reports have been prepared and reviewed by staff:

- Mitigation Plan, NWC LLC, January 28, 2013 and revised February 20, 2013

The submitted wetland delineation indicates regulated wetlands and buffers within the area proposed for development. The wetlands have been rated as Category IV wetlands with low habitat functions. The predominant functions of the wetland and buffer are currently related to hydrologic functions. The delineation has been verified by critical areas staff.

The development of the new parking lot in the southwest corner of the property will impact approximately 9,223 square feet of Category IV wetlands. The applicant is proposing mitigation in the form of wetland enhancement at a ratio of 6:1 which will require 1.27 acres of enhancement. Pursuant to the mitigation plan the mitigation will occur within the northwest corner of the property.

The development will also impact approximately 30,000 square feet of wetland buffer. Pursuant to WCC 16.16.680 compensation for buffer impact shall occur at a minimum 1:1 ratio. The applicant is proposing 30,000 square feet of wetland buffer enhancement.

The first wetland mitigation proposal included wetland and buffer enhancement in the northeast corner of the property. After consultation with staff and the Washington State Department of Ecology (Ecology) it was determined the mitigation should occur in the northwest corner of the property adjacent to
Northwest Drive.

Through review with staff, Ecology and the United States Army Corps of Engineers (Corps) it has been determined that 1.96 acres (85,338 square feet) in the north and northwestern portion of the property will be enhanced. At least 1.27 acres of that total will be wetland enhancement.

Development that would adversely impact or alter a critical area or buffer are required to mitigate for those impacts pursuant to WCC 16.16.260, and if they are unable to adequately mitigate those impacts, as determined by the technical administrator, shall be denied. The applicants are proposing to impact and alter a regulated critical area and are proposing a development agreement consistent with WCC 16.16.260(E) and RCW 36.70B.170-.210. The development agreement will allow relief and/or deviation from the standards and requirements of the WCC 16.16.

Critical areas staff have reviewed the revised mitigation plan prepared by NWC, LLC, dated February 20, 2013 for consistency with WCC16.16, Critical Areas Ordinance, particularly WCC16.16.260 (A), Mitigation Sequence, and (E) Alternative Mitigation, and find that the mitigation plan conforms to all requirements:

1. The county shall facilitate review and/or approval of an alternative mitigation plan for a major development as defined by this chapter, a planned unit development pursuant to Chapter 20.85 WCC, and/or a development agreement pursuant to RCW 36.70B.170 through 36.70B.210. The mitigation plan shall be used to satisfy the requirements of this chapter and provide relief and/or deviation as appropriate from the specific standards and requirements thereof; provided, that the standards of impact avoidance and minimization shall remain as guiding principles in the application of these provisions and when it is demonstrated that all of the following circumstances exist:

a. The proponent(s) demonstrate the organizational and fiscal capability to carry out the purpose and intent of the plan;

The proponent has demonstrated the ability to successfully implement mitigation projects within Whatcom County by coordinating Whatcom County Planning and Development Services, the Corps and Department of Ecology to provide on-site mitigation in the current location which will provide the greatest ecological benefit and have the greatest likelihood of success. The mitigation location will also connect with a riparian habitat corridor to the west which has recently been restored through compensatory mitigation. The applicant has demonstrated the ability to successfully establish native shrubs through careful landscaping of the church grounds.
b. The proponent(s) demonstrate that long-term management, maintenance, and monitoring of the watershed will be adequately funded and effectively implemented;

Currently the existing mitigation area is a degraded wetland with connections to an offsite fish bearing stream and the proposed wetland enhancement will increase water quality and increase the diversity and structure of the habitat in the watershed and protect downstream properties. An Assignment of Savings in the amount of 125% of the estimated construction, maintenance and monitoring of the mitigation shall be submitted to Whatcom County Planning and Development Services prior to installation of compensatory mitigation to insure adequate funding.

c. There is a clear likelihood for success of the proposed plan based on supporting scientific information and demonstrated experience in implementing similar plans;

The mitigation plan was developed in accordance with the Whatcom County Critical Areas Ordinance and is based on best available science. The proponent has consulted with Ecology and the Corps and has submitted applications relating to wetland fill accordingly.

d. The proposed project results in equal or greater protection and conservation of critical areas than would be achieved using parcel-by-parcel regulations and/or traditional mitigation approaches;

By providing for comprehensive mitigation for all unavoidable impacts, the project results in equal or greater compensation than would be achieved using parcel-by-parcel regulations and/or traditional mitigation approaches. The category IV wetlands/buffer that are being filled are of low habitat quality and surrounded by development (Church/parking, Northwest Drive and residential development) and the wetlands/buffer to be enhanced are of low quality category IV degraded grassy wetlands/buffer and will be improved to a minimum category II PEM/PSS wetland/buffer system. The enhancement area is connected to a higher quality habitat corridor and is located further from developed areas.

e. The plan is consistent with the general purpose and intent of this chapter and the comprehensive plan;

The mitigation plan is consistent with the general purpose and intent of the critical area ordinance as well as the comprehensive plan. The proponents are utilizing on-site mitigation to further environmental goals identified in the comprehensive plan. This will allow necessary additional parking for the existing church in an organized and efficient manner.
f. The plan shall contain relevant management strategies considered effective and within the scope of this chapter and shall document when, where, and how such strategies substitute for compliance with the specific standards herein; and

The mitigation plan was developed in accordance with local, state and federal regulations and implements best available science.

g. The plan shall contain clear and measurable standards for achieving compliance with the purposes of this chapter, a description of how such standards will be monitored and measured over the life of the plan, and a fully funded contingency plan if any element of the plan does not meet standards for compliance.

The mitigation plan contains relevant management and monitoring strategies considered effective and within the scope of the code. It is also consistent with the general purpose and intent of this requirement. If necessary the technical administrator can extend the monitoring period in the event that the desired mitigation goals are not met during monitoring and a contingency plan is implemented.

The Final Mitigation Plan is consistent with the above Critical Areas provisions.

Development agreements shall be processed pursuant to WCC 20.92.850:

1. The Whatcom County hearing examiner is designated to conduct the open record public hearing for development agreements as defined in the Growth Management Act, Chapter 36.70B RCW.

2. The Whatcom County hearing examiner shall conduct an open record public hearing and prepare a record thereof, and make recommendation to the county council for approval or disapproval of development agreements as defined in the Growth Management Act, Chapter 36.70B RCW.

The Whatcom County Hearing Examiner shall hold an open record public hearing for the development agreement and shall make a recommendation to the Whatcom County Council.

Chapter 36.70B.170 Revised Code of Washington

1. A local government may enter into a development agreement with a person having ownership or control of real property within its jurisdiction. A city may enter into a development agreement for real property outside its boundaries as part of a proposed annexation or a service agreement. A development agreement must set forth the development standards and other provisions
that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement. A development agreement shall be consistent with applicable development regulations adopted by a local government planning under chapter 36.70A RCW.

2. RCW 36.70B.170 through 36.70B.190 and section 501, chapter 347, Laws of 1995 do not affect the validity of a contract rezone, concomitant agreement, annexation agreement, or other agreement in existence on July 23, 1995, or adopted under separate authority, that includes some or all of the development standards provided in subsection (3) of this section.

3. For the purposes of this section, "development standards" includes, but is not limited to:
   a. Project elements such as permitted uses, residential densities, and nonresidential densities and intensities or building sizes;
   b. The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;
   c. Mitigation measures, development conditions, and other requirements under chapter 43.21C RCW
   d. Design standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping, and other development features;
   e. Affordable housing;
   f. Parks and open space preservation;
   g. Phasing;
   h. Review procedures and standards for implementing decisions;
   i. A build-out or vesting period for applicable standards; and
   j. Any other appropriate development requirement or procedure.

4. The execution of a development agreement is a proper exercise of county and city police power and contract authority. A development agreement may obligate a party to fund or provide services, infrastructure, or other facilities. A development agreement shall reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

Whatcom County is proposing to enter into a development agreement with Cornwall Church, an entity owning real property within Whatcom County, to allow wetland and buffer fill with mitigation.

Critical areas staff submitted a memo dated May 9, 2013 and has determined that the above proposal conforms to the requirements in WCC16.16 and has received critical areas approval as conditioned.
The Technical Review Committee has determined that, as conditioned, the project meets the requirements of WCC Chapter 16.16.

E. WCC Chapter 20.36 - Rural Zone Site and Use Requirements

Pursuant to WCC 20.36.153, churches are allowed by conditional use within the Rural (R5A) zone. In 2000 the applicant requested approval of a 72,376 square foot church building containing classrooms, assembly hall (sanctuary), multipurpose room, nursery, pre-school and offices. An 800 square foot maintenance building, sign, parking lot, water storage facility and stormwater detention system were also permitted on the site. The Whatcom County Hearing Examiner approved the original CUP on August 28, 2000, a revision to clarify square footage on September 20, 2000, and a revision on October 11, 2002 for an expansion of the parent parcel. An additional revision pursuant to WCC 20.84.225 was approved on June 5, 2008.

The proposed development of additional parking and the expansion to the interior of the building does not meet the revision criteria in WCC 20.84.225, and a new conditional use permit was determined to be necessary.

WCC 20.36.350 Building setbacks.
Building setbacks shall be administered pursuant to WCC 20.80.200 (Setback Requirements).

No building setbacks will be reduced through the proposed conditional use permit.

WCC 20.36.400 Height limitations.
Maximum height shall be limited to 35 feet. Height of structures shall also conform, where applicable, to the requirements of WCC 20.80.675, 20.72.400, and the provisions of the Shoreline Management Program, whichever is more restrictive.

There will be no increases in height through this conditional use permit.

WCC 20.36.450 Lot coverage.
No structure or combination of structures, including accessory structures, shall occupy or cover more than 2,500 square feet or 35 percent, whichever is greater of the total area.

The existing facility is approximately 72,000 square feet. No expansion or new buildings will be allowed on the site through this conditional use permit.

WCC 20.36.652 Use of natural resources.
All discretionary project permits for land on or within one-half mile of an area designated as Rural or within 300 feet of an area upon which farm operations
are being conducted shall be subject to the right to farm, right to practice
forestry and mineral land disclosure policies contained in WCC Title 14, Use of
Natural Resources.

As conditioned, the applicants will be required to record a notice to title
including the right-to-farm disclosure.

**WCC 20.36.653 Landscaping.**
Refer to WCC 20.80.300 for landscaping requirements. The applicants submitted
a landscape plan with the land disturbance permit (LDP2012-00022). The
proposed landscaping is generally consistent with WCC20.80.300, but a final
landscape plan will be reviewed and approved with the land disturbance permit.

As conditioned, the applicants are consistent with WCC 20.36.653.

**WCC 20.36.654 Parking requirements.**
Parking shall conform to the requirements of WCC 20.80.500.

The applicant is proposing approximately 673 parking spots for the Cornwall
Church campus on Northwest Drive. The church has 529 existing parking stalls
located at 4518 Northwest Drive. The proposal involves retaining 327 of the
existing standard parking stalls, restriping 205 existing standard parking stalls to
create compact parking stalls, 15 accessible parking stalls and 126 new compact
stalls.

WCC 20.80.580(15) details the standards for parking at churches with a minimum
requirement of 1 parking space for each four (4) seats. The applicant will exceed
the minimum requirements. Approximately 50 percent of the total parking spaces
will be compact spaces (dimensions less than 10 feet in width and 20 feet in
length). The proposal also includes a total of 15 Americans With Disabilities Act
(ADA) consistent parking stalls. See the site plan dated stamped March 6, 2013
for more details.

The proposal is consist with WCC 20.36.364 and WCC 20.80.500.

**WCC 20.36.656 Drainage.**
All development activity within Whatcom County shall be subject to the
stormwater management provisions of the Whatcom County Development
Standards unless specifically exempted. No project permit shall be issued prior
to meeting the stormwater requirements of this title and Chapter 2 of the
Whatcom County Development Standards.

The Technical Review Committee has determined that, as conditioned, the project
meets the requirements of WCC Chapter 20.36.
F. Transportation Concurrency - WCC Chapter 20.78

WCC Chapter 20.78 gives authority to ensure adequate transportation facilities are available or provided concurrent with development.

The preliminary traffic and concurrency proposal shows the CUP is exempt from concurrency requirements pursuant to WCC 20.78.030. An Exemption from Concurrency Evaluation Form was issued on May 7, 2013 (ECE13-0012).

The Technical Review Committee has determined the project is exempt from the requirements of WCC Chapter 20.78.

G. WCC 20.80.21 - Concurrency

WCC Section 20.80.212 states that no conditional use permit shall be approved without a written finding that:

1. All providers of water, sewage disposal, schools, and fire protection serving the development have issued a letter that adequate capacity exists or arrangements have been made to provide adequate services for the development.

2. No county facilities will be reduced below applicable levels of service as a result of the development.

Water & Sewer Discussion: The proposed CUP will utilize an on-site Group 'B' well and an individual on-site septic system. The county facilities for water and sewer will not be reduced as a result of this CUP.

Schools Discussion: The proposal is located within the service area designated as the Bellingham School District 501. The proposed CUP will not create an increased need for the school district.

Fire Protection Discussion: The proposal is located within the service area of Whatcom County Fire District #8. The fire district was notified of the proposed CUP and did not respond or provide comments.

The Whatcom County Fire Marshal reviewed application materials on file, and submitted a memo dated May 6, 2013 with proposed conditions of approval.

Finding: The Technical Review Committee has determined that, as conditioned, the project meets the requirements of WCC Chapter 20.80.212.

H. Compliance with WCC 20.84.200 & WCC 20.84.220 Criteria

Before approving an application for a conditional use permit, the hearing examiner shall ensure that any specific standards of the use district defining the
conditional use are fulfilled, and shall find adequate evidence showing that the proposed conditional use at the proposed location.

(1) Will be harmonious and in accordance with the general and specific objectives of Whatcom County’s Comprehensive Plan and zoning regulations.

The church is an existing use in the Rural zone which received conditional use permit approval in 2000 by the Whatcom County Hearing Examiner. The proposal to expand the parking area is needed to serve the existing deficiency in parking with the current membership for Sunday services as well as peak holiday events.

The applicant is also proposing to remodel approximately 11,900 square feet of existing gymnasium space into a multi-purpose room, classroom and a smaller gymnasium space. A second floor space, within the existing footprint, will be added for another multi-purpose room and classroom. This expansion of square footage within the footprint of the existing church building is for existing Sunday school purposes.

Finding: The Technical Review Committee finds that the proposed use is consistent with the above listed Goals and Policies of the Whatcom County Comprehensive Plan.

(2) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.

The church is an existing facility that received approval of a conditional use permit from the Whatcom County Hearing Examiner. The site is zoned Rural (R5A), and has Rural zoned areas to the north and east and is developed with larger lot single family residences. The area to the south is within the Urban Growth area and has the potential for higher density single family and multifamily residential development. To the west of the property the site is zoned Light Impact Industrial with the potential for a wide variety of more intensive uses. The development of the church is on an approximately 40 acre parcel with large portions of the site undeveloped in critical areas and forests.

Finding: The Technical Review Committee finds the proposal will be designed, constructed, operated and maintained harmoniously and appropriately and will not change the essential character of the general vicinity.

(3) Will not be hazardous or disturbing to existing or future neighboring uses.

The applicant has proposed landscaping buffers adjacent to the proposed parking lot expansion area.
Finding: The Technical Review Committee finds the proposal will not be hazardous or disturbing to existing or future neighboring uses.

(4) Will be serviced adequately by necessary public facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

The proposal will have direct access on to Northwest Drive. Water will be provided by a Group ‘B’ well and sewage disposal will be from an on-site septic system.

Finding: The Technical Review Committee has determined the proposal is serviced adequately by necessary public facilities.

(5) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community.

The proposed use will not require additional requirements at public cost for public facilities and services beyond what is typically provided at a rural level of service.

Finding: The Technical Review Committee has determined there will be no excessive or additional requirements for public facilities and services and will not be detrimental to the economic welfare of the community.

(6) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare or odors.

The applicant is not proposing to store any materials or harmful chemicals that would create or cause smoke, fumes, glare or odors and as such will not be detrimental to persons, property, or the general welfare.

Finding: The Technical Review Committee has determined the proposed CUP will not be detrimental to persons, property or general welfare.

(7) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.

The Whatcom County Public Works Department, Division of Engineering staff has reviewed the proposed use for traffic impacts and has found that as conditioned no traffic impacts will occur with the proposal.
Finding: The Technical Review Committee has determined the vehicular approaches to the site will not interfere with traffic on the surrounding public streets.

(8) Will not result in the destruction, loss or damage of any natural, scenic or historic feature of major importance.

Significant critical areas are located on site and wetland fill is proposed as part of the proposal. However, a development agreement has been developed to allow impacts to the small wetlands located on the southwest corner of the property with significant amounts of wetland restoration and enhancement taking place along the northern border of the property.

Finding: The Technical Review Committee has determined that there will be no destruction, loss or damage of features of major importance. The Technical Review Committee finds the proposal as conditioned, will comply with WCC 20.80.200 and WCC 20.84.220.

I. Health Code (Title 24)

The purpose of Title 24 is to provide minimum standards to safeguard public health and welfare by regulating and controlling the activities considered in this title and any related work.

The Whatcom County Health Department (WCHD) has reviewed the project noted above and has the following comments in a memo dated April 19, 2013:

**Water:**
The existing building is served by the Cornwall Church of God public water system which has an arsenic treatment system. Prior to building permit approval, the applicant must submit a water sample to demonstrate that the treatment system is operating as designed. In addition, the water system is currently listed as having a blue operating permit (unapproved, but ok for existing connections) with the Washington State Department of Health. This could mean that some documentation is outstanding, and needs to be addressed.

There has been some discussion between the applicant and Building Services to connect the potable water system with the fire flow system. Any alterations to the potable water system must be approved in writing by the Washington State Department of Health.

**Sewage:**
The Church is served by an existing on-site sewage system (OSS). The proposed remodel will not require an expansion of the OSS, however, prior to building permit approval the OSS must be evaluated by a Licensed Operation and Maintenance Specialist and a Report of System Status submitted to WCHD.
The Technical Review Committee has determined that, as conditioned, the project meets the requirements of WCC Title 24.

VIII. RECOMMENDATION

The Technical Review Committee has determined that subject to the following proposed conditions, the proposal complies with applicable Whatcom County regulations. As stated above, the Technical Review Committee recommends approval of the CUP subject to the following conditions:

IX. CONDITIONS OF APPROVAL

A. Critical Areas

1. All compensatory mitigation shall be installed prior to final approval of the parking area. An as-built report prepared by the qualified consultant shall be submitted and approved prior to final approval of parking area.

2. An Assignment of Savings (AOS) shall be submitted to Whatcom County Planning and Development Services prior to installation of the parking area and compensatory mitigation. This form is required to be filled out and taken to a bank for approval. The amount of the Assignment will be 125% of the cost of the mitigation (planting, installation, monitoring, etc). Per the approved mitigation plan the AOS shall be in the amount of $11,401.14. Please return the original notarized form to the County. As soon as the mitigation has been installed and inspected, please provide invoices for the cost of plants, installation, report, etc. and those funds can be released from the bank. The remaining funds must remain in the account for an additional 5 years to ensure maintenance of the mitigation. This amount will be released at the end of the 5-year period if the mitigation has been successful.

3. A Land Disturbance Permit shall be obtained from Whatcom County Planning and Development Services prior to grading/fill and installation of compensatory mitigation.

4. The mitigation area shall be placed in a conservation easement filed with the County Auditor in accordance with WCC 16.16. The mitigation area shall be protected with signage in accordance with WCC 16.16.265.

B. Planning Division

1. Consistent with the plans on file date stamped March 6, 2013 the use and location on the site shall not be modified or changed in any way without further approval of the Whatcom County Hearing Examiner.

2. The applicant must comply with all conditions of the development agreement.
3. Pursuant to WCC, Title 14, the owners of the property upon which this conditional use permit approval is granted shall sign a statement of acknowledgment containing a disclosure that pertains to the use of natural resources in Whatcom County. This disclosure shall be made on forms provided by Whatcom County, which shall then be recorded in the Whatcom County Auditor’s office.

4. The applicant shall submit a final landscape plan consistent with the requirements of WCC 20.36.653 and WCC 20.80.300. The landscape plan shall include landscape modules in the gravel parking area and shall include screening consistent with WCC 20.80.350.

5. All compact stalls must be marked.

6. Wheel blocks shall be installed to designate parking spaces within the gravel parking area.

7. All landscaping and required irrigation shall be installed prior to occupancy. The county may accept for a period of up to one year a performance bond or other monetary security as approved by the prosecuting attorney in lieu of immediate installation for 125 percent of the labor and materials cost to install the approved landscaping and required irrigation. A landscaping maintenance bond or other approved monetary security for 10 percent of the labor and materials cost to install the approved landscaping shall be submitted prior to occupancy or release of any landscaping performance security held by the county. The maintenance security shall be released in two years after completion of the landscaping if the landscaping has been maintained in a healthy, growing condition, and if any dead or dying plants have been replaced.

8. Pursuant to WCC 20.84.210, Conditional Use Permits shall be nontransferable unless said transfer is further approved by the hearing examiner.

9. The applicant shall complete construction, or if no construction is contemplated as a part of this permit, shall demonstrate compliance with all of the conditions of this permit within twenty-four (24) months of the date of the issuance of this decision. Failure to complete construction or demonstrate compliance shall result in the expiration of this permit. Substantial progress toward completion may satisfy the terms of this condition if approved by Whatcom County Planning & Development Services and the Hearing Examiner. The Applicant or permit holder may apply for an extension for a term of up to one year upon a showing that substantial progress has been made toward completion of compliance. An extension shall be granted if the Hearing Examiner finds that the Applicant or permit holder will suffer a substantial hardship if the extension is denied. The Hearing Examiner may grant an extension for any other good cause shown, in his discretion, but extraordinary circumstances must be shown to obtain an extension of more
than one year. The Hearing Examiner shall obtain the comments of Whatcom County Planning and Development Services before granting any extension.

C. Whatcom County Building

3. A commercial building permit is required for each building structure of this proposal. They will be reviewed under the current adopted edition of the International Building Code (IBC) and must comply with all other applicable codes and ordinances adopted by Whatcom County.

4. A pre-application screening is required prior to building permit application to determine submittal requirements. Contact the Building Services division to schedule the screening.

D. Whatcom County Fire Marshal

1. Based on the proposed expansion of interior floor area and expansion of exterior vehicle parking area, the minimum fire flow is required to increase to a minimum storage capacity of 130,000 gallons with an increase of minimum delivery capacity to 2000 gpm at 20 psi.

2. All vehicle parking shall be within a minimum distance of 500 feet from a fire hydrant, measured in a line drivable by fire apparatus.

3. A separate permit from the Fire Marshal's office is required for any changes and revisions to separate fire protection/suppression systems.

E. Whatcom County Public Works - Engineering

1. All development shall comply with Whatcom County Development Standards.

2. An Engineered Stormwater Design Report shall be submitted for review and approval with any clearing/land disturbance permit application. Stormwater Report shall address water quality and quantity and shall meet current County standards.

3. As per Chapter 2, Sec. 218, (B), the applicant shall post a maintenance security with the Division of Engineering for any proposed drainage facilities. The security shall be for an amount of 10% of the engineer's construction cost estimate or $5,000 (whichever is greater). The security shall be in effect for 2 years from the date of provisional acceptance of new drainage facilities.

4. Prior to any Certificate of Occupancy an As-built drawings (Record Drawings) for the new drainage system/facility must be provided to the Engineering Services for permanent file record.
Report prepared for the Technical Review Committee by:

Amy Keenan, AICP
Senior Planner
DEVELOPMENT AGREEMENT

This Development Agreement (the "Agreement") is entered into by and between Whatcom County (the "County") and Cornwall Church pursuant to the authority granted by RCW 36.70B.170 through .210, and WCC Title 16, (16.16.260 E) to promote the development of certain real property located within the County upon the following terms and conditions set forth herein.

WHEREAS, Cornwall Church owns certain property identified in Exhibit A ("Property") and legally described in Exhibit A. The Property is an approximate 49.273-acre parcel located at 4518 Northwest Drive, in Whatcom County, Washington, within a portion of Section 02, Township 38 North, Range 02 East, W.M.; Latitude 48.8053821° North, Longitude 122.5195289° West, and

WHEREAS, over the past two years Cornwall Church and the County have been engaged in discussions concerning the construction of a parking lot addition, Cornwall Church pursued project development through the Conditional Use Permit process, Cornwall Church met with County staff who provided Cornwall Church the possible option to pursue permitting of the project under this Agreement; and

WHEREAS, on the effective date of this Agreement, Cornwall Church and Whatcom County enter into the Agreement wherein both Parties agree that Cornwall Church had demonstrated conformance with the Critical Areas Ordinance in the development plans as described herein; and

WHEREAS, Cornwall Church has consulted the US Army Corps of Engineers (Corps) and has received approval, a copy of which is attached as Exhibits B. Permit conditions are included in the development plans as described in the Compensatory Wetland Mitigation Plan, Exhibit C herein; and

WHEREAS, the Parties agree that the purpose of this Agreement is to allow Cornwall Church to go forward with their plans to implement the Critical Areas Mitigation Plan and construct the proposed parking lot addition on said property as described herein, Exhibits D; and

WHEREAS, the County and Cornwall Church recognize the mutual benefit arising from this Agreement providing that certain uses, development standards and mitigation are vested as set forth and herein shall be allowed without further approval or review, (other than building permit review and reviews associated with the building permit review process for the purposes of compliance with building code requirements and for compliance with any terms and conditions of this Agreement); and

WHEREAS, the County and Cornwall Church recognize the mutual benefits (net gains in biological, ecological, and wetland functions and values as prescribed within the Whatcom County Critical Areas Ordinance) arising from Cornwall Church's wetland mitigation plan and the permit requirements from the Corps; and
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WHEREAS, the County and Cornwall Church recognize the mutual benefits (net gains in biological, ecological, and wetland functions and values as prescribed within the Whatcom County Critical Areas Ordinance) arising from Cornwall Church’s wetland mitigation plan and the permit requirements from the Corps; and
WHEREAS, Cornwall Church has entered into this Agreement with the County to seek approval to resolve the Critical Areas Ordinance concerns while providing relief for the Property from strict adherence to the mitigation sequencing requirements found within the Critical Areas Ordinance due to the reasons provided below which relate to the requirements for the use of the property as a church as described herein.

a. A scarcity of alternative locations on the site meeting the requirements of area, location, cost, and suitability for church parking lot addition. The impacts to other areas on-site would also impact critical areas as well as increase area of disturbance due to existing slopes and grading requirements for parking lots and access routes to the existing church.

b. Attendance at Cornwall Church has continued to grow from the time that the facility opened. In an attempt to address the additional parking needs, Cornwall Church has added weekend services. The Church now offers three services during the summer and the winter months. The Church also encourages parishioners to carpool. Even with the added services and emphasis on carpooling, the existing parking count of 465 stalls is insufficient. The proposed increase in parking stalls will address the parking deficiency on the site. There are currently marked 465 parking stalls on the site and the capacity to park another 64 cars in a nearby gravel maintenance area, in addition an overflow parking area and shuttle are available one mile north at the Whatcom County Planning office, as described herein, Exhibits E.

Based upon calculated parking requirements, the existing parking does not meet the demands of typical Sunday services, nor peak events such as Easter or Christmas. Overflow parking now occurs along a gravel maintenance road and at the Whatcom County Planning parking lot. The shortage of parking deters persons from attending the Church services and prevents reasonable use of the facility.

Proposed site plans, including construction of a new asphalt parking lot and restriping in the existing parking lot, will allow the Church to meets its actual parking needs on-site. A summary of parking needs is presented graphically in the attached chart, Exhibits E.

WHEREAS, the County recognizes that Cornwall Church retained Talasaea, Inc. to complete a Critical Areas Assessment Report and Conceptual Mitigation Plan, dated December 15, 2011. A Revised Critical Areas Mitigation Plan was requested and prepared by NWC, LLC dated January 28, 2013 and the revised Mitigation Plan dated February 20, 2013 was reviewed and approved by the Corps (Exhibit B) and shall be included with the Development Agreement submittal to the County for review as described herein, Exhibits C; and

WHEREAS, the County recognizes that no suitable alternative sites are available and Cornwall Church has completed a thorough avoidance and minimization process regarding wetland impacts. Cornwall Church has contacted the Corps, Whatcom County, and Washington State Department of Ecology ("Ecology") for guidance related to jurisdiction, avoidance, and mitigation, and that these agency comments will be incorporated into the final Compensatory Wetland Mitigation Plan which is incorporated into this Agreement, Exhibit C and

Cornwall Church; Development Agreement, May 9, 2013
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WHEREAS, the standards of critical area impact avoidance and minimization, provided in WCC 16.16.260.A and referenced in the mitigation plan, were utilized as guiding principles in the formulation of the mitigation plan; and

WHEREAS, Cornwall Church has the organizational and fiscal capability to successfully carry out the purpose and intent of the mitigation plan, as demonstrated by previously permitted and implemented wetland mitigation projects; and

WHEREAS, there is a clear likelihood for success of the proposed mitigation plan as the plan is based on County and Ecology mitigation ratios and will follow required monitoring standards, which are based on best available science (BAS) with supporting scientific information, including the completion of Corps Wetland Determination Data forms, Ecology wetland rating forms and a functional analysis of all wetlands; and

WHEREAS, the long-term management, maintenance, and monitoring of the mitigation area will be adequately funded with a mitigation bond per CAO Section 16.16.260.D.1 that will be posted in the amount of 125 percent of the estimated amount to complete mitigation installation, maintenance, and monitoring and is outlined within the mitigation plan as prescribed by County and Ecology standards. Posting of this bond ensures the mitigation will be adequately funded and that the watershed affected by the mitigation plan will not be negatively affected; and

WHEREAS, the mitigation plan is consistent with the general purpose and intent of the CAO as it satisfies the mitigation requirements of the CAO and follows the standards of impact avoidance and minimization; and

WHEREAS, the mitigation plan is consistent with the goals and policies of the Whatcom County Comprehensive Plan, particularly Goal 11C and Policy 11K-5, in that it preserves private property rights and implements Whatcom County's environmental goals and policies through a comprehensive wetland mitigation strategy, which incorporates onsite wetland enhancement and creation; and

WHEREAS, the proposed project results in equal or greater protection and conservation of critical areas than would be achieved using traditional mitigation approaches. The subsequent wetland functions will be higher with regards to habitat quality, water quality function, and hydrologic function (areas of mowed grass versus protected scrub/shrub and forested habitat with an un-mowed herbaceous layer) and

WHEREAS, the mitigation plan contains clear and measurable standards (Exhibit C) for achieving compliance with the purposes of the Whatcom County CAO, and a description of how such standards will be monitored and measured over the life of the plan and a fully funded contingency plan should any element of the plan not meet the standards for compliance, and

WHEREAS, the Whatcom County Council authorizes the County Executive to execute this Agreement on behalf of the County; and

WHEREAS, the County issued a Determination of Non-significance on April 15, 2013; and

Cornwall Church; Development Agreement, May 9, 2013
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WHEREAS, following public notice provided in a manner consistent with the County requirements and by law, a public hearing was held by the County Hearings Examiner on May 22, 2013; and

THEREFORE, in consideration of the mutual promises and covenants contained herein, the County and Cornwall Church agree as follows:

1. Approval of Development. Cornwall Church is hereby authorized to construct the Church parking lot addition and critical areas mitigation plan as set forth in Exhibits C, D & F. This proposed parking lot addition project at full build out, will include a total of approximately 43,457 SF (0.9976 acres) of paved parking area including curbs; approximately 532 SF (0.0122 acres) of sidewalks/stairs and approximately 13,000 square feet (0.2984 acres) of newly landscaped area(s). The proposed wetland enhancement area after construction will be approximately 64,088 square feet (1.47 acres). The proposed upland enhancement area after construction will be approximately 21,250 square feet (0.49 AC). Stormwater enhanced treatment will be provided in bioretention areas/Rain Gardens as described the approved Civil Engineering Plans and Landscape Plans, or as amended with Whatcom County Planning and Development Services approval, as described in, Exhibits F.

2. Property. The location of the Property subject to this Agreement is depicted on Exhibit A and legally described in Exhibit A.

3. Conditions. The development is subject to the Findings of Fact, Conclusions of Law and decision of the Hearing Examiner for CUP2012-00001 and decision of the County Council in regard to the Development Agreement.

  Development Standards.

  3.1 Parking Requirements. Cornwall Church was able to demonstrate through a parking study an average parking ratio of 1 space per every 2 seats. The parking study also indicates that at maximum capacity the estimated parking requirements will be 662 spaces. Cornwall Church proposes 673 total parking spaces, as described herein, Exhibits D & E. Fifty (50) percent of the 673 spaces are allowed to be considered compact parking spaces.

  3.2 Outdoor Lighting. All outdoor lighting shall be shielded and directed away from neighboring streets and properties.

  3.3 Incorporation by Reference. The conditions of approval for the JARPA Section 404 permit, the conditional use permit issued by the Whatcom County Hearing Examiner and any conditions of approval attached by Whatcom County Council to the approval of the Development Agreement are incorporated by reference herein.

  3.4 Mitigation Plan. As provided in Exhibit C.
4. **Final Approval.** This Agreement shall be deemed the final land use approval. Land disturbance permits and construction permitting shall be obtained prior to commencement of construction and development.

5. **Notification to County.** Prior to commencement of any activity permitted by this Agreement, Cornwall Church shall notify the Technical Administrator and County Planning Director in writing of the date of the commencement of any such activity and provide a description and scope of the activity planned.

6. **Vested Rights.** The permitted land and conditional land uses identified in this Agreement are entitled to and vested within the property described in **Exhibit A** and shall be subject only to those rules, requirements approved site plan and Compensatory Wetland Mitigation Plan as set forth in this Agreement and conditions attached by the County Council or Hearing Examiner upon the approval of the Development Agreement and Conditional Use Permit; provided, however that any building structure shall be subject to the applicable building code requirements, Zoning Code, fire code, health code and engineering requirements.

7. **Variances.** Nothing herein shall limit or prohibit Cornwall Church from seeking a variance from any of these standards pursuant to the variance criteria set forth in the WCC 20.84.

8. **Anticipated Development Phasing.** **Exhibits C & D** depicts the development area(s) parking addition and critical areas mitigation area within the subject property. Cornwall Church anticipates that it will conduct development in accordance with approval from the Whatcom County Planning Department and applicable agencies, i.e., Ecology and Corps, as required.

9. **Conservation Easement.** A Conservation Easement shall be established by Cornwall Church for the north/northwest portion of the Property/parcel as indicated in the Wetland Mitigation Plan given to the County (**Exhibit C**), and shall include those areas containing the compensatory wetland mitigation, protected wetlands and associated protected buffers.

10. **Monitoring Period.** Per WCC16.16.690(B)(3), if the mitigation project involves the establishment of forested plant communities, the technical administrator shall have the authority to require a monitoring period of up to 10 years. The monitoring period shall be 10 years which will maintain consistency with the 10 year monitoring period required by the Corps. Native Growth Protection Areas signs shall be installed in the locations indicated in the mitigation plan (**Exhibit C**).

11. **SEPA Review.** The State Environmental Policy Act (SEPA) review has been conducted and completed by the County and the County has issued a determination of non-significance (DNS).

12. **Recording.** This Agreement shall, when approved by the County Council and executed by the Parties hereto, be filed as a matter of public record in the office of the Whatcom
County Auditor and shall be in the nature of a covenant running with Cornwall Church Property.

13. **Dispute Resolution.** In the event of any dispute as to the interpretation or application of the terms or conditions of Agreement, Cornwall Church and the County, through their designated representatives, shall meet within ten (10) days after the receipt of a written request from any party for the purpose of attempting in good faith to resolve the dispute. Such a meeting may be continued by mutual agreement to a date certain to include other persons or parties, or to obtain additional information.

14. **Mediation.** In the event that such a meeting does not resolve the dispute and prior to commencing any litigation except for a request for a temporary restraining order and preliminary injunction, the Parties shall first attempt to mediate the dispute. The Parties shall mutually agree upon a mediator to assist them in resolving their differences. If the Parties are unable to agree upon a mediator, a list of seven mediators with experience in land use matters and applicable Washington State land use law shall be requested from the Whatcom County Superior Court Presiding Judge. Each party shall take its turn in striking one name from the list until one name remains. A flip of a coin shall determine which party strikes the first name. Any expenses of the mediator shall be borne equally by the Parties. However, each side shall bear their own costs and attorney fees arising from participation in the mediation.

15. **Applicable Law.** This Agreement shall be governed by and be interpreted in accordance with the laws of the State of Washington.

16. **Binding Effect.** This Agreement shall be binding upon Cornwall Church and the County.

17. **Severability.** If any provision of this Agreement is determined to be unenforceable or invalid by a court of law, then this Agreement shall thereafter be modified to implement the intent of the Parties to the maximum extent allowable under law.

18. **Modification.** This Agreement shall not be modified or amended except in writing signed by Cornwall Church and the County or their respective successors in interest.

19. **Further Good Faith Cooperation.** Each party hereto shall cooperate with the other in good faith to achieve the objectives of this Agreement. The Parties shall not unreasonably withhold requests for information, approvals or consents provided for, or implicit, in this Agreement.

20. **No Presumption Against Drafter.** This Agreement has been reviewed and revised by legal counsel for all Parties and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

21. **Notices.** All communications, notices, and demands of any kind which a party under this Agreement is required, or desires to give to any other party, shall be in writing and be either (1) delivered personally, (2) sent by facsimile transmission with an additional copy
mailed first class, or (3) deposited in the U.S. mail, certified mail postage prepaid, return receipt requested, and addressed as follows:

County: Whatcom County:

Cornwall Church: Mike York, Church Business Manager
4518 Northwest Drive
Bellingham, WA 98226

Notice by hand delivery or facsimile shall be effective upon receipt. If deposited in the mail, notice shall be deemed received 48 hours after deposit. Any party at any time by notice to the other party may designate a different address or person to which such notice shall be given.

22. Duration. This Agreement and the rights and obligations set forth in this Agreement shall be for a period of twenty (20) years.

23. Effective Date. The Effective Date of this Agreement for the purposes of vesting is the date that Whatcom County determined Cornwall Church conditional use permit application to be complete. Any subsequent adopted zoning ordinance regulation, rule or requirement of Whatcom County or other applicable jurisdiction that is inconsistent with or more stringent than any term or condition of this Agreement shall not apply or bind Cornwall Church.

24. Entire Agreement. This Agreement represents the entire agreement of the Parties with respect to the subject matter hereof. There are no other agreements, oral or written, except as expressly set forth herein. This Agreement supercedes all previous understandings or agreements between the parties concerning the subject matter of this Agreement.

IN WITNESS HEREOF, Cornwall Church and the County have caused this Agreement to be executed in their names and to be attested by their duly authorized officers this ___ day of ____________, 2013.
Cornwall Church

By: ____________________________

Mike York, Church Business Manager
Date: __________________________

Whatcom County

By: ____________________________

Jack Louws, County Executive
Date: __________________________
STATUTORY WARRANTY DEED

THE GRANTOR(S), Goldine Lathrop, a widow for and in consideration of Ten Dollars and other good and valuable consideration in hand paid, conveys, and warrants to Cornwell Church, a Washington Non-Profit Corporation the following described real estate, situated in the County of Whatcom, State of Washington:

SEE ATTACHED EXHIBIT A

Abbreviated Legal: (Required if full legal not inserted above.) Ptn Blk 84 Plat of Bakerview Add to the City of Bham V7/Pgs40-45

Tax Parcel Number(s): 380202 410033 0000

SUBJECT TO: This conveyance is subject to covenants, conditions, restrictions and easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

Dated: July 9, 2007

Goldine Lathrop

STATE OF Washington

COUNTY OF Whatcom

I certify that I know or have satisfactory evidence that Goldine Lathrop is the person who appeared before me, and said person acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: July 20, 2007

Marlin DuBois
NOTARY PUBLIC

MARLIN DU BOIS
STATE OF WASHINGTON
NOTARY PUBLIC
MY COMMISSION EXPIRES 03-17-11

Notary name printed or typed: Marlin DuBois
Notary Public in and for the State of Washington
Residing at Bellingham
My appointment expires: March 17, 2011
EXHIBIT A

A tract of land in Block 84, Bakerview Addition to the City of Bellingham, according to the Plat thereof, Recorded in Volume 7 of Plats, Page(s) 40 through 45, Records of Whatcom County, Washington, described as follows:

Beginning at the Southeast corner of the said Block 84, thence North 89°59'14" West along the South line of Block 84, 963.91 feet to the true point of beginning, thence North 0°34'56" 626.60 feet to the South line of the tract recorded in Volume 352 of Deeds, Page 259, and File #658648; thence South 89°53'27" West, 331.48 feet to the West line of Block 84; thence Southerly along the West line of Block 84, 625.89 feet to the Southwest corner of Block 84; thence Easterly along the South line of Block 84, 331.30 feet to the true point of beginning.

Situate in Whatcom County, Washington.
When Recorded Return to:
CORNWALL PARK CHURCH OF GOD
3210 MERIDIAN STREET
BELLINGHAM, WA, 98225
ATTN: MICHAEL S. GISH
Charter Title Corporation

STATUTORY WARRANTY DEED

THE GRANTOR DONALD J. KOSA AND CATHERINE C. KOSA, HUSBAND AND WIFE

for and in consideration of TEN DOLLARS AND OTHER VALUABLE
CONSIDERATION ($10.00 & OVC)—-----------------------------------------
in hand paid, conveys and warrants to CORNWALL PARK CHURCH OF GOD

the following described real estate, situated in the County of
WHATCOM , State of Washington:

Legal description attached hereto as Exhibit A.- ρ₄₂

Legal Description (Abbreviated):
PTN SE SW 2-38-2

Assessor's Tax Parcel ID# 380202 296077 0000, 380202 358085 0000

Dated: 02/01/00

DONALD J. KOSA CATHARINE C. KOSA

STATE OF WASHINGTON,
County of WHATCOM

I certify that I know or have satisfactory evidence that
DONALD J. KOSA AND CATHERINE C. KOSA
signed this instrument, and acknowledged it to be, THEIR
free and voluntary act for the uses and
purposes mentioned in this instrument.

Dated: 2/9/00

Deborah Hempler
Notary Public in and for the State of Washington, residing at BELLINGHAM
My appointment expires 08/15/02
EXHIBIT A

PARCEL A:

A TRIANGULAR PIECE OF LAND IN THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 38 NORTH, RANGE 2 EAST OF W.M., MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 2, WITH THE EASTERLY LINE OF THE NORTHWEST DIAGONAL ROAD; THENCE NORTHEASTERLY ALONG THE EASTERLY LINE OF SAID ROAD, 258 FEET TO A POINT; THENCE NORTHEASTERLY AT RIGHT ANGLES TO SAID ROAD TO A POINT IN THE EAST LINE OF SAID QUARTER SECTION, BEING 272 FEET NORTH OF THE PLACE OF BEGINNING; THENCE SOUTH ALONG THE EAST LINE OF SAID QUARTER SECTION TO THE PLACE OF BEGINNING; ALSO THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 38 NORTH, RANGE 2 EAST OF W.M., EXCEPT ROAD AND EXCEPT A TRACT DESCRIBED AS FOLLOWS: BEGINNING AT THE QUARTER CORNER POST BETWEEN SECTION 2 AND 11, TOWNSHIP 38 NORTH, RANGE 2 EAST OF W.M., RUNNING THENCE EAST ON THE LINE BETWEEN SAID SECTION 2 AND 11 TO THE POINT WHERE THE COUNTY ROAD KNOWN AS THE NORTHWEST DIAGONAL ROAD, CROSSES SAID SECTION LINE; THENCE NORTHWESTERLY ALONG THE SOUTHWESTERLY SIDE OF SAID ROAD TO THE POINT ON THE LINE BETWEEN THE SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER OF SAID SECTION 2 AT WHICH SAID ROAD CROSSES SAID LINE; THENCE SOUTH TO THE PLACE OF BEGINNING.

SITUATE IN COUNTY OF WHATCOM, STATE OF WASHINGTON.

PARCEL B:

BLOCK 85, BAKERVIEW ADDITION TO THE CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEROF, RECORDED IN VOLUME 7 OF PLATS, PAGES 40 TO 45, INCLUSIVE, RECORDS OF WHATCOM COUNTY, WASHINGTON.
WHEN RECORDED RETURN TO:

Name: Michael Gish in care of Cornwall Church
Address: 4518 Northwest Road,
Bellingham, WA 98226

Escrow Number: 301080LW
Filed for Record at Request of: Stewart Title of Western Washington, Inc.

STATUTORY WARRANTY DEED

The Grantors, David Leo Anderson and Hannah Anderson, husband and wife for and in consideration of Ten Dollars and other good and valuable consideration in hand paid, conveys, and warrants to Cornwall Church, a Non-Profit Corporation, the following described real estate, situated in the County of Whatcom, State of Washington:

That part of the Southeast Quarter of the Southwest Quarter of Section 2, Township 38 North,
Range 2 East of the Willamette Meridian, lying East of the Northwest diagonal Road, more particularly described as follows, to-wit:

Commencing at the Northeast corner of the Southeast Quarter of the Southwest Quarter of said Section 2, Township 38 North, Range 2 East; thence West a distance of 520 feet to the Northeastern line of the Northwest diagonal Road; thence Southeasterly along the Northeastline of said Northwest diagonal Road, a distance of 820 feet to a point; thence Northeasterly a distance of 130 feet to the East line of said Southeast Quarter of the Southwest Quarter; thence North on said east line of said Southeast Quarter of the Southwest Quarter a distance of 730 feet to the place of beginning.

Situate in Whatcom County, Washington.

Assessor's Property Tax Parcel No. 380202 244110

Subject to: See Exhibit "A" attached hereto and made a part hereof.

Dated: September 20, 2002

David Leo Anderson
Hannah Anderson

STATE OF Washington

COUNTY OF Whatcom

I certify that I know or have satisfactory evidence that David Leo Anderson and Hannah Anderson are the persons who appeared before me, and said persons acknowledged that they signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in this instrument

Dated: September 20, 2002

Name: Diana J. Linares
Notary Public in and for the State of Washington
Residing at: Bellingham
My commission expires 9/6/2004
EXHIBIT "A"

Easement and the terms and conditions thereof:
Purpose: Telephone Line
Affects: Said Premises and Other Property
Dated: August 18, 1927
Recorded: October 24, 1927
Recording No.: 333822

Oil and Gas Lease affecting the premises hereinafter stated upon and subject to all the
provisions therein contained.
Lessor: David Leo Anderson and Hannah Anderson, husband and
wife
Lessee: Erco, Inc.
Dated: July 17, 1981
Recorded: December 10, 1981
Recording No.: 1407236
For a term of: 10 years, or as long thereafter as gas or oil or either of
them is
produced from the land.
Affects: Said Premises

Said Lessee's Interest is now held of record by Search Natural Resources, Inc.

Easement and the terms and conditions thereof:
Purpose: Ingress and Egress
Affects: Said Premises and Other Property
Dated: May 16, 1983
Recorded: May 17, 1983
Recording No.: 1448004
After recording return document to:

Pacific Surveying & Engineering
1812 Cornwall Ave.
Bellingham, Washington 98225

DOCUMENT TITLE: QUIT CLAIM DEED FOR COUNTY ROAD RIGHT OF WAY
REFERENCE NO. OF RELATED DOCUMENT: 2000201439
GRANTOR(S): CORKWALL PARK CHURCH OF GOD
GRANTEE(S): WHATCOM COUNTY
ABBREVIATED LEGAL DESCRIPTION: PORTION SECTION 2, T38N, R2E, W.M. AND
BLOCK 85, BAKERVIEW ADDITION TO CITY OF BELLINGHAM, V.7 PGS. 40-45 OF
PLATS.

ADDITIONAL LEGAL DESCRIPTION ON PAGE 3 OF DOCUMENT.
ASSESSORS TAX PARCEL NO.:
3802023580850000
3802022950770000

QUIT CLAIM DEED

The grantor, Cornwall Park Church of God, a Washington Corporation as its sole and
separate property, of Whatcom County, WA, for and in consideration of mutual benefits, conveys
and quit claims to WHATCOM COUNTY, a parcel of land for all public right-of-way purposes,
described by legal description attached hereto as Exhibit “A”
DATED this 26th day of February, 2001.

GRANTOR

STATE OF WASHINGTON )
COUNTY OF WHATCOM ) S.S.

Michael S. Gish

I Certify that I know or have satisfactory evidence that signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Chairman / President of CORRISCH Bunk Church to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

2-24-01

DATED

Marcella J. Erdman
SIGNATURE OF NOTARY PUBLIC

Name Printed

Notary Public

Title

My Appointment Expires

2010301502
Page: 2 of 3
3/12/2001 18:48 AM
DEED 5.98
Whatcom County, WA
Request of: Whatcom County Engineer
EXHIBIT "A"

LAND DESCRIPTION
FOR
RIGHT OF WAY FEE CONVEYANCE

THE SOUTHWESTERLY FIFTEEN (15) FEET OF THE SOUTHWESTERLY LINE ADJOINING THE NORTHEASTERLY MARGIN OF NORTHWEST DIAGONAL ROAD WITHIN THE FOLLOWING DESCRIBED PARCEL:

(STATUTORY WARRANTY DEED PER AUDITORS FILE # 2000201439)

A TRIANGULAR PIECE OF LAND IN THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 38 NORTH, RANGE 2 EAST OF W.M., MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 2, WITH THE EASTERLY LINE OF THE NORTHWEST DIAGONAL ROAD; THENCE NORTHWESTERLY ALONG THE EASTERLY LINE OF SAID ROAD, 258 FEET TO A POINT; THENCE NORTHEASTERLY AT RIGHT ANGLES TO SAID ROAD TO A POINT IN THE EAST LINE OF SAID QUARTER SECTION, BEING 272 FEET NORTH OF THE PLACE OF BEGINNING; THENCE SOUTH ALONG THE EAST LINE OF SAID QUARTER SECTION TO THE PLACE OF BEGINNING; ALSO THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 38 NORTH, RANGE 2 EAST OF W.M., EXCEPT ROAD AND EXCEPT A TRACT DESCRIBED AS FOLLOWS: BEGINNING AT THE QUARTER CORNER POST BETWEEN SECTION 2 AND 11, TOWNSHIP 38 NORTH, RANGE 2 EAST OF W.M., RUNNING THENCE EAST ON THE LINE BETWEEN SAID SECTION 2 AND 11 TO THE POINT WHERE THE COUNTY ROAD KNOWN AS THE NORTHWEST DIAGONAL ROAD, CROSSES SAID SECTION LINE; THENCE NORTHEASTERLY ALONG THE SOUTHWESTERLY SIDE OF SAID ROAD TO THE POINT ON THE LINE BETWEEN THE SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER OF SAID SECTION 2 AT WHICH SAID ROAD CROSSES SAID LINE; THENCE SOUTH TO THE PLACE OF BEGINNING.

SITUATE IN COUNTY OF WHATCOM, STATE OF WASHINGTON.
After recording return document to:
Cornwall Church
4518 Northwest Drive
Bellingham, WA 98225

DOCUMENT TITLE: COVENANT TO BIND PROPERTIES
ASSISOR'S TAX PARCEL NUMBER(S): 380202 244110 0000, 380202 295077 0000

I/we Cornwall Church of Bellingham, WA am/are owners in fee of the below described real properties. For and in consideration of being granted building and/or development permits, as required by Whatcom County regulations, I/we do hereby generally covenant that the lots described as follows
ADDRESS: 4442 Northwest Drive, 4518 Northwest Drive,
LEGAL DESCRIPTION(S): See attached, Pag. 2

shall hereinafter be bound together for the purpose of compliance with the Official Whatcom County Zoning Ordinance: CUP.2007-00012

I/we hereby affirm that no portion of the above described properties shall be sold in violation of any provisions of Whatcom County Zoning or Subdivision Ordinances, unless such action is determined by Whatcom County or another appropriate governmental or judicial authority to be exempt or approved in accordance with subdivision and zoning regulations. The Covenant shall run with the land, is for the benefit of the general public, and shall be binding upon myself, devisees, executors, administrators, successors and assigns.

EXECUTED this 1st day of November, 2008.
Signature of property owner

Signature of property owner

STATE OF WASHINGTON
COUNTY OF WHATCOM
I certify that I know or have satisfactory evidence that Michael S. Curley, is/are the person(s) who appeared before me, and said person(s) acknowledged that I/she signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.
DATED: 11/1/08

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON
My appointment expires: 3/1/10

Whatcom County
Approved by Whatcom County this 4th day of November, 2008
For Whatcom County
EXHIBIT A

TAX PARCEL #: 380202 2441 10 0000

THAT PART OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 38 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, LYING EAST OF THE NORTHWEST DIAGONAL ROAD, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 2, TOWNSHIP 38 NORTH, RANGE 2 EAST, THENCE WEST A DISTANCE OF 520 FEET TO THE NORTHEASTERLY LINE OF THE NORTHWEST DIAGONAL ROAD, THENCE SOUTHEASTERLY ALONG THE NORTHEASTERLY LINE OF SAID NORTHWEST DIAGONAL ROAD, A DISTANCE OF 820 FEET TO A POINT, THENCE NORTHEASTERLY A DISTANCE OF 130 FEET TO THE EAST LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER, THENCE NORTH ON SAID EAST LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER A DISTANCE OF 730 FEET TO THE PLACE OF BEGINNING.

SITUATE IN WHATCOM COUNTY, WASHINGTON
EXHIBIT B

TAX PARCEL#: 380202 295077 0000

A TRIANGULAR PIECE OF LAND IN THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 38 NORTH, RANGE 2 EAST OF W.M., MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 2, WITH THE EASTERLY LINE OF THE NORTHWEST DIAGONAL ROAD; THENCE NORTHWESTERLY ALONG THE EASTERLY LINE OF SAID ROAD, 258 FEET TO A POINT; THENCE NORTHEASTERLY AT RIGHT ANGELS TO SAID ROAD TO A POINT IN THE EAST LINE OF SAID QUARTER SECTION, BEING 272 FEET NORTH OF THE PLACE OF BEGINNING; THENCE SOUTH ALONG THE EAST LINE OF SAID QUARTER SECTION TO THE PLACE OF BEGINNING; ALSO THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 38 NORTH, RANGE 2 EAST OF W.M., EXCEPT ROAD AND EXCEPT A TRACT DESCRIBED AS FOLLOWS: BEGINNING AT THE QUARTER CORNER POST BETWEEN SECTION 2 AND 11, TOWNSHIP 38 NORTH, RANGE 2 EAST OF W.M., RUNNING THENCE EAST ON THE LINE BETWEEN SAID SECTION 2 AND 11 TO THE POINT WHERE THE COUNTY ROAD KNOWN AS THE NORTHWEST DIAGONAL ROAD, CROSSES SAID SECTION LINE; THENCE NORTHWESTERLY ALONG THE SOUTHWESTERLY SIDE OF SAID ROAD TO THE POINT ON THE LINE BETWEEN THE SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER OF SAID SECTION 2 AT WHICH SAID ROAD CROSSES SAID LINE; THENCE SOUTH TO THE PLACE OF BEGINNING.

SITUATE IN COUNTY OF WHATCOM, STATE OF WASHINGTON.
Regulatory Branch

Cornwall Church
Mr. Mike York
4518 Northwest Drive
Bellingham, Washington 98226-9056

Reference: NWS-2011-1107
Cornwall Church

Dear Mr. York:

In an e-mailed correspondence dated January 28, 2013, your agent requested a modification to the approved mitigation for the referenced Nationwide Permit (NWP) 39 verification issued to you on August 15, 2012. The work authorized was to place fill in 0.21 acre of wetlands to construct additional parking facilities for Cornwall Church near Bellingham, Washington. You requested a permit modification to revise special condition “b” requiring the implementation of the mitigation plan titled, “Critical Areas Report, Habitat Functional Assessment, and Detailed Conceptual Mitigation Plan,” revision dated February 29, 2012.

We have reviewed your request and verified that this NWP still authorizes this project provided you ensure that the work is performed in accordance with enclosed drawings dated February 20, 2013 and in accordance with the modified special condition listed below.

b. You shall implement and abide by the mitigation plan “Mitigation Plan, Cornwall Church Parking Lot Expansion,” revision dated February 20, 2013. Mitigation shall be constructed before or concurrent with the work authorized by the permit.

This NWP verification supersedes the verification authorized by this office on August 15, 2012. All other terms and conditions contained in the original NWP verification remain in full force and effect. Our verification of this NWP authorization is valid until March 18, 2017 unless the NWP is modified, reissued, or revoked prior to that date. If the authorized work has not been completed by that date, please contact us to discuss the status of your authorization. Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act. You must also obtain all State and local permits that apply to this project.
A copy of this letter with enclosures will be furnished to Katrina Jackson of Northwest Wetlands Consulting, LLC, 1214 Xenia Street, Bellingham, Washington 98229. If you have any questions, please contact me at (360) 734-3156 or via email at randel.j.perry@usace.army.mil.

Sincerely,

[Signature]

Randel Perry, Project Manager
Regulatory Branch

Enclosures
DRIVING DIRECTIONS:
1. TAKE I-5 NORTH FROM THE SEATTLE AREA TO BELLINGHAM.
2. TAKE THE NORTHWEST DRIVE EXIT (EXIT 257).
3. CONTINUE NORTH ON NORTHWEST DRIVE FOR APPROXIMATELY 1.5 MILES; CORKHALL CHURCH OF GOD WILL BE ON THE RIGHT.

MAP SOURCE: WWW.MAPS.GOOGLE.COM (ACCESSSED 9-11-11) NWS-2011-1107

FIGURE TITLE VIGNETTE MAP AND DRIVING DIRECTIONS
REFERENCE MAP SCALE
APPLICATION CORNWALL CHURCH NAVD 88
PROPOSED PROJECT: CORNWALL CHURCH PARKING LOT EXPANSION
PURPOSE: PARKING LOT EXPANSION
ADDRESS: 4510 NH DRIVE

CITY: BELLINGHAM COUNTY: WHATCOM STATE: WA NEAR: SILVER CREEK

© Copyright - Talasasae Consultants, Inc.
MITIGATION PLAN

Cornwall Church
Parking Lot Expansion

Whatcom County MIT2012-1
CUP2012-1
Corps Ref. # NWS-20111-1107

Prepared for:

Cornwall Church
4518 Northwest Drive
Bellingham, Washington 98226

380202 282007, 380202 358085, 380202 41033

Prepared by:

NWC, LLC
1214 Xenia Street
Bellingham, WA 98229
(360) 510-1605

January 28, 2013
Revised 2/20/2013
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1.2 **EXECUTIVE SUMMARY**

1.3 **PROPOSED DEVELOPMENT PROJECT**

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1.6 **MITIGATION SITE PLANS**

1.7 **GOALS, OBJECTIVES, AND PERFORMANCE STANDARDS**

1.8 **MONITORING PLAN**

1.9 **SITE PROTECTION**

1.10 **MAINTENANCE AND CONTINGENCY PLANS**

1.11 **FINANCIAL ASSURANCES**

---

**ATTACHMENTS:**

- VICINITY MAP
- SITE OVERVIEW AERIAL
- WETLAND IMPACT
- SITE PHOTOS
- MITIGATION EXHIBIT
1.1 RESPONSIBLE PARTIES

Applicant: Cornwall Church, 4518 Northwest Drive, Bellingham, WA 98226
Wetland Delineation for project area: Talasaea Consultants, Inc.
Mitigation prepared by: Northwest Wetlands Consulting, Bellingham, WA, 360-510-1605
Party (ies) responsible for monitoring, long-term maintenance, and contingency plans:
Cornwall Church

1.2 EXECUTIVE SUMMARY

The project is located in SEC 02, T 38N, R 02E of W.M. Whatcom County, WA.
WRGA: 1 /Basin: Puget Sound

This document provides a proposal for mitigation wetland/buffers impacts associated with fill of
a Category IV low quality degraded wetland. Parking expansion is required to meet the need of
continued growth of the existing church complex. Multiagency guidelines allow for 6:1 en-
hancement replacement for filling Category IV wetlands. This will be the most simple, eco-
gical, and economically viable option.

As set forth in WCC 16.16.680 “Compensation for wetland buffer impacts shall occur at a mini-
mum 1:1 ratio.” Whatcom County regulated buffer impact of 30,000 SF (0.69 AC) shall be com-
penated by 0.69 AC of wetland/buffer enhancement.

The plan is revised to address MFR CENWS-OD-RB February 14, 2013. USACE.

1.3 PROPOSED PROJECT

The project adds 126 additional parking spaces and associated stormwater facility--3 rain gar-
dens on the church site. The existing conditions of the proposed area is a mowed field with 4
small wetlands.

Three sides are developed and potential future development of the unimproved road right-of-
way south of the field will completely disconnect the area from other habitats. Project cannot
be developed without filling three of the four wetlands.

1.4 ASSESSMENT IMPACTS / COMPENSATION

Wetland Impact -- 9223 SF--highly degraded low quality Category IV
Compensation --1.27 AC of wetland enhancement ratio of 6:1 enhancement to impact.

Buffer Impact-- 30,000 SF (0.69 AC)--highly degraded mowed grass in impact area currently
provides poor connectivity to other habitats, lacks diversity, and is disturbed and in a land-
scape position surrounded by development.

Compensation of 0.69 AC of wetland/buffer provides a ratio of 1:1 and will be established in
wetland/buffer connected to wooded upland/wetland complex which is relatively undisturbed.

Water Quality

The existing wetland/buffer to be filled provides minimal water quality function because the run-
off from impervious surfaces and surrounding development is directed elsewhere. Low grass-
es provide minimal watershed improvement. Grass buffer provides infiltration opportunity at a
low level. Mitigation increases the canopy coverage of native woody species and increases the
capacity for the acreage to uptake direct precipitation and surface run-off. The canopy of trees and shrubs increase shade and help moderate temperature of ground water.

**Sediment Removal:*** Regularly short mowed grasses have low potential for sediment removal. No tilling, cropping, or other long term source of sedimentation is indicated in close proximity.

Area to be mitigated is highly invaded with reed canary grass which provides high water quality potential for removing sediments when the stems are rigid. No significant improvement in sediment removal opportunity is anticipated.

**Toxicant Removal:*** Area to be filled rates low; potential that maintenance practices may add chemical fertilizer and herbicides exists currently.

Enhancement will install native hardy species capable of thriving without additional chemical amendments. Native woody species will have shallow spreading roots and the variety of species have potential to take up a broader range of toxins. Overall potential for reduction of toxins in the watershed is anticipated, while no specific source of toxins is indicated.

**Hydrologic**

Pasture grass provides poor water retention and minimal infiltration in heavy mineral soils in the area to be impacted due to shallow pan structures. Hydrologic functions in the watershed are primarily a function of overall tree canopy.

Above ground biomass in enhancement will improve water absorption capacity which can be transpired slowly through evapotranspiration. Woody species installed, especially in the buffer areas, are expected to increase the capacity of infiltration.

A high volume of direct precipitation is able to be captured in a tree canopy—approximately 50% of the direct precipitation on average may never reach the ground. Young aggressively growing woody species uptake high volumes of water in the early years of a mitigation planting, and levels stabilize at maturity.

**Habitat**

**Production of Organic Matter and it Export:** rates low currently in the area to be impacted and rates low in the field to be mitigated.

Enhancement will improve the production of organic matter, enriching soils, and providing additional nutrients to surrounding waters. Quantity of leaf matter, twigs, and downed woody debris are expected to improve.

**General Habitat Suitability:** rates low under current conditions and exposure in the area to be impacted. The mitigation area rates low currently but is a good choice because of opportunity for connectivity to forested upland, wetland areas offsite, and a tributary to Silver Creek.

Establishment of a tree/shrub stratum is anticipated to improve habitat for urban mammals and a variety of bird species by widening buffers to existing habitat, adding cover, nesting sites, perches, and food web support.

**General Fish Habitat:** Moderation of temperatures of ground water and run-off is anticipated to improve as part of this mitigation effort and expected to be a general watershed improvement as shade increases long term.
1.5 MITIGATION APPROACH

Mitigation Sequencing

The lowest functioning portion of this site was selected for development. It is also well oriented to existing development. In contrast to other portions of the site the elevation change between the church entrance and the parking expansion area is minimal. Parking in this location will improve accessibility for the elderly and the disabled portion of the congregation. The project location is dependent upon existing property and structures and no area that would be less impactful could be found.

Alternative options which might have included purchase of land across the street were dismissed in the early planning stages. Absent of safe passage across Northwest Avenue, which does not exist currently, the church going families could not be expected to safely cross. A sky bridge would be cost prohibitive at this time. Wetlands and wetland buffers exist west of Northwest Drive, and unencumbered buildable land may not have been available for purchase.

Utilizing the southwest field and minimizing the number of parking spaces for avoidance or reduction of direct impact would not have been an effective plan for protection of the already disconnected units and disturbed buffers. Functional losses to already poorly functioning units would result from human activity in closer proximity than exists currently. Additional spaces would have to be found elsewhere in any event if the field were not fully utilized. Alternate locations are problematic for various reasons including wetlands, forested cover, and topography. If parking cannot be expanded on the existing church site, the church would need to move to a new location. It is unlikely that a site of this size in Whatcom County could be developed without some impact to wetlands and 0.21 acres impact to low quality degraded wetlands would be small compared to the new wetland impact likely required at a new location.

Degraded wetland areas exist northwest and north central of the existing church and have connection to an offsite fish bearing stream. Moderately well functioning forested and scattered wetlands are found in the northeast corner of the site. Distance from the church entrance and moderately steep topography are problematic. The church would prefer not to cut these trees at this time. Cutting trees would be impactful to functions in the watershed. Trees on uplands provide good quality infiltration. Opting for impact to an area lacking habitat connectivity in the southwest corner is less impactful.

The church land extends eastward of this existing parking area. Under current development the outer parking is greater than 270 feet from the entrance to the church. The parking would have been a long distance to walk on hilly terrain. The upland grassy areas is narrow. The forest in the southeast supports several moderately functioning PFO units. To accomplish an equal number of parking spaces, forested cover would have been eliminated and impact to forest wetlands, and/or forested buffers would have been unavoidable and more impactful than the selected impact site in the southwest corner of the property.

Mitigation Selection

Based upon the Corps’ current policies, the preferred order of consideration for compensatory mitigation is 1) use of mitigation bank credits, 2) use of in-lieu fee program credits, 3) permittee responsible mitigation under a watershed approach, 4) permittee-responsible mitigation, on-site and in-kind, then 5) permittee-responsible mitigation, off-site and out-of-kind.

Whatcom County Code 16.16.680.F. “…Compensatory mitigation shall be provided on-site or off-site in the location that will provide the greatest ecological benefit and have the greatest
likelihood of success, provided that mitigation occurs as close as possible to the impact area and within the same watershed as the permitted activity...* A waiver would require watershed-or landscape-based analysis.

Mitigation selection of a creation based mitigation proposed in the northeast portion of the site is not acceptable to the Washington Department of Ecology. Correspondence dated 11/01/2012.

"With regards to the proposed impact to the filling of the highly degraded low-quality Category IV wetland for the expansion of the Church parking area, the Department of Ecology (Ecology) does not take issue. Ecology does not agree with the arguments for mitigation in the Northeast corner of the site adjacent to an existing forested wetland in an existing forested buffer... for the following reasons:

Expanding on existing wetlands does not ensure that there will be adequate wetland hydrology. In fact, there are circumstances when excavating next to a wetland actually dries out the existing wetland. A water budget would need to be developed by a hydraulic engineer or similar in order to assure that there would be enough water for both the existing and created wetland.

The existing wetland and buffer in the northeast corner is not in need of restoration or repair. The wetland mosaic is functioning very well currently, and the introduction of large machinery, excavation, and compaction will not be a benefit to this system.

If the existing canopy cover in the forest will prevent future colonization by non-native blackberries, we question why they are present and thriving under the canopy now.

We do not agree that the proposed mitigation site would be stable and functioning at "close to the final mature condition within the first year after completion". It is likely to take the site several years post construction to recover from the drastic disturbance caused by large machinery, etc. The reed canarygrass (RCG) wetland in the northwest part of the site, if properly prepped and planted with successional species should have significant cover of native woody species within a few years. Then it would be on a trajectory toward a stable, successional community.

The argument that wetland creation in the northeast part of the site would be cheaper than wetland enhancement in the northwest part of the site is based on an unrealistic approach to enhancement on this site. We would not advocate or even approve large-scale excavation of the RCG to a depth of 18 inches. In addition, several deciduous species such as cottonwood, willow and red osier dogwood, can be installed as live stakes or whips, which are very inexpensive. Given the degree of wetness of the area as observed from Northwest Avenue, irrigation would not be necessary if planted in the proper time of year. There would be maintenance costs, but they could be minimal if the site is properly prepped and maintenance is not ignored for an extended time period. In addition, planting and maintenance could be completed or at least assisted with the use of youth groups from the congregation if desired. Clearing planting areas, installing whips and future maintenance of the planting areas do not require high levels of skill.

Ecology relates that enhancement mitigation in the northwest corner of the site in an existing degraded wetland is a simpler and more ecologically and economically viable alternative.

Additionally, the Department of Ecology would not require an individual 401 Certification for the plan as outlined in the January 20, 2013 proposed plan enhancement of existing wetland.

Creation is likewise not proposed in the northeast corner as part of the mitigation because successful creation would require deep excavation and removal of RCG infested soils which would not only be costly but not likely approved by WDOE. The development project provides no additional source of hydrology and no guarantee can be made that occasional to seasonal hy-
drology currently found in the shallow pan structures will be adequate to sustain an adjacent newly created wetland. Per guidance found in "Wetland Mitigation in Washington State, March 2006," enhancement only is an acceptable compensation for permanent loss of Category IV wetlands at a 6:1 ratio, which is proposed in this plan.

While we acknowledge that the Lummi Nation Wetland and Habitat Mitigation Bank is now available and that this project falls within the service area, this is a recent opportunity for this region and was not available for this project during earlier mitigation proposals. In the early stages of the mitigation bank the Lummi Bank will enhance existing wetlands and preserve existing wetlands. Credits are selling for $250,000 and discount is not available for non tribal member projects. The universal ratio for Category IV is 0.85. On this basis, the 0.21 acre of fill would cost $44,625. Archeological would need to be satisfied prior to application to assure a minimum approval time of one month. Purchase is project specific and credits can be purchased at 1/100th of acre units. The bank can be selective and no guarantee of approval for purchase of credits exists. The buffer enhancement proposed in this plan is to offset loss to Whatcom County buffers and could be managed at 1:1 on the church site and is a separate issue. Because the church already owns mitigation land and has a congregation able to volunteer labor and/or provide services and supplies at cost or donation, the cost savings for permittee responsible on-site mitigation is significant as compared to purchase of bank credits.

No in-lieu fee or watershed program is available.

The largest portion of the enhancement plan is located near the road. A dense diverse plant community will provide prefiltration of potentially toxin laden road dust and vehicle exhaust prior to entering fish habitat or higher functioning forested wetlands and is well located based upon opportunity to provide toxin removal functions and adequate hydrology for an enhancement project.

Mitigation projects along the Northwest Drive corridor are excellent options because of landscape position of low density development and over 600 acres of surrounding forested wetlands, scrub shrub wetlands, and associated buffers, emergents wetlands and upland pastures. Within the past 10 year black bear was even spotted on a property near Northwest Drive. Because several high functioning wetlands areas are found in proximity to the selected mitigation site this mitigation can mutually support the functions of the whole system. Currently one new enhancement project in wetlands/buffers along the stream corridor exists west of Northwest Drive in close proximity. The church mitigation project will be supportive of the water quality functions provided by the adjacent habitat project.

Finally, habitat education opportunities exist with the on-site wetland enhancement project as proposed. The mitigation project will be in full public view by many Whatcom County residents in the region passing by on route to the County Planning office. Also, the installation and care of the mitigation is anticipated to have high participation by members of the congregation including the youth group. Enhancement planting is simple enough to be managed by unskilled workers and avoids use of heavy equipment. Long term, a successful mitigation installation will minimize the regular weed maintenance in the northwest portion of the site and will be a cost savings to the church. Aesthetically the site will be enhanced by native landscape.

Landscaping of the church grounds currently demonstrates successful establishment of a good variety of a native dominant shrub community and is well maintained. The organization has therefore demonstrated historically successful establishment of a native woody plant community on site and are good candidates for stewardship of their own mitigation effort on site.
1.6 MITIGATION SITE PLANS

The north and northwest portion of the property covering 85,338 SF (1.96 AC) will be enhanced with native trees/shrubs. At least 1.27 acres of the total will be wetland enhancement. The plan considers the most cost effective, aesthetic option, and minimizes maintenance costs to increase the potential for success. The selected mitigation area appears to have sufficient hydrology to support the establishment of live-stake plantings.

Given the poor condition of the impact area and the dominance of RCG in the Ecology preferred mitigation site, RCG will be managed at the time of planting and performance standards related to survival of newly planted species, only will be required.

Trees at a “sparse” density (18 ft. o.c.) and shrubs at an “average” (6 ft. o.c.) results in 263 trees/1333 shrubs. Tight groups of 15-25 stakes in a group will require planting small dense areas within the RCG wetland and grassy buffers. Eventually these clumps are expected to push outward increasing coverage and gradually overtake the RCG. Meanwhile maintenance between the clumps would be more easily accomplished, although will not be required at any greater intensity than needed for survivalship of the newly planted species.

<table>
<thead>
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<th>Table 1. LIST OF PLANTS --Enhancement</th>
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<tr>
<td>Common name</td>
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<tr>
<td>Black Cottonwood</td>
</tr>
<tr>
<td>Sitka spruce</td>
</tr>
<tr>
<td>Shore pine</td>
</tr>
<tr>
<td>Douglas Fir</td>
</tr>
<tr>
<td>Dogwood Red bark</td>
</tr>
<tr>
<td>Pacific willow</td>
</tr>
<tr>
<td>Yellow-green bark-tall</td>
</tr>
<tr>
<td>Geyer’s willow</td>
</tr>
<tr>
<td>Sitka Willow</td>
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Planting specifications

1. Planting area will be prepared by mowing and then sprayed with a water safe herbicide by a licensed technician in early spring when the green springs are about 6-12 inches high. The planting areas will then be treated a second time in early fall.
2. Areas typically inundated 1’ or greater for long duration during the wet season will be voided from planting zone (NW corner.)
3. All shrubs will be planted in dense groupings 1’ oc. Size of each grouping plot will be 25 SF on average (20-25 plant stakes will be planted in a 25 SF plot.)
4. One Sitka spruce will be planted in each of 50 of the shrub clumps.
5. Black cottonwood will be planted in dense grouping 4" oc. min.
6. Wood chips or mulch will be laid into the planting areas 4" depth. Alternatively equivalent weed barrier biodegradable fabric may be utilized. This will form a patchwork of circles for the shrubs in the field, help maintain weeds prior to planting season, and visibly mark the planting areas for the volunteer planting party.
7. Cuttings (stakes) should be planted mid January to March, or per nursery instructions. If planted in autumn the risk of rot is high. The stake will be inserted point down (buds up) and inserted at least 50% of its length. 2 or 3 buds should be exposed. The soils around the cutting should be tapped down to assure good soils contact.

Minor changes in native plant species may be made based upon availability. Any changes must meet agency approval. Plant material shall be obtained, when possible, from local native plant nurseries.

Weed control

Once the plants are installed, the maintenance of invasive RCG shall be performed by mowing around each individual conifer or shrub/tree grouping 2 foot wide path for a minimum maintenance protocol biannually. Mid level control would add mowing the field as is current practice having care to mow around the native plants. Increased level of maintenance adds spot treatment by a licensed technician around the outer edge of the individual trees or planting groups with glyphosate biannually for the first 3 years, then once annually years 4 and 5 as needed.

1.7 GOALS, OBJECTIVES, AND PERFORMANCE STANDARDS

Long term goals

The goal of this mitigation is to increase the diversity and structure of the habitat and improve water quality in the watershed by increasing coverage of woody native species. A low quality degraded grassy wetland and buffer will be improved to at minimum a two class PEM/PSS wetland/ buffer system.

Specific Goals, Objectives, and Performance Standards

Goal 1: The compensatory efforts increase the coverage of woody species in wetlands in the watershed.

Objective 1: Compensatory efforts shall enhance 1.27 acres by establishing a stand of native shrubs and native tree species at the Cornwall Church site.

Performance standard 1a: Survivalship/ coverage shall be at least,
Year 1...100 percent survival
Year 2...90 per percent survival
Year 3...90 percent survival
Year 5...85 percent survival/ 20% coverage
Year 7...85 percent survival/ 30% coverage
Year 10...85 percent survival/ 40% coverage

Volunteer species of appropriated species can be counted for dead or distressed plants.

Performance standard 1b: At least 2 native tree species and 4 native shrub
species will be established by year 3 in the wetland enhancement.

**Performance standard 1c:** Wetland hydrology shall be evidenced by indicators outlined in the Army Corps of Engineers Wetland Delineation Manual and Western Washington Regional Supplement years 3, 4, and 5.

**Objective 2:** Compensatory efforts shall enhance 30,000 SF (0.69 AC) of wetland/buffer.

**Performance standard 2a:** Survivalship/coverage shall be at least,
- Year 1...100 percent survival
- Year 2...90 percent survival
- Year 3...90 percent survival
- Year 5...85 percent survival/20% coverage
- Year 7...85 percent survival/30% coverage
- Year 10...85 percent survival/40% coverage

Volunteer species of appropriated species can be counted for dead or distressed plants.

**Performance standard 2b:** At least 2 native tree species and 1 native shrub species will be established by year 3 in the upland buffer.

**Objective 3:** Compensatory efforts shall establish a moderately diverse native woody plant community.

**Performance standard 3a:** Invasive blackberry (Rubus armeniacus, R. lanciniatus) shall not exceed,
- 30% aerial cover at the end of year 1
- 25% aerial cover at the end of year 2
- 20% aerial cover at the end of year 3
- 15% aerial cover at the end of year 5
- 10% aerial cover at the end of year 7
- 10% aerial cover at the end of year 10

**Performance standard 3b:** Mitigation site shall exhibit 0% coverage of purple loosestrife and Japanese knotweed at the end of years 1, 2, 3, 4, 5, 7, and 10.

### 1.8 MONITORING PLAN

The objectives of monitoring are to verify all design features, as agreed to in the plan, have been correctly and fully implemented, and that any changes made in the field are recorded and consistent with the intent of the design of the mitigation. A qualified specialist shall supervise mitigation planting and follow-up. The qualified specialist should check the boundaries and resolve necessary minor adjustments to the plans to allow them to conform to changing field conditions, advise the contractor during construction to adhere to the mitigation plan, and resolve any problems that may develop during the project.

Upon completion of mitigation project installation, the permittee should contact a qualified specialist, so that an “as-built” report can be completed. At one year after the approval of the as-built, monitoring will commence. Vegetation and signage shall be monitored once per monitoring period years 1, 2, 3, 5, 7, and 10. Whatcom County monitoring includes years 1, 2, 3, 4, 5. If performance standards are on track permittee may submit a request for release from monitoring prior to the agreed monitoring period, agency (ies) may determine additional monitoring
is not required. Reports shall be submitted by December 31 of any monitoring year to the Seattle District Corps of Engineers.

Photo points shall be selected at the time of as-built and photo documentation shall be completed at these same locations for comparison each monitoring period.

1.9 SITE PROTECTION

In accordance with code provisions, the mitigated area shall be placed in a conservation easement filed with the County Auditor. A sample pre-approved form is available on the Whatcom County website.

Native growth protection signs as located on the Mitigation Exhibit shall be placed at approximately one per every 200' and designed as per Whatcom County specification, see Appendix C of the Critical Areas Ordinance.

The mitigation site is located in a portion of the site which has demonstrated years with no negative human incursion in spite of surrounding existing development. The deep roadside ditch, the undulating topography, and wetness discourage human activity near the mitigation site. No added benefit can be found to justify the added expense or separation by fencing. Likewise a thorny vegetative border would be difficult to maintain in the RCG and survival challenged with no evidence that protection would increase by this effort. Site is highly visible from the road heavily travelled by Whatcom County officials daily and will be monitored regularly as per schedule a will be adequate to assure human intrusion does not become a problem.

1.10 MAINTENANCE AND CONTINGENCY PLANS

Regular site maintenance is a crucial component to ensure mitigation site success. The plantings will be monitored for viability, competition from weeds, rodent damage, bare patches, vandalism, drought, herbicide damage, mowing damage, and deer browse. Corrective actions will be taken as part of the maintenance program to maintain survival of plants. Plant condition should be inspected during each growing season as soon as the plants have had adequate time to leaf out.

Plants shall be replaced during any period a short fall is noticed. Some loss is anticipated; therefore, maintenance replanting is anticipated. Clearing circles around each grouping plot and each conifer or conifer group shall be 2' wide and maintenance shall be at minimum on a biannual basis for the first 3 years, once annually years 4 and 5.

Most of the mitigation area is reasonably well hydrated. In order to improve survivalship. Plants installed in the drier upland buffers should be watered during any drouthly period receiving less than 1" per week rainfall during at least the first and second years after installation, until trees and shrubs have had adequate time to develop strong root systems.

It shall be the responsibility of those carrying out the maintenance to report "problems" in a timely manner to allow mid-course corrections as agreed upon by a cooperative effort among the permittee, wetland consultant, landscape team, and Whatcom County and the Corps of Engineers. Contingency may include additional planting to replace dead or distressed plants to meet performance standards. Contingency may include plant substitution of type, size, quantity, and location and must be approved by the permitting agencies.

Long term some tree thinning in the buffer area may be required as part of landscape practices to preserve and protect the best conifer specimens if they become crowded years 7-15. What-
com County should be notified prior to performing this action. Performance standards as agreed will not be compromised by this act.

RCG shall be managed at a level to assure the survival performance of the newly established plants is not threatened.

### 1.12 Financial Assurances

The applicant shall post an assignment of saving surety in the amount of 125% of the estimated cost of the uncompleted actions. Surety shall be based on initial cost estimate of the mitigation action including plant materials, plant installation, weed control, monitoring, and/or other related costs. Surety allowance shall remain in effect until Whatcom County determines in writing, that the standards for the bond requirement have been met at duration limit detailed in the code.

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<td>(263 tree @ $ 2.50)</td>
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*This price quote is for budgetary purposes only, and not intended or implied as a contract for services.*

### Limitations

This report is based upon information collected in the field and obtained from manuals and publications produced by Federal, State, and Local agencies pertaining to the process of wetland mitigation. Conclusions are the professional opinion of the author (s) subject to approval by appropriate agencies.
SITE OVERVIEW
SEC 2, T 38 N, R 02 E
44°48.389'N /122°31.080'W
02/20/2013
Sheet 2 of 5

Proposed: Wetland / Buffer Fill
Reference: Whatcom County MIT2012-1
Corps Ref#: NWS-20111-1107
Project: Parking Expansion
Permittee: Cornwall Church
4518 Northwest Drive

Northwest Wetlands Consulting, LLC
Bellingham WA
nwckatrina@comcast.net
360.510.1605
WETLAND / BUFFER IMPACT

Wetland - 9223 SF
Buffer - 30,000 SF
Corps Ref#: NWS-20111-1107
Project: Parking Expansion
Permittee: Cornwall Church
4518 Northwest Drive

Northwest Wetlands Consulting, LLC
Bellingham WA
nwckatrina@comcast.net
360.510.1605

Sheet 3 of 5 02/20/2013
Impact Area
Cornwall Church Site

Mitigation area taken from north P/L facing Northwest Drive (left above)
Mitigation area taken from mid front field facing north toward north property line (right)

SITE PHOTOS

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Northwest Wetlands Consulting, LLC
Bellingham WA
nwckatrina@comcast.net
360.510.1605
MITIGATION EXHIBIT
Cornwall Church Parking Expansion
02/20/2013 — Sheet 5 of 5

Seasonal inundation ± approx. loc.

Wetland

NGP marker

NGP sign

30' - 30'
NORTHWEST DRIVE

Native Tree and Shrub List
- Geyer Willow - 250
- Hooker Willow - 250
- Sika Willow - 233
- Dogwood - 400
- Pacific Willow - 200
- Shore pine - 50
- Douglas fir - 25
- Sika spruce - 50
- Black Cottonwood - 150

* 64,088 SF (1.47 AC) wetland enhancement
++21,250 SF (0.49 AC) wetland buffer enhancement
As shown

380202 282007, 380202 358085, 380202 41033

60 FEET
CORNWALL CHURCH PARKING SUMMARY

NUMBER OF PARKING STALLS

PARKING ALLOCATION/USAGE

- WC Code 4:1
- WC Code (Actual) 2.1:1
- Existing
- Proposed
- 11:00 Sunday Service
- Christmas
- Easter
- Marriage Retreat

- Proposed Restriping
- Whatcom County Code (4:1)
- Whatcom County Code (Actual 2.1:1)
- Whatcom County Parking Lot
- Maintenance Rd.
- Proposed Parking
- Existing Parking
A Resolution Amending Whatcom County Res. No. 2013-007 to initiate changes to the Point Roberts Character Plan

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<td>Executive:</td>
<td>JF</td>
<td>12-8-13</td>
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**RECEIVED**

**JUL 1- 2013**

**WHATCOM COUNTY COUNCIL**

**TITLE OF DOCUMENT:**

A Resolution Amending Whatcom County Res. No. 2013-007 to initiate changes to the Point Roberts Character Plan

**ATTACHMENTS:**

1. Cover letter
2. Proposed Resolution to Amend Whatcom County Res. No. 2013-007 to initiate changes to the Point Roberts Character Plan
3. Proposed Amendments (Exhibit A)

Application materials are on file at the Council office.

<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>
</tr>
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<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( X ) NO</td>
<td>Requested Date</td>
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</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.)

Under the Growth Management Act, Whatcom County Council is required to consider amendments to the Comprehensive Plan no more frequently than once per year (with certain exceptions). Whatcom County Code 2.160.050 indicates that proposed Comprehensive Plan amendments are to be "initiated" for further review by a majority vote of the County Council.

In early February 2013, the Whatcom County Council approved Resolution No. 2013-007, which initiated Whatcom County Comprehensive Plan and zoning amendments for further review in 2013. Planning and Development Services is forwarding one additional item (Shown on Exhibit A) so that the Council can determine whether this item (a proposed amendment to the Point Roberts Character Plan) should be initiated for further review in 2013 and added to the existing 2013 Docket.

**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](http://www.co.whatcom.wa.us/council).
June 25, 2013

To: Honorable Jack Louws, Whatcom County Executive, and
Honorable Members of the Whatcom County Council

From: Erin Osborn, Planner

Through: Mark Personius, Long Range Planning Division Manager

RE: Proposed Resolution to Amend Res. No. 2013-007 to
Initiate Changes to the Point Roberts Character Plan

Pursuant to state and local law, proposed comprehensive plan and zoning amendments are initiated for further review by the County Council each year. In early February of 2013, the Whatcom County Council approved Whatcom County Res. No. 2013-007 initiating a list of comprehensive plan and zoning amendments for further review in 2013.

After the above referenced resolution was approved, portions of the existing Point Roberts Character Plan that specify how a Point Roberts Character Plan Advisory Committee is formed were reviewed in the context of a possible future revision. Preliminary analysis showed a need to streamline existing Point Roberts Character Plan advisory committee selection criteria and procedures, to increase flexibility in the way a locally based Point Roberts resident’s community advisory committee is created.

The Point Roberts Character Plan is a part of the Point Roberts Subarea Plan, and is adopted by reference in the Whatcom County Comprehensive Plan. Therefore, any changes to the Point Roberts Character Plan require an amendment to the County’s Comprehensive Plan.

It is recommended that the County Council take action on whether or not to initiate this item for further review in 2013. A draft resolution (attached) has been prepared, should the Council decide to initiate this item. If the item is initiated, the proposal will be evaluated by the Planning Department, and then go to a public hearing before the Planning Commission prior to returning to the County Council for review.

There are no other changes proposed to ‘initiated’ items previously approved under the February 2013 Resolution (Res. No. 2013-007). The only change proposed is to add one item, to amend the Point Roberts Character Plan, as shown in the underlined text on the bottom of Page 2 of Exhibit A.

Thank you for your consideration.
RESOLUTION NO. ________

AMENDING WHATCOM COUNTY RESOLUTION NO. 2013-007:
TO INITIATE CHANGES TO THE POINT ROBERTS CHARACTER PLAN

WHEREAS, the Growth Management Act (RCW 36.70A.130) requires that the County Council may consider amendments to the Whatcom County Comprehensive Plan no more frequently than once per year (with certain exceptions); and

WHEREAS, the provisions of WCC 2.160.050 indicate that Comprehensive Plan amendments are to be “initiated” for review by approval of a resolution by the County Council. WCC 20.90.030 indicates that the Council may also initiate zoning amendments; and

WHEREAS, the Whatcom County Council initiated proposed Comprehensive Plan and zoning amendments under Whatcom County Resolution No. 2013-007; and

WHEREAS, Whatcom County Planning and Development Services Department has forwarded to the County Council an additional item that is proposed to be initiated for further review: a proposal to amend the Point Roberts Character Plan, a part of Whatcom County Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED that the Whatcom County Council hereby initiates for formal review an additional item proposed to amend the Whatcom County Comprehensive Plan as shown on attached Exhibit A.

APPROVED this _____ day of _____________ 2013.

ATTEST

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council  Kathy Kershner, Council Chair

APPROVED AS TO FORM:

Civil Deputy Prosecutor
<table>
<thead>
<tr>
<th>File #</th>
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<tr>
<td>PLN2013-00001</td>
<td>Capital Facility Planning - Special Purpose Districts</td>
<td>Whatcom County</td>
<td>Review and amend provisions of the Whatcom County Comprehensive Plan relating to capital facilities. Potential amendments include adopting by reference or incorporating information from Mount Baker School District and Fire District 8 capital facility plans.</td>
<td>The Mount Baker School District includes lands in the central and eastern portions of the County, including the Columbia Valley UGA. Fire District 8 includes the western portion of the Bellingham UGA, and other lands to the west including part of the Lummi Reservation.</td>
</tr>
<tr>
<td>PLN2013-00002</td>
<td>Capital Facility Planning - LOS for Correction Facilities</td>
<td>Whatcom County</td>
<td>Review and potentially modify the level of service standards for correction facilities (jails and juvenile detention) in the Capital Facilities Chapter of the Whatcom County Comprehensive Plan.</td>
<td>N/A</td>
</tr>
<tr>
<td>PLN2013-00003</td>
<td>Bellingham Development Standards</td>
<td>Whatcom County</td>
<td>Review and potentially revise the Whatcom County Code to adopt City of Bellingham Development Standards for the Bellingham Urban Growth Area (UGA).</td>
<td>These amendments relate to the Bellingham UGA.</td>
</tr>
<tr>
<td>PLN2013-00004</td>
<td>Ferndale Development Standards</td>
<td>Whatcom County</td>
<td>Review and potentially revise the Whatcom County Code to adopt City of Ferndale Development Standards for the Ferndale UGA.</td>
<td>These amendments relate to the Ferndale UGA.</td>
</tr>
<tr>
<td>PLN2013-00005</td>
<td>Repeal Birch Bay– Blaine Subarea Plan</td>
<td>Whatcom County</td>
<td>Repeal the Birch Bay – Blaine Subarea Plan, which was adopted in 1987, prior to enactment of the Growth Management Act (GMA). The proposal would also amend related provisions in the Whatcom County Comprehensive Plan.</td>
<td>These amendments relate to the Birch Bay-Blaine Subarea.</td>
</tr>
<tr>
<td>File #</td>
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<tr>
<td>PLN2013-00006</td>
<td>Repeal Chuckanut-Lake Samish Subarea Plan</td>
<td>Whatcom County</td>
<td>Repeal the Chuckanut-Lake Samish Subarea Plan, which was adopted in 1986, prior to enactment of the GMA. The proposal would also amend related provisions in the Whatcom County Comprehensive Plan.</td>
<td>These amendments relate to the Chuckanut-Lake Samish Subarea.</td>
</tr>
<tr>
<td>PLN2013-00007</td>
<td>Repeal Lynden – Nooksack Valley Subarea Plan</td>
<td>Whatcom County</td>
<td>Repeal the Lynden-Nooksack Valley Subarea Plan, which was adopted in 1986, prior to enactment of the GMA. The proposal would also amend related provisions in the Whatcom County Comprehensive Plan.</td>
<td>These amendments relate to the Lynden-Nooksack Valley Subarea</td>
</tr>
<tr>
<td>PLN2013-00008</td>
<td>MRL Policies and Surface Mining Regulations</td>
<td>Barbara Brenner &amp; Carl Welmer</td>
<td>Amend the mineral resource land (MRL) policies and MRL designation criteria in the Whatcom County Comprehensive Plan. Amend the Official Whatcom County Zoning Ordinance to change certain surface mining and related uses from an administrative approval use to a conditional use permit that requires a public hearing. Make other changes to the surface mining regulations.</td>
<td>The zoning text amendments apply to the following districts: Rural, Agriculture, Rural Forestry, Commercial Forestry, and Mineral Resource Lands Special District.</td>
</tr>
<tr>
<td>PLN2013-00009</td>
<td>Six-Year CIP Amendments</td>
<td>Whatcom County</td>
<td>Amend the Six-Year Capital Improvement Program for Whatcom County Facilities (Appendix F of the Whatcom County Comprehensive Plan) by adding the following projects: Courthouse - replace exit lighting, Central Plaza Building - replace four gas packs on the roof, Central Plaza building - envelope patch and repaint, and painting throughout County buildings.</td>
<td>The amendments relate to the County Courthouse, Central Plaza building and other County buildings.</td>
</tr>
<tr>
<td>PLN2013-00013</td>
<td>Point Roberts Character Plan</td>
<td>Whatcom County</td>
<td>Amend Point Roberts Character Plan. The proposed changes are meant to streamline Point Roberts Character Plan Advisory Committee selection criteria and procedures, and increase flexibility in the way a locally based resident’s community advisory committee is created.</td>
<td>N/A</td>
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<tr>
<td>PLN2012-00006</td>
<td>Specified Fittings (R5A to RIM)</td>
<td>Gregory &amp; Kathleen Gundel and Ken Mann</td>
<td>Amend the Comprehensive Plan designation from Rural to Rural Community and amend the zoning from Rural one dwelling/five acres (R5A) to Rural Industrial and Manufacturing for approximately 1.86 acres located on the north side of Smith Rd., west of the Guide Meridian</td>
<td>Parcel # 390225 459079. Within the SE ¼ of section 25, T39N, R2E, W.M.</td>
</tr>
<tr>
<td>PLN2012-00007</td>
<td>Agricultural Strategic Plan Implementation</td>
<td>Whatcom County</td>
<td>Resolution 2011-023 was approved by the County Council on 7/26/2011 declaring support for the Whatcom County Agricultural Strategic Plan. An immediate priority in this plan is to review the Rural Study Areas as listed in the 2007 Rural Land Study and make recommendations for possible changes in accordance with Resolution 2009-040 (100,000 acre target), Resolution 2011-023 (the Agricultural Strategic Plan), and RCW 36.70A.170 and .177. Other immediate and short-term priorities in this plan include developing tools that can be incentives for agricultural operators within the priority agricultural areas, including parcel reconfiguration. These activities may lead to proposed changes to the agricultural portions of the Comprehensive Plan and zoning regulations.</td>
<td>Proposal relates to Agricultural and Rural lands</td>
</tr>
<tr>
<td>PLN2012-00008</td>
<td>Small Scale Slaughterhouses</td>
<td>Gabriel Claycamp</td>
<td>Amend the Official Whatcom County Zoning Ordinance to allow small scale slaughterhouses in the Agriculture zoning district.</td>
<td>Proposal relates to the Agriculture Zoning District</td>
</tr>
<tr>
<td>PLN2012-00009</td>
<td>MRL Expansion – North Star Rd.</td>
<td>Ferndale Ready Mix &amp; Gravel</td>
<td>Amend the comprehensive plan designation from Rural to Mineral Resource Lands (MRL) and amend the zoning map to expand a MRL overlay zone on approximately 19.7 acres on the west side of North Star Rd., south of Brown Rd. The underlying zoning is Rural one dwelling/five acres (R5A).</td>
<td>Parcel # 390110 212100; Within the SW ¼ of section 10, T39N, R1E, W.M.</td>
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<tr>
<td>PLN2012-00010</td>
<td>Comprehensive Plan Chapter 6 - Transportation</td>
<td>Whatcom County</td>
<td>Amend Comprehensive Plan Chapter Six, Transportation. Includes level of service standards, identification of roadway deficiencies, 20-year project list, and policies for design and implementation of transportation improvements with a multimodal approach.</td>
<td>N/A</td>
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<tr>
<td>PLN2012-00011</td>
<td>Title 20 Amendments (Code Scrub)</td>
<td>Whatcom County</td>
<td>Review and, as needed, amend portions of the Official Whatcom County Zoning Ordinance (Title 20) to ensure consistency with the Growth Management Act and the Whatcom County Comprehensive Plan, and address issues identified in the administration of the code.</td>
<td>N/A</td>
</tr>
<tr>
<td>PLN2012-00012</td>
<td>Rural Element Update</td>
<td>Whatcom County</td>
<td>Amend the Rural element of the Whatcom County Comprehensive Plan, including provisions relating to limited areas of more intensive rural development, in response to a decision of the Growth Management Hearings Board. Make related amendments to the Official Whatcom County Zoning Ordinance and maps.</td>
<td>Rural Areas</td>
</tr>
<tr>
<td>PLN2011-00009</td>
<td>MRL Expansion - Lummi Island</td>
<td>Lummi Rock, LLC</td>
<td>Amend the comprehensive plan designation from Rural Forestry to Mineral Resource Lands (MRL) and amend the zoning map to expand a MRL overlay zone on approximately 27.5 acres on Lummi Island. The underlying zoning is Rural Forestry.</td>
<td>Parcel # 370124 191084; Within the SW ¼ of section 24, T37N, R1E, W.M.</td>
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<tr>
<td>PLN2011-00015</td>
<td>Lake Whatcom Watershed Stormwater and Land Clearing Amendments</td>
<td>Whatcom County</td>
<td>Amendments to the Official Whatcom County Zoning Ordinance related to stormwater management, vegetation retention, re-vegetation options, erosion and sediment control, etc. in order to address the Washington State Department of Ecology’s Total Maximum Daily Load (TMDL) Findings for Lake Whatcom, the future Water Quality Cleanup Plan, and the 2010-2014 Lake Whatcom Management Program</td>
<td>N/A</td>
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<tr>
<td>ZON2008-00001</td>
<td>KG, LLC</td>
<td>Offsite Wetland Mitigation/ Restoration as a form of compensatory mitigation in all zoning districts.</td>
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<td></td>
<td>Work Plan tasks. Amend the Official Whatcom County Zoning Ordinance to allow offsite wetland mitigation and habitat restoration.</td>
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WHATCOM COUNTY COUNCIL AGENDA BILL

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<th>Agenda Date</th>
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<td>M.P.</td>
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<td>7/9/2013</td>
<td>P&amp;D Committee and Council</td>
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<td>5/23/13</td>
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<td>Purchasing/Budget:</td>
<td>A.L.</td>
<td>5/23/13</td>
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<td>Executive:</td>
<td>J.</td>
<td>5/23/13</td>
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TITLE OF DOCUMENT:
Repeal the Lynden-Nooksack Valley Subarea Plan and amend provisions in the Whatcom County Comprehensive Plan relating to subarea plans.

ATTACHMENTS:
1. Staff Memo
2. Proposed Ordinance and Exhibits
3. Planning Commission Findings of Fact and Reasons for Action
4. Planning Commission minutes

Other background information is on file at the Council office.

SEPA review required? (X) Yes ( ) NO
SEPA review completed? (X) Yes ( ) NO

Should Clerk schedule a hearing? ( ) Yes (X) NO
Requested Date

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

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.)

Repeal the Lynden-Nooksack Valley Subarea Plan and amend provisions in the Whatcom County Comprehensive Plan relating to subarea plans. The Lynden-Nooksack Valley Subarea Plan was adopted in 1986, prior to enactment of the Growth Management Act GMA in 1990.

NOTE: Final approval of these amendments would occur as part of concurrent review of comprehensive plan amendments in early 2014.

COMMITTEE ACTION: 6/04/2013: Introduced

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.
ORDINANCE NO. ______________

REPEALING THE 1986 LYNDEN-NOOKSACK VALLEY SUBAREA PLAN
AND AMENDING PROVISIONS IN THE WHATCOM COUNTY
COMPREHENSIVE PLAN RELATING TO SUBAREA PLANS

WHEREAS, The Whatcom County Council initiated the subject amendments for review in 2013; and

WHEREAS, The Whatcom County Planning Commission held a public hearing on May 9, 2013; and

WHEREAS, The Whatcom County Planning Commission recommended the comprehensive plan amendments on May 9, 2013; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The subject proposal includes:
   a. Amending Whatcom County Comprehensive Plan provisions relating to subarea plans.
   b. Repealing the Lynden-Nooksack Valley Subarea Plan (1986).

2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on April 5, 2013.

3. Notice of the Planning Commission hearing was posted on the County website on April 9, 2013.

4. Notice of the Planning Commission hearing and that the proposal had been posted on the County website was sent to the Cities of Lynden, Everson, Nooksack and Sumas and citizen, media and other groups on the County’s e-mail list on April 10, 2013.

5. Notice of the subject amendments was submitted to the Washington State Department of Commerce on April 18, 2013.
6. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on April 26, 2013.

7. The Planning Commission held a public hearing on the subject amendments on May 9, 2013.

8. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive plan amendments the County must find all of the following:

   a. 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.

   b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.

   c. 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:

      i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

      ii. The anticipated effect on 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.

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

   d. The amendment does not include or facilitate spot zoning.

   e. Urban growth area amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.

**Growth Management Act**

9. The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080 ("Comprehensive plans – Optional elements").
10. However, the GMA requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

11. The Lynden-Nooksack Valley Subarea Plan was adopted in 1986, prior to enactment of the GMA in 1990. The Whatcom County Comprehensive Plan was adopted in 1997 and subsequently amended from time to time. The Subarea Plan is inconsistent with the Whatcom County Comprehensive Plan. Specifically, the Subarea Plan does not address urban growth areas (UGAs), contains different land use designations, is inconsistent with the Comprehensive Plan’s rural element, and has a different planning period.

**County-Wide Planning Policies**

12. The County-Wide Planning Policies do not require the County to retain old subarea plans.

**Interlocal Agreements**

13. The Lynden, Everson, Nooksack and Sumas UGAs are included in the Lynden-Nooksack Valley Subarea.

14. Interlocal agreements between these cities Whatcom County concerning Planning, Annexation and Development within the UGAs were signed in 2012. These interlocal agreements do not require the County to retain this subarea plan.

**Further Studies/Changed Conditions**

15. The Lynden-Nooksack Valley Subarea Plan was adopted in 1986.

16. The GMA, adopted in 1990, included a requirement to designate UGAs. The 1986 Lynden-Nooksack Valley Subarea Plan does not address UGAs.

17. The GMA was amended in 1997 to include criteria for limited areas of more intensive rural development (LAMIRDs). The 1986 Lynden-Nooksack Valley Subarea Plan does not address LAMIRDs.

18. The Whatcom County Comprehensive Plan was originally adopted in 1997, and subsequently amended. The 1986 Lynden-Nooksack Valley Subarea Plan is not consistent with the County Comprehensive Plan.


20. The cities of Lynden, Everson, Nooksack, and Sumas adopted and/or updated their comprehensive Plans after adoption of the Subarea Plan.
21. Changed conditions including enactment of the GMA, adoption of newer plans and the passage of time warrant repealing the 1986 Lynden-Nooksack Valley Subarea Plan.

**Public Interest**

22. Repealing the 1986 Lynden-Nooksack Valley Subarea Plan will serve the public interest by removing a plan that is inconsistent with the Whatcom County Comprehensive Plan.

**Spot Zoning**

23. The subject proposal does not involve rezoning property.

**CONCLUSIONS**

The subject proposal is consistent with the approval criteria of WCC 2.160.080.
NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Whatcom County Comprehensive Plan Chapter 2 (Land Use) is hereby amended as shown on Exhibit A.

Section 2. The Lynden-Nooksack Valley Subarea Plan (1986) is hereby repealed as shown on Exhibit B.

Section 3. 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: 

[Signature]
Dana Brown-Davis, Council Clerk

[Signature]
Chairperson

APPROVED as to form:

[Signature]
Civil Deputy Prosecutor

[Signature]
Jack Louws, Executive

Date: ________________

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON
May 23, 2013

To: Jack Louws, The Honorable Whatcom County Executive  
The Honorable Whatcom County Council

From: Matt Aamot, Senior Planner

Through: Mark Personius, Long Range Planning Division Manager

RE: Repeal the Lynden-Nooksack Valley Subarea Plan and Related Amendments

The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080. However, the GMA also requires that subarea plans must be consistent with a county's comprehensive plan. Specifically, RCW 36.70A.080(2) states: "A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan."

Most of the comprehensive land use plan designations in the 1986 Lynden-Nooksack Valley Subarea Plan are not the same as the designations utilized in the current Whatcom County Comprehensive Plan. Additionally, the requirement to designate urban growth areas was not enacted until after the Subarea Plan was adopted. The Subarea Plan has "Urban Reserve" designations, but they do not match the current UGA designations. The GMA's rural element requirements did not exist when the Subarea Plan was adopted. Finally, the Subarea Plan utilized a 15-year planning period (which ended in 2001). Therefore, we recommend repealing the Subarea Plan and amending provisions in the Whatcom County Comprehensive Plan relating to subarea plans.

Planning & Development Services is requesting Council consideration of these amendments on July 9. However, the proposed Comprehensive Plan amendments are subject to concurrent review. Therefore, the Council would not render a final decision on the proposal until early 2014.

Thank you for your consideration of this matter.
Exhibit A

Amend Chapter 2 of the Whatcom County Comprehensive Plan as follows:

Policy 2L-2: Retain and periodically review and update the adopted Subarea Plans (Lummi Island, Cherry Point-Ferndale, Lake Whatcom, Urban Fringe, Lynden-Nooksack Valley, Chuckanut-Lake Samish, Birch Bay-Blaine, Foothills, Point Roberts, South Fork Valley, and Eliza Island). Subarea Plans represent a long history of plan development in Whatcom County and provided the foundation for the county’s first Growth Management comprehensive plan adopted in 1997.

NOTE: The text of Policy 2L-2 above is also being amended in association with the proposed repeal of the Birch Bay-Blaine Subarea Plan (file # 2013-00005) and the proposed repeal of the Chuckanut-Lake Samish Subarea Plan (file # 2013-00006). The changes to Policy 2L-2 proposed in the subject amendment are intended to be harmonious and compatible with the changes to Policy 2L-2 proposed in these other two amendments.
Exhibit B

(Repealing the Subarea Plan)
LYNDEN
NOOKSACK VALLEY
SUBAREA

a component of the

Whatcom County
Comprehensive Land Use Plan

- Pt. Roberts Subarea
- Lummi Island Subarea
- Cherry Pt. - Ferndale Subarea
- Lake Whatcom Subarea
- Urban Fringe Subarea
- Lynden - Nooksack Valley Subarea
- Birch Bay - Blaine Subarea
- Chuckanut - Lake Samish Subarea
- South Fork Valley Subarea
- Foothills Subarea
LYNDEN–NOOKSACK VALLEY SUBAREA

COMPREHENSIVE PLAN

June, 1986

Whatcom County Executive

Shirley Van Zanten

Whatcom County Council

Don Hansey, Chairman
Tom Burton
Jim Hawley
C.J. "Corky" Johnson

R.W. "Bob" Muenscher
William Roehl
Dan Warner

Whatcom County Planning Commission

Peggy Hinton, Chairperson
David Simpson, Vice Chairperson
Emil deWilde
James Freeman
Louise Greer

Al Hickinbotham
Faruk Taysi
Alvin Van Dalen
John Vanderhage

Whatcom County Planning Staff

William G. Trimm, Director
Sandra Palm, Planner III
Diane E. Harper, Planner II
Carl F. Batchelor, Planner I
Elizabeth K. Olsen, Cartographer
Sharon Hayes, Administrative Aide
Carrie Unick, Word Processor

Whatcom County Planning Department
401 Grand Avenue
Bellingham, WA 98225
THE LYNDEN—NOOKSACK VALLEY SUBAREA COMPREHENSIVE PLAN
A COMPONENT OF THE WHATCOM COUNTY COMPREHENSIVE PLAN

Adopted this 21st day of April, 1986,
by the Whatcom County Planning Commission.

Peggy Hinton
Chairperson

William G. Trimm, Secretary

Certified this 10th day of June, 1986,
by Whatcom County Council.

Donald G. Hansey, Chairman

Approved this 20th day of June, 1986,
by the Whatcom County Executive.

Shirley Van Zanten
Executive

Attest: Carol Ekmark
Clerk of the Council

Reviewed this ___ day of ____________, 1986,
by the Boundary Review Board.

Stewart Buttrick, Chairperson
DATE: May 16, 1986  INTRODUCED BY: Comment
PROPOSED BY: PLANNING

ORDINANCE NO. 86-41

AN ORDINANCE AMENDING THE 1970 WHATCOM COUNTY COMPREHENSIVE PLAN TEXT AND MAP FOR THE GEOGRAPHIC AREA KNOWN AS THE LYNDEN-NOOKSACK VALLEY SUBAREA SITUATED IN WHATCOM COUNTY.

WHEREAS, the Whatcom County Planning Agency is charged with updating and revising the 1970 Comprehensive Plan Text and Map and providing recommendations for legislative action to Whatcom County Council; and

WHEREAS, the Whatcom County Planning Agency has reviewed the provisions of the 1970 Comprehensive Plan as applied to the Lynden-Nooksack Valley Subarea, through the development of a Background Document that inventoried and analyzed land use, transportation, community facilities and utilities, and environmental features existing in the subarea, and determined important land use related issues; and

WHEREAS, the Whatcom County Planning Agency developed a comprehensive citizen participation process that resulted in the formation of the Proposed Comprehensive Plan for the Lynden-Nooksack Valley Subarea; and

WHEREAS, the Whatcom County Planning Commission conducted one public hearing on January 21, 1986, for the purpose of receiving public testimony on the proposed Lynden-Nooksack Valley Subarea Comprehensive Plan; and

WHEREAS, the Whatcom County Planning Commission has prepared Findings, Reasons, and Motion recommending adoption of the Proposed Lynden-Nooksack Valley Subarea Comprehensive Plan; and

WHEREAS, the Whatcom County Council has reviewed the Planning Agency's Findings, Reasons and Motion;

NOW, THEREFORE, BE IT ORDAINED by Whatcom County Council as follows:

Section 1. Comprehensive Plan Text

The 1970 Whatcom County Comprehensive Plan Text is hereby amended to read as set forth in Exhibit 2, which is attached hereto and incorporated herein by reference, is hereby adopted for the area referred to as the Lynden-Nooksack Valley Subarea.

Section 2. Comprehensive Plan Map

The 1970 Whatcom County Comprehensive Plan Map is hereby amended in its entirety for the geographic area referred to as the Lynden-Nooksack
Valley Subarea, as set forth in Exhibit 3, which is attached hereto and
incorporated herein by reference.

Section 3. Validity

Adjudication or invalidity of any of the sections, clauses, or provi-
sions 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.

PASSED this 19th day of June , 1986.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

( ) APPROVED ( ) VETOED

Shirley Van Manten, Executive

June 20, 1986

Date

APPROVED AS TO FORM:

Randy Watts,
Civil Deputy Prosecuting Attorney

Published June 4 and July 2 , 1986.

This Ordinance becomes effective June 30 , 1986.
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I. COMPREHENSIVE LAND USE PLANNING

A. STATUTORY AUTHORITY

Statutory authority for county comprehensive land use planning is established in the Washington State Planning Enabling Act, in which it is stated that "each planning agency shall prepare a comprehensive plan for the orderly physical development of the county or any portion thereof..." (RCW 36.70.320). The Lynden-Nooksack Valley Subarea Comprehensive Plan has been developed in response to statutory authority as well as in recognition of the widely accepted principle that future Whatcom County land use decisions should be made in a coordinated and responsible manner by both the public and private sectors.

B. DEFINITION AND APPLICATION

The Whatcom County Comprehensive Plan is defined as an official public document to be used by both the public and private sectors as a policy guideline for making orderly decisions concerning the future use of land in the County. The plan has been formulated by the Whatcom County Planning Commission and is comprehensive, general and long-range in nature. The plan is comprehensive in that it encompasses major geographic areas of the county and the functional elements that bear on physical development. The plan is general in that it summarizes major policies and proposals and is not, by statute, a detailed regulation. The plan is long-range in application because it addresses current issues, as well as anticipated problems and possibilities of the future.

The purpose of this document is to foster a responsible process of land use decision-making. The goals, policies and land use plan map contained herein serve to amend the 1970 Whatcom County Comprehensive Plan for the geographic area defined as the Lynden-Nooksack Valley Subarea. The 1970 plan served as a basic plan for the 1970's, but as times change, people's attitudes, technologies and economies also change. Consequently, the primary decision-making document of local government must be revised to address current and anticipated issues of the future.

In consideration of the changes that have occurred since the existing plan was adopted, the Planning Commission resolved in December, 1978, to revise and update the 1970 Comprehensive Plan. The Commission is also aware that changes will continue through the 1980's and has realized that the policies contained herein will be subject to modification and revision over a period of time. As is discussed in the following section, this subarea plan will be revised on a five-year basis.

C. SUBAREA PLANNING CONCEPT

Because of the county's diverse physical and cultural composition, the Planning Commission elected to revise the plan on an individual geographic area basis. Thus, the Commission divided the western one-third of the county into ten logical geographic areas where the planning process could be applied in a uniform and consistent manner. Denoted as "subareas", these geographic areas were
delineated to address various land use related issues that appeared to be unique to particular areas of the county.

The criteria used by the commission to delineate subarea boundaries include natural and physical features; political subdivisions such as sewer, water, fire and school districts; existing land use patterns; and the presence of a city or town to act as a nucleus for the area. Thus, subareas are planning units determined through the application of criteria and are considered as a practical means of revising the comprehensive plan in a consistent and orderly fashion.

D. WHATCOM COUNTY PLANNING PROCESS

The Whatcom County comprehensive planning process is defined as a continual process of evaluating goals, conducting various land-related studies, and then using the goals and studies to fashion a balanced and practical set of land use policies and proposals for future land uses in the County. Stated differently, the planning process serves as a blueprint for the logical development of the comprehensive plan, as well as the formulation of effective implementation tools.

The process describes, through a logical sequence, the various land use related factors that must be considered to effect the formulation of responsible and meaningful land use policies and proposals. These factors include the definition of county-wide goals; the inventory and analysis of land use, community facilities and utilities, transportation, and environmental resource characteristics; the forecasting of population levels and the county's economic vitality; the analysis of issues both technical and citizen related; the development of policies to resolve or address the relevant issues; and the transformation of policies into the plan map and attendant implementation tools.

The planning process is continual. The implementation of the comprehensive plan, through the application and use of various regulatory tools, must be continually monitored. The effectiveness of the planning process in Whatcom County relies on the county's ability to keep the major components of the plan current through periodic review and adoption of any necessary amendments.

E. PLAN FORMAT

The Comprehensive Plan for the Lynden-Nooksack Valley Subarea includes the necessary information for the appropriate formulation of land use decisions by both the public and private sectors of Whatcom County. The components of the plan include the following:

I. Comprehensive Land Use Planning: To assist both the public and private sectors with respect to the development, adoption, and amendment of the comprehensive plan policies and map.

II. Goal Statements: To provide the overall direction for land use planning in Whatcom County.
III. Population Forecasts: To correlate anticipated demand for land uses with the supply of land.

IV. Subarea Description: To generally define subarea characteristics and establish issue topics as determined by area residents, the Planning Commission and the planning staff.

V. Rationale and Locational Criteria: To establish the necessity of land use designations and the spatial determinants to be used in applying land use designations.

VI. Policies: To provide the primary decision-making tools required to address the land use, community facility and utility, transportation/circulation and environmental resource issues of the subarea.

VII. Comprehensive Land Use Plan Map: To reflect the spatial distribution of the policy statements together with the policies; perhaps, the most widely used component of the comprehensive plan.

VIII. Amendment Criteria: To assist both the public and private sectors with respect to revisions of the comprehensive plan policies and map.

IX. Adoption Certificate and Ordinance: To acknowledge acceptance of the plan by the Whatcom County Planning Commission and Council, City of Lynden, City of Sumas, City of Everson, City of Nooksack and the Boundary Review Board.
Whatcom County Planning Process

GOALS

CONTINUOUS UPDATE

IMPLEMENTATION
Zoning Ordinance
Subdivision Regs.
Shoreline Mgt.
City agreements
Floodplain Regs.

WHATCOM COUNTY COUNCIL

INVENTORY AND ANALYSIS
BY SUBAREA
Land Use
residential
commercial
industrial
Transportation
Comm. Services
Population
Parks-Recreation
Physical Features
Shoreline Mgt.

PRELIMINARY SUBAREA COMPREHENSIVE PLAN

DETERMINATION OF ISSUES

SUBAREA CITIZEN PARTICIPATION:
Phase 1

FORMULATION OF PRELIMINARY
SUBAREA POLICIES AND PLAN
MAP BY PLANNING COMMISSION

SUBAREA CITIZEN PARTICIPATION:
Phase 2

REFINEMENT OF PRELIMINARY
SUBAREA POLICIES AND PLAN
MAP BY PLANNING COMMISSION

PUBLIC HEARING
II. GOAL STATEMENTS

The following goals provide the general direction for making land use decisions in the subarea and Whatcom County as a whole. They were developed and adopted by the Planning Commission and County Council in July, 1979.

A. REGIONAL DESIGN GOALS

1. Future urban development should occur within or immediately adjacent to existing urban areas in order to eliminate sprawl and strip development, assure the provision of an adequate range of urban services, conserve agricultural and forestry lands, optimize investments in public services and conserve energy resources.

2. Future development in rural areas should be low density, complement existing rural character, contribute to the conservation of agricultural and forest land and not result in demands for urban-level services.

B. GROWTH MANAGEMENT GOALS

1. To promote a conscientious program designed to plan, guide and influence the appropriate location, timing, intensity, type and servicing of diverse land use patterns.

2. To determine the required amounts of land anticipated to be utilized within the planning period (15 years) while retaining options for future land use decisions beyond the planning period.

3. To encourage a predictable pattern of urban and rural development which utilizes previously committed land areas and existing facility investments before committing new areas for development.

4. To ensure that a beneficial balance exists between the supply and demand for public services. To encourage the cooperation among municipalities, special districts, and associations in the planning and provision of public services. To discourage the proliferation of unnecessary special purpose districts.

5. To develop a concise, equitable and practical set of land use regulations intended to implement the goals, policies and proposals of the County Comprehensive Plan in a timely and orderly fashion.

C. LAND USE GOALS

1. To conserve the agricultural and forest lands of Whatcom County for the continued production of food, forage and timber crops while promoting the expansion and stability of the county’s agricultural and forestry economies.

2. Urban residential development should be planned in areas that can be economically and efficiently served with existing or planned services,
optimize energy use, function as integral neighborhood units and can environmentally support intensive land uses.

3. Adequate community and neighborhood commercial facilities should be encouraged in appropriate locations while avoiding incompatible land uses and the proliferation of unnecessary new commercial areas.

4. To encourage a balanced and diversified economy in order to assure desirable local employment opportunities and to strengthen and stabilize the tax base. To accommodate anticipated economic development in an environmentally responsible manner with due consideration for public cost, energy availability, land use compatibility and transportation accessibility.

5. To promote the availability of economical and attractive housing for all income, age and ethnic groups, while also enhancing the integrity and identity of existing communities.

6. To promote a functional, coordinated and multi-mode transportation system which provides for the safe and efficient movement of people and goods, avoids undesirable environmental impacts, and optimize public investments and the conservation of energy resources.

7. Adequate facilities and services which provide diverse education, recreation, cultural and social opportunities should be encouraged.

D. CULTURAL AND NATURAL RESOURCES

1. To identify and manage environmentally sensitive areas in such a manner as to prevent destruction of the resource base and reduce potential losses to property and human life.

2. To continue the identification of cultural and natural resources and formulate viable methods to preserve and conserve such resources in recognition of their irreplaceable character.

3. To promote a park and recreation system which is integrated with existing and planned land use patterns and is diverse, abundant and assures maximum public access and usage.

E. CITIZEN INVOLVEMENT AND INTERGOVERNMENTAL COORDINATION

1. To assure opportunity for citizens to be involved in the formulation of land use goals, policies and proposals and to provide a structure for citizen participation in the planning program of federal, state, regional and local agencies.

2. To participate in intergovernmental coordination with federal, state, provincial, regional and local agencies, to develop a coordinated approach to problems which transcend local government bodies and to create an environment for the exchange of information and technical assistance.
III. POPULATION FORECASTS

Introduction

The purpose of population forecasting, as it relates to land use planning, is to accommodate the long-term spatial requirements of various land uses such as residential, commercial, recreational and public. Population forecasting may also be of assistance in decision making for land use related matters, such as determining the appropriate scale and location of public works facilities and land development activities. Population forecasts are subject to revision which may be accomplished in the five-year comprehensive plan update process.

The population information contained herein is a summary of the forecasts prepared by several agencies. Because of the technical difficulties involved with current and projected population assessment on a subarea basis, the information has been presented by total county, unincorporated county and incorporated community. Furthermore, this information has been used in a qualitative manner or as a general guideline, rather than as a specific numerical forecast. To relate this information to the Lynden-Nooksack Valley Subarea Comprehensive Plan, the following assumptions are used:

1. The majority of population growth will occur in URBAN RESERVE, URBAN RESERVE MEDIUM and RESIDENTIAL-RURAL areas.

2. The remainder of population growth will occur in RURAL and AGRICULTURAL areas.

3. The rate of population growth will be at unincorporated Whatcom County rates (Table B).

Tables A, B, C, D, E and F, respectively relate to total Whatcom County, unincorporated Whatcom County, City of Lynden, City of Sumas, City of Everson and City of Nooksack population trends and forecasts. Figures 1, 2, 3, 4, 5 and 6 present this information in a graphical format. The remainder of the information summarizes the various assumptions and variables which may affect the included population forecasts.

Assumptions Relating to Population Forecasts

All population forecasts are based on assumptions which affect the numerical results, and different population forecasting agencies do not make the same assumptions. The following items are intended to present an overview of assumptions as they relate to Whatcom County populations:

1. In-migration will continue to contribute substantially to population increases at the Washington State and Whatcom County levels.

2. The trend of decreasing family size and population per household will continue.
3. Labor market potential and location will affect population distribution, gross natural increase and in-migration levels.

4. The purpose of the population forecast affects assumption utilization, which in turn affects the results.

**Variables Affecting Population Forecasts**

Agencies which prepare population forecasts often make revisions due to changes in the variables affecting their assumptions. The following variables are intended as an overview for potential Whatcom County population forecast revisions, and may not affect all the agencies whose forecasts are contained herein:

1. Changes in Whatcom County birth, death and in-migration rates.

2. Changes in the level of industrial development and the related labor market potential of Whatcom County.

3. Changes in the Canadian economy and the related level of Canadian spending in Whatcom County.

4. Changes in the demand for the products of local resources such as agriculture, forestry, fishing and mining by local, state, national, and international markets.
TOTAL WHATCOM COUNTY POPULATION TRENDS AND FORECASTS: 1970-2000

TABLE A
TOTAL WHATCOM COUNTY POPULATION TRENDS AND FORECASTS: 1970-2000
(INCORPORATED AND UNINCORPORATED)

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<td>119,771</td>
<td>152,997</td>
<td>149,217</td>
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<td>WCCOG²</td>
<td>104,876</td>
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ANNUAL GROWTH RATES

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9
UNINCORPORATED WHATCOM COUNTY


![Chart showing population trends from 1970 to 2000]

**Table B**

UNINCORPORATED WHATCOM COUNTY POPULATION TRENDS AND FORECASTS: 1970-2000

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**ANNUAL GROWTH RATES**

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<td>1990-2000</td>
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LYNDEN, WASHINGTON

![Graph showing population trends from 1970 to 2000 with projections from WCCOG and CB&I]

**Table C**
POPULATION TRENDS & FORECASTS, 1970 - 2000
LYNDEN, WASHINGTON

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**ANNUAL GROWTH RATES**

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11
SUMAS, WASHINGTON

![Graph showing population trends and forecasts from 1970 to 2000.]

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>U.S. Census</td>
<td>722</td>
<td>712</td>
<td>683</td>
<td>695</td>
<td>696</td>
<td>693</td>
</tr>
<tr>
<td>CB&amp;I: EIS¹</td>
<td>674</td>
<td>683</td>
<td>695</td>
<td>696</td>
<td>1,020</td>
<td>1,020</td>
</tr>
<tr>
<td>WCCOG²</td>
<td>745</td>
<td>800</td>
<td>860</td>
<td>935</td>
<td>1,020</td>
<td>1,020</td>
</tr>
<tr>
<td>OFM¹¹</td>
<td>736</td>
<td>736</td>
<td>736</td>
<td>736</td>
<td>736</td>
<td>736</td>
</tr>
<tr>
<td>Actual Population</td>
<td>722</td>
<td>712</td>
<td>736</td>
<td>736</td>
<td>736</td>
<td>736</td>
</tr>
<tr>
<td>Mean Population</td>
<td>722</td>
<td>712</td>
<td>736</td>
<td>778</td>
<td>816</td>
<td>857</td>
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ANNUAL GROWTH RATES

<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>-0.14%⁵</td>
<td>0.90%⁶</td>
<td>0.97%⁷</td>
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12
EVRSON, WASHINGTON

![Graph showing population trends]

**TABLE E**
POPULATION TRENDS & FORECASTS, 1970 - 2000
EVRSON, WASHINGTON

<table>
<thead>
<tr>
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<tr>
<td>U.S. Census</td>
<td>633</td>
<td>898</td>
<td></td>
<td></td>
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<tr>
<td>CB&amp;I: EIS</td>
<td>877</td>
<td>1,035</td>
<td>1,166</td>
<td>1,330</td>
<td>1,515</td>
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<tr>
<td>WCCOG</td>
<td>877</td>
<td>955</td>
<td>1,085</td>
<td>1,210</td>
<td>1,350</td>
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<tr>
<td>OFM</td>
<td>1,100</td>
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<tr>
<td><strong>Actual Population</strong></td>
<td>633</td>
<td>898</td>
<td></td>
<td></td>
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<tr>
<td><strong>Mean Population</strong></td>
<td>---</td>
<td></td>
<td>1,030</td>
<td>1,126</td>
<td>1,270</td>
<td>1,433</td>
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**ANNUAL GROWTH RATES**

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<tr>
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<tbody>
<tr>
<td><strong>Rate</strong></td>
<td>3.56%</td>
<td>2.29%</td>
<td>2.54%</td>
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</table>

13
TABLE F

POPULATION TRENDS & FORECASTS, 1970 - 2000

NOOKSACK, WASHINGTON

<table>
<thead>
<tr>
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<tr>
<td>U.S. Census</td>
<td>322</td>
<td>429</td>
<td></td>
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<tr>
<td>CB&amp;I: EIS¹</td>
<td>387</td>
<td>437</td>
<td>478</td>
<td>528</td>
<td>583</td>
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<tr>
<td>WCCOG²</td>
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<td>530</td>
<td>625</td>
<td>735</td>
<td>865</td>
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</tr>
<tr>
<td>OFM¹⁰</td>
<td></td>
<td>585</td>
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</tbody>
</table>

| Actual Population | 322  | 429  |      |      |      |      |
| Mean Population   | ---   | ---  | 517  | 552  | 632  | 724  |

ANNUAL GROWTH RATES

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>2.92%⁵</td>
<td>2.55%⁶</td>
<td>2.75%⁷</td>
</tr>
</tbody>
</table>
Footnotes


2Whatcom County Council of Governments; Population Forecasts; June, 1980.


5Annual growth rates are based upon the official 1970 and 1980 U.S. Census figures.

6Annual growth rates are based upon the official 1980 U.S. Census figure and the 1990 mean calculation figure.

7Annual growth rates are based upon the 1990 and 2000 mean calculation figures.

8In-migration is equal to total population less natural increase, in which natural increase is equal to total births less total deaths.

9The Whatcom County Council of Government's population forecast exhibits a high correlation with the Canadian Impact Study and is thus presumed to accommodate Canadian spending.


IV. SUBAREA DESCRIPTION

A. INTRODUCTION

The Lynden-Nooksack Valley Subarea is bounded on the north by the Canadian Border, on the east by Vedder and Sumas mountains, on the south by East Smith Road and Stewart Mountain, and on the west by Aldrich and Delta Line Roads. Incorporated communities include Lynden, Sumas, Everson and Nooksack. Unincorporated communities include Hinote’s Corner, Nugent’s Corner, Deming, Lawrence, Laurel and Wiser Lake.

Subarea boundaries were delineated by Planning Commission in 1979 prior to beginning the comprehensive plan update process. Delineation of the boundaries was based on the intent to analyze the major agricultural resource area and related soils of Whatcom County, to conserve forest resources and to address land uses within flood plains. An additional intent was to manage growth in unincorporated communities and areas adjacent to incorporated communities.

B. FINDINGS

In December, 1983, the Whatcom County Planning Department completed the background document for the Lynden-Nooksack Valley Subarea. A portion of the document contains descriptions of existing conditions related to land use, the physical environment, transportation, and community facilities and utilities. In addition, the document identified specific issues for the subarea. The issues identified by the planning department staff, Planning Commission and citizens have been evaluated and addressed through the development of specific comprehensive plan policy statements. For additional detail concerning issues, the Lynden-Nooksack Valley Subarea Background Document can be consulted.

Land Use Description

The subarea contains approximately 123,000 acres and includes approximately 5,280 dwelling units. Land uses in the subarea are primarily associated with agriculture and forestry. Agriculture is the dominant land use, comprising approximately 87,250 acres or 69% of all land uses. Of total land in agriculture, 23,415 acres are used for crop production, 23,405 acres are used for dairies, 6,820 acres are used for livestock raising, 270 acres are used for poultry farms, and 30,340 acres are used for pasture and part-time agricultural operations. Agricultural operations are situated in the Nooksack River floodplain and north thereof, the Sumas River floodplain, and surrounding the communities of Lynden, Nooksack, Everson and Sumas.

Forest land is the second most prevalent land use, occupying 32,065 acres or 26% of all land uses. Forest land includes parcels owned by major timber companies, the State of Washington and woodlot operations. The majority of forest land is situated on Vedder, Sumas and Stewart mountains and woodlots are scattered throughout the subarea.

The remaining 5% of existing land uses are composed of residences comprising 2,865 acres or 2.3% of all land; vacant land situated on 1,475 acres or 1.2% of all land; industrial uses occupying 580 acres or 0.5% of all land; public and
quasi-public uses comprising 550 acres or 0.45% of all land; and commercial uses occupying 490 acres or 0.4% of all land. Residences are generally situated adjacent to roads or are associated with agricultural operations, reflecting a general absence of major residential development. Commercial uses are primarily located at Hinote's Corner, Nugent's Corner, Deming, Laurel, near Pole Road and the Guide Meridian, and directly west of Lynden adjacent to the Guide Meridian.

Approximately 69% or 85,000 acres of the subarea use the provisions of the Washington State Open Space Taxation Act of 1970 to obtain current use tax assessment. Current use tax assessment generally indicates the intent, by the property owner, to maintain the land in its present use. Approximately 80% of all agricultural land and 55% of all forest land in the subarea has current use tax assessment status. An additional 3,000 acres of forest land is managed by the Department of Natural Resources and is exempt from taxation; however, this land will continue to be used for long-term forest production.

Environmental Conditions

Existing environmental conditions relate to topography, geology, geologically related resources, soils, water resources, flora and fauna. Subarea topography is generally flat with steep slopes located on Vedder, Sumas and Stewart mountains.

Sumas Outwash, composed of sand and gravel, and Alluvial Deposits, composed of silt, clay, gravel and till, underlie the majority of flat lands in the subarea. Bellingham Glaciomarine Drift, composed of clay, underlies the Boundary Highlands area, as well as the south central portion of the subarea. Huntingdon Formation and Chuckanut Formation, both composed of sandstone and shale, are the primary geologic units of Vedder, Sumas and Stewart mountains. Slope stability is satisfactory in the flat lands; however, steep slopes of the mountains have marginal stability.

Geologically related resources include natural gas and oil, coal, and sand and gravel deposits. Natural gas and oil were encountered in early exploratory wells at depths ranging from 28 feet to over 6,000 feet; however, the wells and associated deposits are not presently considered to have commercial value. Huntingdon and Chuckanut formations contain bituminous and sub-bituminous coal. The formations are located at the surface in the mountains, but underlie, at varying depths, the glacial deposits of the flat lands. Coal is not being extracted currently. Sand and gravel are contained in alluvial and outwash deposits, and are located throughout the subarea. Several extraction sites are operating presently near East Pole Road, Trapline Road, East Axton Road, Alm Road and Siper Road.

One-hundred and five soil units are located in the subarea. Of these, thirty-eight are classified as various categories of prime farmland by the Soil Conservation Service. The prime farmland soils occupy the majority of the flat lands. The mountainous areas contain the majority of soil units; however, these are not considered as prime farmland, although several soils are very conducive to forestry.

Suitability for development, as related to soil characteristics, is expressed as slight, moderate or severe limitations for a particular use. Uses considered include septic drainfields, shallow excavations, dwellings without
basements, dwellings with basements, small commercial buildings, and local roads and streets. Composite ratings for these uses result in severe limitations for mountainous areas and floodplains; moderate to severe limitations for flat lands above floodplains; moderate limitations for areas with sandy soils; and slight to moderate limitations for an area near Pole and Mecklem roads. Varying degrees of limitation are based on degree of slope, presence of floodplains, seasonally high water tables or slow permeability.

Water resources include groundwater, surface water and 100-year floodplains. Potential high yield aquifers underlie the majority of the subarea, excluding the Boundary Highlands area, the area near Trapline and East Badger roads, the south central portion of the subarea, and mountainous regions. In addition, part of the Blaine municipal watershed is located in the northwestern part of the subarea. In general, groundwater quality is satisfactory for domestic and agricultural consumption. The most commonly occurring groundwater quality problems are the presence of iron and nitrates. Rarer quality problems include incidents of PCB and EDB contamination.

Several creeks and rivers are located in the subarea including Bertrand, Fishtrap, Tenmile, Deer, Anderson, Smith, Swift, Breckenridge, Saar and Johnson creeks, and Sumas and Nooksack rivers. Subarea lakes include Wiser, Fazon and Judson.

One-hundred year floodplains are associated with Sumas and Nooksack rivers, as well as Bertrand, Johnson, Breckenridge, Swift, Smith and Anderson creeks. These areas are those where there is a 1% per year chance of inundation from flood waters.

Although the mountainous portions of the subarea continue to be forested, the lowlands have generally been cleared of the original forest and are presently cultivated. Several woodlots occur throughout the flat lands.

Subarea fauna consist of birds, fish and mammals. The Nooksack River, Sumas River, subarea lakes and nearby fields provide medium-to-high density waterfowl habitats. Several beaver ponds and a heron rookery are located in the Boundary Highlands area. A medium-to-high density deer habitat is situated on Vedder and Sumas mountains. Salmon spawning, rearing and migration occur in Deer, Fourmile, Tenmile, Bertrand, Fishtrap, Anderson, Smith, McCauley, Mitchell, Wiser Lake Outlet, Dale, Breckenridge, Saar, Squaw and Johnson creeks, and Sumas and Nooksack rivers. Johnson Creek is one of the better coho salmon spawning areas in Whatcom County.

Community Facilities and Utilities

Community facilities in the subarea include education, public safety, fire protection, energy, solid waste, flood control and drainage while utilities include water and wastewater systems. Education is provided by several school districts including Ferndale School District No. 502, Blaine School District No. 503, Lynden School District No. 504, Meridian School District No. 505, Nooksack Valley School District No. 506 and Mt. Baker School District No. 507. With the exception of elementary schools in the Lynden and Meridian school districts, all school districts have sufficient capacity within their systems to accommodate additional students.
Law enforcement in the subarea is provided by the Whatcom County Sheriff’s Department. The department consists of approximately 22 patrol deputies, 4 detectives and 15 other commissioned officers with arrest powers. Three patrol vehicles are deployed throughout the county, 24 hours a day and an average of 440 calls per year are presently received on a per capita personnel basis.

Fire protection is provided by four Whatcom County fire protection districts including District No. 1, District No. 3, District No. 4 and District No. 14. District No. 1 provides service to the area east of Noon Road and south of Badger Road. The district has two fire stations and has mutual aid agreements with Whatcom County Fire Protection Districts No. 4 and 14. District No. 3 serves the area west of Noon Road and Trapline Road. The district has four fire stations and mutual aid is provided by a county-wide agreement. District No. 4 serves the area between Noon and Mission roads. The district has three fire stations and has mutual aid agreements with Whatcom County Fire Protection Districts No. 8, No. 2 and No. 1. District No. 14 provides service to the area east of Trapline Road and north of East Badger Road. The district has two fire stations and has mutual aid agreements with Whatcom County Fire Protection Districts No. 1 and No. 3.

Energy services in the subarea are provided by Puget Sound Power and Light Company and Cascade Natural Gas Company. Puget Sound Power and Light presently has three substations in the subarea and intends to build two additional substations in the future, one at Lynden and one at Nugent’s Corner.

Solid waste disposal is accomplished by residents or private haulers taking refuse to sanitary land fills or to the incineration plant located on Slater Road. Sanitary land fills serving subarea residents are located at Cedarville Road, Y Road and Birch Bay. Nooksack Valley Disposal, Inc. and Sanitary Service Company are certified to collect both residential and commercial garbage.

Flood control is provided by the McGauley Creek Flood Control District. The purpose of the district is to investigate and take any actions that are necessary and environmentally sound to control flooding for a part or all of the stream system.

Ten drainage improvement districts exist within the subarea. The purpose of the districts is to provide land drainage and be responsible for the rehabilitation and maintenance of ditches and streams.

In the subarea, domestic, industrial and agricultural water is provided by cities, water associations or individual on-site wells. The City of Sumas obtains its water from four artesian wells and sells water to city residents, two rural water associations and the City of Nooksack. Capacity appears to be more than sufficient to meet the city’s needs over the next decade.

The City of Nooksack purchases water from the City of Sumas and distributes it to residents within city limits and certain areas adjacent thereto. The city’s infrastructure appears adequate and capital improvements are not planned over the next three to five years.

The City of Lynden obtains its water from the Nooksack River. The capacity of the existing system is adequate to meet current demand; however, the present water rights certificate is no longer sufficient to meet a growing demand for
water service. To meet future demands, Lynden is investigating a groundwater source to supplement its current surface water appropriation. The City of Lynden also supplies water to two water associations.

The City of Everson obtains water from three wells. The system serves approximately 1,000 residents within city limits as well as two water associations. Because of the lack of storage capacity, the City of Everson no longer extends water service outside its city limits.

There are over 40 water associations in the subarea. The largest are Pole Road Water Association, Sumas Rural Water Association and Delta Water Association. Approximately 8,000 year-round residents are estimated to be served by the associations.

Wastewater disposal is accomplished either through sewer systems or through on-site methods. The cities of Lynden, Everson and Sumas provide sewer service for residences, businesses and industries situated within municipal boundaries. Presently, the City of Nooksack lacks sewer service but is cooperating with the City of Everson in obtaining funding to enlarge the Everson facility and expand sewer service to Nooksack. Lynden and Everson will only provide sewer service to properties situated within their municipal boundaries; therefore, annexation is required to obtain sewer service. Sumas, however, presently does not have a policy on the provision of sewer service and will consider requests for extension of service on a case-by-case basis. The remainder of wastewater disposal in the subarea is accomplished through on-site septic systems.

Transportation

Subarea transportation consists of state routes and county roads. State routes include the Guide Meridian, Mount Baker Highway, State Route 9 formed by Lawrence and Nooksack roads, and East Pole Road. According to the Washington State Department of Transportation, all roads currently deliver an adequate level of service and meet or exceed roadway standards for developed roadway and pavement width. However, all roads are substandard for right-of-way width. Thus, the Department of Transportation hopes to cooperate with Whatcom County and individual property owners to acquire additional right-of-way, where needed.

Major county roadways serving the subarea include Birch Bay-Lynden Road, Enterprise Road, Smith Road, Hannegan Road, Rock Road and Everson-Goshen Road. All roads are in good condition and are generally in compliance with Whatcom County road standards.

According to the Washington State Department of Transportation, the intersections of the Guide Meridian with Smith, Axton, Laurel, Hemmi, Pole, Badger and Wiser Lake roads represent the worst accident locations for state highways within the subarea. In response to this situation, the Department of Transportation has installed flashing beacons at the intersections of Badger Road, Birch Bay-Lynden Road and Pole Road with the Guide.

In addition, the Department of Transportation plans to cooperate with Whatcom County to address access control along the Guide Meridian. Access control has become a problem as more individual access openings have been approved for new residential, commercial and industrial development. Unrestricted access has reduced the efficiency and safety of the Guide Meridian.
Burlington-Northern Railroad provides industrial rail service to the subarea. The main spur parallels Lawrence and Nooksack roads from Burlington to Sumas and the International Border. One train per day operates northbound from Seattle, and one train per day operates southbound from Sumas.

C. **SUBAREA ISSUES AND CITIZEN PARTICIPATION**

Subarea issues pertain to growth areas, incorporated or unincorporated communities where residential and related uses exist and are expected to continue, and to resource areas where available natural resources affect appropriate land uses. The major issues affecting the incorporated communities of Lynden, Sumas, Everson and Nooksack are the appropriate locations, amount of land, types and densities of land uses, utility services and capital improvements that are necessary for future urban growth. Additional issues include suitable annexation policies, responsiveness to agricultural lands that adjoin existing municipal boundaries and minimizing potential residences in 100-year flood plains.

Unincorporated communities include Hinote’s Corner, Nugent’s Corner, Deming, Laurel and the Wiser Lake area. The major issues affecting Laurel, Nugent’s Corner, and the Pole Road and Guide Meridian intersection include the type and acreage of commercial uses, and methods to maintain safe and efficient traffic flows on state highways. Deming and the Wiser Lake area are primarily residential. Major issues affecting these areas include the appropriate type of residential land use, suitable partial utility servicing, methods to assure safe and efficient transportation access to state highways, and appropriate supporting land uses. Major issues affecting the Hinote’s Corner area include the extent and type of commercial land uses, the extent and type of residential uses, appropriate partial utility servicing and methods to minimize conflict with nearby agricultural operations.

Issues associated with the remainder of the subarea relate to various types and extent of natural resources, as well as natural hazards. Natural hazards are associated with steep slopes situated on Sumas, Vedder and Stewart mountains. A majority of these areas are owned by major timber companies for the purpose of commercial forest management.

Another natural hazard pertains to 100-year floodplains associated with the Nooksack River, Sumas River, and Bertrand, Johnson, Breckenridge, Swift, Smith and Anderson creeks. The river floodplains and several creek floodplains contain soils that facilitate agricultural operations, and the floodplains are used for agriculture. Thus, a major issue pertains to the continuation of agricultural land uses that minimize flooding damage and beneficially use soil resources as compared to intensive residential land uses. For those floodplain areas not used for agriculture, the major issue relates to applying an appropriate land use designation that will minimize the number of potential residential structures.

Natural resources are associated with soils that facilitate agricultural operations, forestry areas, sand and gravel deposits, aquifers and wildlife habitats. Soils that are designated as Prime Farmland by the Soil Conservation Service are situated in the majority of the subarea. The Prime Farmlands situated in 100-year floodplains are used for agricultural purposes, and the application of the agricultural plan designation appears to be appropriate during the next planning period. A major issue affecting the remainder of the subarea
is the extent that the Agriculture plan designation or other designations should be applied to conserve agricultural soils.

Forested areas are situated on Vedder, Sumas and Stewart mountains. In these areas the topography is steep, making residential development difficult. A major issue is the extent that the Forestry plan designation should be applied to provide for the continuation of forest resources. An additional issue relates to methods to minimize potential conflict between forestry land uses and adjoining rural uses.

Sand and gravel deposits are situated throughout the subarea in agricultural areas and rural areas. Major issues affecting these areas include the extent to which extraction activities should occur in agricultural areas, methods to maintain water quality and methods to assure compatibility with adjoining land uses.

High-yield aquifers underlie the majority of the subarea, excluding mountainous areas, the south central portion of the subarea and Boundary Highlands. A major issue affecting aquifers relates to designating land uses that will assure future ground water quality.

The major wildlife habitat issue relates to salmon spawning, rearing or migration routes, and methods to maintain stream integrity. Of special importance is Johnson Creek, one of the county’s most significant Coho spawning streams.

Resolution of these issues was accomplished through working with citizen’s advisory committees and through input received at citizen information meetings. During 1984, ten meetings were conducted with the Agricultural Advisory Committee. The major purposes of the Committee were to identify areas that should be recommended for the Agriculture plan designation and zone, make recommendations for appropriate plan designations for areas adjoining Agriculture areas and make recommendations for text amendments to the Agriculture zone.

During early 1985, three meetings were conducted with the Forestry Advisory Committee. The major purposes of this Committee were to recommend locations that should be considered for the Forestry plan designation and zone, make recommendations concerning appropriate language in the Forestry zone, and develop methods to minimize conflicts at the interface between Forestry and Rural areas.

Also during early 1985, several meetings were conducted with representatives of incorporated communities including meetings with the Planning Commission of the City of Lynden, and the mayors of Sumas, Everson and Nooksack. The purpose of these meetings was to develop recommendations concerning appropriate types, extent and locations of land uses; and appropriate utility service levels to serve the future growth needs of the various communities.

The results of citizen advisory group input were summarized on the "Suggested Land Uses and Densities Map." From May until September of 1985, eight citizen information meetings were conducted throughout the subarea. The purposes of these meetings were to receive input from citizens concerning the "Suggested Land Use Map" and to identify additional land use issues. The policy response to the input received at the meetings is contained in the policy section of this document.
V. LAND USE DESIGNATIONS

INTRODUCTION

The land use designations as illustrated on the Comprehensive Land Use Plan Map, together with the policies, represent the most appropriate uses of land in the subarea for the planning period. The land use designations have been developed as a means of addressing and resolving particular land use needs. The following rationale and locational criteria for each land use designation are set forth to provide consistency when applying designations and to avoid confusion concerning establishment of land use boundaries.

RATIONALE AND LOCATIONAL CRITERIA

1. URBAN RESERVE

Rationale

The continuing trend of outward urban expansion in response to growth pressures will create a constant demand for land, the most fundamental of all urban resources. Although outward expansion is an accepted city planning practice, problems have occurred when potential urban lands have been committed to long-term "non urban" uses. Such problems are primarily caused by the lack of coordinated public policy among governmental jurisdictions and have resulted in uncoordinated and costly service systems, inefficient transportation networks and unmanageable land use patterns.

As a means of alleviating problems associated with outward expansion, the Comprehensive Plan establishes the URBAN RESERVE land use designation. The rationale underlying the designation is to reserve certain land areas for future urban residential purposes and to encourage interim uses that are complementary and compatible with future urban uses, densities and utility services. When transportation improvements and urban utility services, including public sewer and water, are provided to these areas, land use densities shall increase and result in the orderly, economic and expeditious transition from rural to urban land use patterns.

The application of the URBAN RESERVE designation is intended to accomplish the following objectives.

a. To reduce urbanization and encroachment pressures on lands most suitable for other uses.

b. To stabilize land speculation, inequitable tax structures, and the artificial inflation of land values in the "urban fringe" by designating an adequate amount of land for urban growth and uses during the planning period; and to provide land owners with a reasonable expectation of future municipal and county land use policies.

c. To clearly establish appropriate levels of urban services including public sewer and water, transportation improvements, storm drainage, and sheriff and fire protection.
d. To conserve energy resources by reducing unnecessary travel distances between living, shopping and employment locations.

e. To encourage the conservation of natural resources and environmentally sensitive areas, both within and outside of designated URBAN RESERVE areas.

Locational Criteria

The criteria to be used for the application of the URBAN RESERVE designation include the following.

a. Land areas adjacent to specified municipalities that are of sufficient size to adequately accommodate projected demands for residential, commercial, transportation and public uses for a ten to fifteen-year period.

b. Land areas where a full range of urban utility services, such as sewer, water, storm drainage, transportation improvements, fire and sheriff protection, and parks and recreation, presently exist or can be economically and efficiently provided in the near future.

c. Areas that contain an adequate supply of vacant urbanizable land to avoid the artificial inflation of land values.

d. The boundaries of the URBAN RESERVE designation should:
   1. be well defined, logical, provide a physical "sense of community", and be capable of being expanded to accommodate additional urban growth as need arises; and
   2. acknowledge the existing character of land use densities and the existing or potential level of utility servicing.

2. URBAN RESERVE MEDIUM DENSITY

Rationale

Within areas that are planned for urban residential types of uses, Whatcom County recognizes the need to provide areas where affordable housing types can be situated including condominiums, apartments, townhouses and mobile home parks. To address the need for compatibility between uses within and outside of medium density residential areas, the URBAN RESERVE MEDIUM DENSITY plan designation is provided with a maximum density of six dwelling units per acre.

Locational Criteria

The following Locational Criteria provide direction for application of the plan designation.

a. The density of six dwelling units per acre should be applied to areas that are adjacent to low density Urban Reserve areas or are
transition between low density Urban Reserve areas and higher intensity uses such as commercial or light industrial.

b. Land areas should be feasible to supply with public sewer, water, storm drainage, transportation improvements, fire and sheriff protection, and parks and recreation facilities during the planning period.

c. The areas may be situated adjacent to similarly designated areas within existing municipalities.

3. **NEIGHBORHOOD COMMERCIAL**

**Rationale**

The rationale underlying the NEIGHBORHOOD COMMERCIAL land use designation is to accommodate centrally located and concentrated areas, in both urban areas and rural areas, that provide a limited range of retail sales and services to nearby neighborhoods. NEIGHBORHOOD COMMERCIAL areas, when situated in proximity to existing urban areas, may have a full or partial range of servicing. NEIGHBORHOOD COMMERCIAL areas situated in rural areas generally do not have planned utility servicing.

**Locational Criteria**

Areas suitable for the NEIGHBORHOOD COMMERCIAL plan designation conform to the following criteria.

a. Parcels are served by collectors or arterials.

b. Parcels have the same level of utility servicing as the surrounding neighborhood.

c. The designation is situated in a location that is central to the neighborhood area being served.

d. The designation is applied to an area of at least five acres that is configured in a concentrated and consolidated pattern.

e. The designation is applied to property where ownership patterns and land parcelization area conducive to future development.

f. The designation should be applied where a public need for neighborhood shopping exists.

4. **GENERAL COMMERCIAL**

**Rationale**

The rationale pertaining to the GENERAL COMMERCIAL plan designation is to provide a broad range of goods and services to people living within Whatcom County, as well as other regions. The designation intends to maximize safe and efficient on and off-site transportation systems, delineate areas that are
conducive to overall site planning, acknowledge existing patterns of GENERAL COMMERCIAL land use forms, and promote compatibility with surrounding noncommercial uses.

Locational Criteria

Areas that are suitable for application of the GENERAL COMMERCIAL plan designation conform to the following criteria.

a. Parcels are served by principal, minor or collector arterials, or major collectors.

b. Parcels will be provided with urban services including public sewer and water, stormwater drainage, sheriff and fire protection; except that existing areas that have concentrations of general commercial uses may be recognized based on adequate levels of wastewater disposal, water and fire flow.

c. The designation contains a minimum of ten (10) acres configured in a concentrated and consolidated arrangement.

d. The designation is located on property where ownership patterns and land parcelization are conducive to feasible land packaging for future development.

e. The designation is located where a public need for general commercial shopping exists.

5. TOURIST COMMERCIAL

Rationale

The rationale underlying the TOURIST COMMERCIAL designation is to serve the traveling public with a limited range of goods and services directly related to their transportation needs. TOURIST COMMERCIAL areas are intended to serve vehicular, rail, truck and air transportation systems. TOURIST COMMERCIAL areas should be located near major transportation corridors and be designed to assure safe and convenient access.

Locational Criteria

Areas that are suitable for application of the TOURIST COMMERCIAL plan designation conform to the following criteria.

a. Parcels are served by principal or minor arterials, or major collectors.

b. Parcels will be provided with urban services including public sewer and water, stormwater drainage, sheriff and fire protection; except that existing areas that have concentrations of tourist commercial uses may be recognized based on adequate levels of wastewater disposal, water and fire flow.
c. The designation is located in close proximity to major transportation corridors including air, rail or road terminals or border crossings.

d. The designation contains approximately ten acres, is configured to provide safe and convenient access and will not adversely impact adjacent noncommercial activities.

e. The designation is located where a public need exists for TOURIST COMMERCIAL types of uses.

6. **LIGHT INDUSTRIAL PARK**

**Rationale**

Manufacturing assumes a significant role in Whatcom County's economy, and this role is anticipated to continue in the future. To augment the role of manufacturing to the local economy, it is necessary to provide land for a variety of industrial uses.

One form of industrial land use is characterized by the LIGHT INDUSTRIAL PARK. LIGHT INDUSTRIAL PARKS generally are large tracts of land that are planned, developed and operated as an integrated facility for a number of individual industrial uses. Special attention is given to circulation, parking, utility needs, aesthetics and compatibility between uses both within the park and with surrounding areas. This type of LIGHT INDUSTRIAL PARK is considered to be the campus setting.

Another type of LIGHT INDUSTRIAL PARK is composed of small tracts of land in different ownerships where industrial uses occur independently, with less attention given to aesthetic measures and joint use of circulation and parking systems. Although this type of park does not generally use master planning, it does conform to zone and buffer requirements of the zone that implements the plan designation.

The underlying rationale of the LIGHT INDUSTRIAL PARK designation is to supply land for a variety of light industrial uses that may depend upon close proximity to other industries and are dependent upon an urban or rural labor supply. In addition, the designation promotes efficient public and private utility and transportation expenditure, and promotes compatibility with surrounding nonindustrial areas.

**Locational Criteria**

Areas that are suitable for the LIGHT INDUSTRIAL PARK designation conform to the following criteria.

a. The area contains flat topography, has well-drained soils with sufficient bearing capacity to support large structures, and contains parcels of adequate size to accommodate buffer and bulk regulations.

b. The area should be served by truck, air or rail access.
c. Available or potential utility servicing should be adequate to satisfy public health and safety requirements for waste water disposal, water supply, fire flow and storm drainage.

d. The area is situated within a 45 minute commuting distance from a concentrated labor supply.

7. GENERAL MANUFACTURING

Rationale

The fundamental reasons for the General Manufacturing designation are to augment the economy of Whatcom County and to create a favorable condition for economic stability by providing for a variety of potential types of industrial operations and locations. Industrial operations associated with General Manufacturing are less intensive than uses associated with Heavy Impact Industrial areas; however, said uses may be more intensive than use related to Light Industrial Park areas.

More specifically, General Manufacturing uses relate to manufacturing, fabrication, and processing of finished products, and may involve non-product operations such as warehousing, storage, and other industrially associated services. General Manufacturing operations may function independently of other industrial areas or may supplement the operations of Light Industrial Parks or Heavy Impact Industrial areas.

An underlying rationale concerning General Manufacturing areas is to provide locations where industrial uses will be compatible with surrounding non-industrial land uses. An additional rationale for General Manufacturing areas is to take advantage of truck, rail, freeway and/or air transportation access, as well as the proximity to potential labor pools. A final rationale regarding General Manufacturing areas is to benefit from existing or planned utility services including fire and sheriff protection, public sewer, public water, and storm drainage.

Locational Criteria

The criteria to be used for application of the GENERAL MANUFACTURING designation follow.

a. The area consists of flat topography, has well-drained soils with sufficient bearing capacity to support large structures.

b. The area should be at least twenty acres in size, be large enough to accommodate necessary buffers, and should be located in proximity to a potential labor supply.

c. The area should be served with by a combination of truck routes, freeway, rail and/or air transportation.

d. Available or potential utility servicing should be adequate to satisfy public health and safety requirements for waste water disposal, water supply, fire flow, sheriff and fire protection, and storm drainage.
8. RESIDENTIAL RURAL

Rationale

Many citizens prefer to live in settings of low residential density. Low density usually implies that a full range of urban utility servicing, including public sewer and water, is not planned; sheriff and fire protection are provided to a lesser degree than in urban areas; roadways are scheduled for maintenance only; and the residential landscape is visually different from urban areas. Residents of such areas usually rely on urban centers for amenities such as shopping, employment and entertainment. Because of the non-urban character of RESIDENTIAL RURAL areas, transportation facilities are limited to collector arterials or lower classifications, and only a partial range of urban utility servicing will be available during the planning period. Thus, the purpose of the RESIDENTIAL RURAL designation is to provide an alternate residential setting where non-urban living patterns may be developed with minimal public services.

Locational Criteria

The criteria to be used for the application of the RESIDENTIAL RURAL designation follow.

a. Land areas presently have low density residential development and such densities are planned to continue in the future.

b. Areas are planned to be served or currently are served with a partial range of urban services including municipal or district supplied water or sewer, fire and sheriff protection, and storm drainage where appropriate; or areas with existing small parcels that are or can be provided with water from a Class I water association and have on-site wastewater disposal, fire and sheriff protection, and storm drainage where appropriate.

c. Areas contain soils that are generally not suitable for agriculture, forestry or mineral extraction.

d. The boundaries of the RESIDENTIAL RURAL areas should be well defined by physical or cultural features.

9. RURAL

Rationale

The present land use pattern in parts of the Lynden-Nooksack Valley Subarea is characterized by part and full-time agricultural operations, forestry and woodlots, and very low density residential activity. These types of land uses can be considered as "rural".

Dispersed settlement patterns are a function of physical conditions such as soils, high water tables or topography that impose constraints to higher residential densities. Such patterns also can be attributed to the absence of past and future public commitments for the provision of sewer, water and roadway improvements. Very low density residential areas offer alternative living styles
providing for increased privacy, aesthetic advantages of particular sites, or small scale agriculture and forestry operations, in comparison with an urban residential setting.

Rural areas may contain nonrenewable natural resources, such as soils that contribute to agricultural or forestry productivity, sand and gravel deposits suitable for extraction, or environmentally fragile areas such as steep slopes or 100-year flood plains. Existing parcel sizes are large and can accommodate land uses such as agriculture, forestry or low residential densities during the planning period.

Thus, the RURAL plan designation is important in the subarea comprehensive plan because it provides flexibility concerning agricultural, forestry, mineral extraction and low density residential uses while retaining public and private land use options for the future.

Locational Criteria

To define locations where the RURAL plan designation is appropriate, the following criteria are used.

a. Areas have very low residential densities and are compatible with existing land use plans.

b. Areas where buffers are needed between residential uses and land use practices associated with commercial agriculture and forestry.

c. Areas where features of the physical environment, such as the lack of adequate ground water, slow or rapid permeability rates, seasonal ponding, 100-year floodplains or steep topography may require very low densities in order to minimize the impacts of physical constraints. In addition, areas may contain natural resources, such as soils that facilitate agriculture or forestry, or may have sand and gravel, coal or other extricable minerals.

d. Areas have no planned capital improvements to community facilities, utilities or transportation systems.

Zoning Density Criteria

The RURAL comprehensive plan designation shall be implemented with three Rural zone district densities including one dwelling unit per two acres, one dwelling unit per five acres, and one dwelling unit per ten acres. Criteria defining the application of each density follow.

a. The density of one dwelling unit per two acres shall be applied where:

1. existing density is less than or equal to one dwelling unit per five acres and existing average parcel size is greater than or equal to two acres;

2. physical limitations such as lack of adequate ground water, slow permeability rates, seasonal ponding or steep slopes prohibit increased densities;
3. existing public services are not sufficient to support increased densities, and there are no planned capital improvements to existing public services; and

4. maximum build out at the prescribed density will be compatible with the surrounding land use character.

b. The density of one dwelling unit per five acres shall be applied where:

1. existing density is less than or equal to one dwelling unit per ten acres and existing parcel size is greater than or equal to five acres;

2. part-time agriculture and woodlots exist; and

3. items 2, 3 and 4, above, are applicable.

c. The density of one dwelling unit per ten acres shall be applied where:

1. existing density is less than or equal to one dwelling unit per twenty acres and existing parcel size is greater than or equal to ten acres;

2. the use of natural resources including sand, gravel, coal, timber and Prime Farmland soils is facilitated by low densities;

3. a mixture of part-time and full-time agriculture and silviculture are viable economic enterprises;

4. physical limitations may preclude higher densities; and

5. there is an absence of planned expenditures for capital improvements to the existing minimal public service infrastructure.

10. AGRICULTURE

Rationale

The AGRICULTURE land use designation identifies areas suitable for the practice of commercial agriculture. Commercial agriculture is a significant industry in Whatcom County and has the potential to become increasingly significant as indicated by trends related to local farm incomes. Related industries add additional dollars to the local and regional economy as a direct result of agricultural production.

As significant as agriculture is in the local economy, agricultural lands are often considered for other purposes, namely urban or rural uses. Urban and rural encroachment can raise assessed valuation, resulting in higher property taxes for the agricultural operator. In addition, encroachment of residences not associated with agriculture can create conflicts with customary agricultural operations. Premature conversion to urban or rural uses occasionally forces the operator to cease agricultural uses. This situation is especially pronounced in the fringe areas of communities where residential growth pressures are most
evident. The rapid rate of farmland conversion is being recognized by federal, state and local governments. Increasingly, communities are taking steps to inventory existing farmland and agriculturally productive soils, to determine alternative locations for residential uses, and to devise techniques for preserving farmland with the assistance and cooperation of the agricultural operator.

The comprehensive plan established the AGRICULTURE designation to promote agriculture by identifying and retaining land suitable for commercial agricultural pursuits.

Locational Criteria

Areas that are suitable for application of the AGRICULTURE designation conform to the following criteria.

a. The majority of area contains Prime Farmland Soils as determined by the Soil Conservation Service.

b. The area may contain 100-year floodplains as delineated by the Soil Conservation Service and the U.S. Army Corps of Engineers.

c. Existing land uses are primarily full-time agriculture intermixed with part-time agriculture and woodlots; and minimal commitment to non farm uses has been made.

d. The area is composed of agricultural operations that have historically been and continue to be economically viable.

e. Parcel sizes are generally greater than forty acres.

f. Urban utility services including public sewer and water are not planned.

g. Special purpose districts that are oriented to enhancing agricultural operations exist, including drainage improvement and flood control.

h. Areas have a pattern of landowner capital investment in agricultural operation improvements including irrigation, drainage, manure storage, barn refurbishing, enhanced livestock feeding techniques, livestock upgrading, agricultural worker housing, etc.

i. Areas contain a predominance of parcels that have current use tax assessment derived from the Open Space Taxation Act. RCW 84.34.

11. FORESTRY

Rationale

Forestry and related industries historically have been significant factors in the local economy, a role that has expanded to affect state, national and international economies. In addition, forest management provides a significant renewable resource base to Whatcom County. Forested areas often contain non-renewable mineral and non mineral resources, serve as wildlife habitats, and
contribute to watershed management. Since population increases may create pressure to irrevocably convert forest land, it is important that Whatcom County provide for the long term productivity of forest and related resources by safeguarding prime forest areas from conversion to non forest uses. The purpose of the FORESTRY designation is to preserve the viability of Whatcom County's renewable and nonrenewable resource base.

Locational Criteria

Areas that are suitable for the FORESTRY designation conform to the following criteria.

a. Land ownership patterns reveal a prevalence of large parcel sizes ranging from 20 to 640 acres.

b. Parcels are usually owned for the purpose of managing forest resources by major timber industries, logging companies, the State of Washington, and private individuals engaged in woodlot operations.

c. The majority of parcels use the provisions of the Washington State Open Space Taxation Act to obtain current use tax assessment.

d. Public roads and other servicing generally associated with residential development are minimal.

e. Physical constraints to residential development may exist, including slopes in excess of 15%, soils that are unsuitable for septic systems or conventional building foundations, unstable geologic units, or important wildlife habitats.

f. Nonrenewable natural resources may be present such as minerals, coal, sand and gravel, or soils that facilitate forest management.

12. PUBLIC

Rationale

This designation recognizes those parcels and facilities currently in or planned for public ownership. The underlying rationale of the PUBLIC designation is to assure continuation and potential expansion of public services at levels consistent with population requirements, while providing sufficient acreage to be compatible with surrounding land uses.

Locational Criteria

Identification of areas which are suitable for application of the PUBLIC plan designation is based on the following criteria.

a. Parcels currently are owned or are being considered for ownership by public agencies such as cities; federal, state and local governments; and special purpose districts including school and fire districts.
b. The function of parcel ownership is to provide public services including recreation, education, utilities, communications, solid waste disposal and health care.
VI. POLICIES

INTRODUCTION

The policies, together with the Comprehensive Plan Land Use Map, designate the locations for various land uses that are appropriate and economically feasible for this planning period. The policies also provide guidelines for Whatcom County citizens and government administrators to assure orderly development and predictability concerning land use opportunities; and provide for the economic extension of utility services; and for the well reasoned use of renewable and nonrenewable natural resources. The policies respond to issues originating from citizen and data analysis, and provide specific definition of the adopted Whatcom County Goal Statements.

LAND USE DESIGNATIONS

The Lynden–Nooksack Valley Subarea comprises approximately 200 square miles. Major uses are oriented to natural resources, as evidenced by the prevalence of agricultural and forestry operations. Other subarea activities include small lot and large parcel residential, part-time farming, woodlots, light industrial, commercial, and public services for several types of land uses. Because of the variety of land use patterns existing in the subarea, eleven of the sixteen land use designations for Whatcom County have been applied. Following is an overview of the land use designations applied in the subarea.

The URBAN RESERVE designation is applied to the areas southeast and northeast of the existing Lynden city limits and southwest of the exiting Everson city limits. These directions are those in which Lynden and Everson historically have been growing. Considerable vacant land presently exists within the each city. The indicated boundaries of the URBAN RESERVE areas provide for additional residential growth capacity beyond that which is presently available, as well as define the area that feasibly can be provided with urban sewer and water utility services from Lynden or Everson during this 15-year planning period.

The URBAN RESERVE MEDIUM DENSITY designation is applied to areas southwest and west of Lynden. The maximum density of six dwelling units per acre provides compatibility with existing densities in Lynden and provides a transition to LIGHT INDUSTRIAL PARK and GENERAL COMMERCIAL designations, also situated west and southwest of Lynden.

The NEIGHBORHOOD COMMERCIAL designation is applied in two non urban locations where commercial uses presently exist. The NEIGHBORHOOD COMMERCIAL designation situated at the intersection of Badger and Northwood roads is intended to serve residents living in nearby RURAL and AGRICULTURE designated areas. The NEIGHBORHOOD COMMERCIAL area located directly west of Everson on the Everson–Goshen Road is intended to serve residents living in nearby Everson subdivisions, and nearby residents of designated RURAL and AGRICULTURE areas.

The GENERAL COMMERCIAL designation is applied in ten locations that are situated adjacent to state arterials. Although the potential market area for each location occasionally may be county-wide, it is anticipated that the primary market area will be a sub-portion of Whatcom County. The GENERAL COMMERCIAL designation is applied directly west of Lynden and adjacent to the Guide Meridian; to an area north of Wiser Lake on the east side of the Guide Meridian;
to an area situated north of Bartlett Road on the east and west sides of the Guide Meridian; at the intersection of Pole Road and the Guide Meridian; to an area beginning south of the intersection of Laurel Road and the Guide Meridian, and extending north to Hemmi Road; to an area beginning north of Axton Road and extending south to Light Industrial Park area, for a depth of 1/8 mile on each side of the Guide Meridian; to three quadrants of the intersection of Smith Road and the Guide Meridian; at Hinote’s Corner; in Deming; and at Nugent’s Corner.

The TOURIST COMMERCIAL designation is applied in one location situated at the Lynden Border Crossing. The designated area is intended to provide goods and services for the motoring public, as well as provide for public uses associated with customs facilities.

The LIGHT INDUSTRIAL PARK designation is applied in five locations. Two areas are situated directly west of Lynden and acknowledge several existing light industrial uses, as well as provide reserve areas for future light industrial development. Portions of these may be suitable for a campus setting light industrial park. The LIGHT INDUSTRIAL PARK designation is applied to a portion of the area west and east of the Guide Meridian, between Axton and Smith roads where the designation recognizes an historical pattern of light industrial uses. In addition, the designation is applied to an area directly west of Everson near Everson–Goshen Road, and to a portion of a parcel situated east of Hinote’s Corner and north of Pole Road.

The GENERAL MANUFACTURING designation is applied in one location situated on the west side of Guide Meridian in proximity to Hemmi Road, where the designation recognizes existing land use patterns.

The RESIDENTIAL RURAL designation is applied in five locations. In three locations including Hinote’s Corner, the Dutch Haven subdivision area, and the area west of Lynden along Flynn Road, the designation acknowledges existing residential lot sizes and a partial range of public utility services. The RESIDENTIAL RURAL designation that is situated at Wiser Lake acknowledges existing parcel sizes, existing residential densities and a partial range of public utility services, and provides for a moderate amount of residential subdivision activity at densities similar to already platted parcels. The RESIDENTIAL RURAL designation applied directly west of Sumas acknowledges the provision of water by Sumas, reflects an area outside of 100-year floodplains that is suitable for residential development, and accommodates anticipated demand for Sumas residential expansion during the planning period.

The RURAL designation affects large expanses of the subarea. The designation affirms, in various locations, trends established with the original 1970 Whatcom County Comprehensive Plan; recognizes the absence of publicly provided utilities; provides for a mixture of part-time and full-time agriculture, woodlots, commercial forestry, mineral use, and very low density residential activities; establishes a use intensity gradient to commercial agriculture and forestry; and responds to physical constraints including steep slopes, aquifers that are vulnerable to ground water degradation, minimal amounts of ground water availability and the presence of floodway fringes.

The RURAL designation has been applied in part of Boundary Highlands; near Harksell Road; near Berthusen Road; west of Lynden along Birch Bay–Lynden Road; near East Wiser Lake Road; around Hinote’s Corner; in portions of the south-
western subarea; in the south central subarea; in the area situated between the AGRICULTURE and FORESTRY designations near Vedder and Sumas mountains; in the northern Stewart Mountain foothills; in part of the Deming valley; and to the area east of Lynden between Badger Road and the Nooksack and Sumas river floodplains.

A unique characteristic of the Lynden-Nooksack Valley Subarea, compared with other subareas, is the prevalence of various forms of agricultural operations. In fact, this subarea contains the majority of land in Whatcom County that supplies significant farm income and forms the basis for agriculturally related secondary and tertiary industries. In recognition of these functions, the AGRICULTURE designation is applied to a considerable portion of the subarea. Application of the AGRICULTURE designation is intended to conserve Prime Farmland Soils; promotes use of floodplains for agriculture; and acknowledges the continuing role of agriculture in the county as originally recognized in the 1970 Comprehensive Land Use Plan, and subsequent applications of the Agriculture zone in 1978 and 1979. In addition, the designation provides assurance to the individual farm operator concerning investments in farmstead improvements; promotes the continuation of a lifestyle that historically has been important to many people; and reduces pressures to convert farmland to other uses, thereby conserving the farmland base for Whatcom County and the western Washington region.

The FORESTRY designation is applied to Vedder, Sumas and Stewart mountains. FORESTRY designation boundaries encompass parcels used for commercial forestry and owned by major timber companies, the State Department of Natural Resources and individuals who are engaged in large woodlot operations. The designation is intended to conserve the renewable resource base associated with timber management and promote well reasoned use of nonrenewable mineral resources. In addition, the designation intends to promote the retention in Whatcom County of secondary and tertiary industries related to forestry.

The PUBLIC designation is applied to land and facilities that are owned by public entities including the City of Lynden and school districts. Application of the PUBLIC designation is intended to foster public recreational and educational opportunities.

The following land use policies contain an Intent Statement and several Policy Statements. Each section of Policy Statements is organized in the following format.

.01 Purpose and Uses.
.02 Plan Designation Boundaries, and Attendant Zone Districts and Densities.
.03 Appropriate Utilities and Facilities.
.04 Use Guidelines, Land Development Options and Site Design.
.05 Other.
1. URBAN RESERVE

Intent Statement

The primary intent of the URBAN RESERVE policies is to promote an orderly transition from rural land uses and densities to urban uses and densities. In addition, the policies intend to facilitate and guide the growth of urban areas by assuring that urban services, including public sewer and water, stormwater drainage, fire protection, law enforcement, schools and parks, are available to support urban densities. When services are available, development should occur in neighborhood units that have suitable densities, uses and circulation networks.

To facilitate future urban growth, the URBAN RESERVE policies intend to discourage interim uses and subdivision patterns that may foreclose future alternatives that would achieve urban densities, and that would prevent the efficient provision of utility services and traffic circulation. The policies are also intended to maintain low density character and compatible residential, recreational, commercial and agricultural land uses on an interim basis prior to the provision of publicly provided urban services.

Policy Statements

1.01 It is the policy of Whatcom County to promote an orderly transition from rural land uses and densities to urban uses and densities by designating portions of the Lynden-Nooksack Valley Subarea as URBAN RESERVE.

1.01.1 When urban utility services including sewer, water and stormwater drainage facilities are available, predominant land uses shall be residential and related forms, including neighborhood commercial, neighborhood parks and other public uses.

1.01.2 The URBAN RESERVE designation discourages interim uses and subdivision patterns that will foreclose alternatives pertaining to the efficient provision of urban utility services and transportation networks.

1.01.3 Until urban utility services are available, acceptable uses shall be considered as compatible residential, recreational, neighborhood commercial and agricultural uses.

1.02 The URBAN RESERVE designation is applied east of Lynden, between the Nooksack River floodplain and Kamm Road, and south and southeast of Lynden between the floodplain and the existing city limits. The designation also is applied west of Everson in proximity to Everson-Goshen Road. The plan designation shall be implemented with the URBAN RESIDENTIAL zone district. Applicable densities follow.

1.02.1 Until a full range of urban utility services, including stormwater management facilities and publicly provided sewer and water, is available, the maximum density shall be one dwelling unit per five acres.
1.02.2 When urban utility services become available for areas in proximity to Lynden, the maximum density shall automatically be increased to four dwelling units per acre.

1.02.3 When urban utility services become available for the area west of Everson, the maximum density automatically shall be increased to three dwelling units per acre.

1.03 Within designated URBAN RESERVE areas, Whatcom County encourages efficient land use patterns and cooperation between municipalities and special districts in the provision of a full range of urban services including publicly provided sewer and water, and stormwater management facilities.

1.03.1 Prior to the provision of urban utility services, appropriate service levels for a density of one dwelling unit per five acres shall include domestic water from water associations or individual on-site wells, on-site wastewater disposal, on-site stormwater collection and retention, as needed, county and private roads, sheriff protection, and fire protection from District #1 or #3.

1.03.2 To achieve the density of four dwelling units per acre, appropriate services shall include water and sewer provided by Lynden, city or county roads, sheriff or police protection, and City of Lynden or Fire District #3 fire protection services. Stormwater facilities shall be consistent with the provisions of the Whatcom County stormwater management plan now being developed; provided that on-site collection and retention may be required on an interim basis.

1.03.3 To achieve the density of three dwelling units per acre, appropriate services shall include water and sewer provided by Everson, city or county roads, sheriff or police protection, and City of Everson or Fire District #1 fire protection services. Stormwater facilities shall be consistent with the provisions of the Whatcom County stormwater management plan now being developed; provided that on-site collection and retention may be required on an interim basis.

1.03.4 The provision of sewer and water in the designated URBAN RESERVE area is intended to be provided by the City of Lynden or the City of Everson. In addition, Whatcom County acknowledges the cities' policies of extending such utility services, contingent with annexation. Thus, URBAN RESERVE areas adjoining Lynden and Everson can be viewed as holding areas until urban utility services are provided and annexation is realized.

1.04 The following policies are established to guide the use of URBAN RESERVE areas and aid in the transition from rural to urban land use patterns.

1.04.1 Several methods of providing residential lots are established including conventional subdivision, cluster subdivision and planned unit development. Additional guidelines are contained in the Land Development Options, Guidelines and Requirements Section of this document, and regulations concerning densities and parcel
sizes are contained in the URBAN RESIDENTIAL zone district and the PLANNED UNIT DEVELOPMENT section of the Title 20 Zoning Ordinance.

1.04.2 To assist individual property owners, the City of Lynden, the City of Everson and Whatcom County in the planning and development of functional neighborhoods, the following guidelines are provided.

1. Urban neighborhoods should be consistent with cultural and natural boundaries; facilitate the efficient provision of sewer, water, transportation networks, law enforcement, fire protection and stormwater drainage; and have vacant and developable land.

2. Neighborhood components may include an elementary school; recreational facilities and neighborhood parks; neighborhood commercial activities; a variety of residential structural types; and efficient pedestrian and vehicular circulation systems.

3. Urban level development should occur contiguous to existing developments and avoid "leap-frogging" of utility services; be developed with similar street and development standards as in Lynden or Everson; and be compatible with adjacent municipal land use patterns.

1.04.3 The following policies are intended to provide guidelines for the development of residential neighborhoods.

1. Residential and related uses should be sited to conserve site amenities, view and solar access.

2. To minimize erosion and sedimentation, the site and attendant utility placement should be designed to minimize disturbance to natural systems and adjoining parcels.

3. Pedestrian and bicycle pathways should be sited to unite parks, schools, shopping and residential areas.

4. Subdivisions should include common open space in which pedestrian and bicycle pathways may be integrated.

5. Subdivisions should be buffered along busy streets, and on-site circulation networks should be oriented to the interior of the subdivision.

1.05 To facilitate cooperation between the City of Lynden, the City of Everson, and Whatcom County relative to proposals in designated URBAN RESERVE areas, the following policies are provided.

1.05.1 Whatcom County Planning Department, in cooperation with the county Public Works Department, the City of Lynden, the City of Everson and other jurisdictions, should assist individual neighborhoods with identifying, planning and establishing local improvement
projects including open space, circulation improvements, and utility improvements.

1.05.2 Land proposed to be annexed to the City of Lynden, the City of Everson, or to be included in a utility local improvement district shall be evaluated by the Boundary Review Board, consistent with RCW 36.93.170.

1.05.3 To further an information exchange, Whatcom County shall send copies of applications for major land use, subdivision, transportation and utility service activities within designated URBAN RESERVE areas to the City of Lynden or the City of Everson, as applicable, within fifteen days of county receipt.

1.05.4 The City of Lynden and the City of Everson are requested to send copies of major land use and utility actions to Whatcom County Planning Department in order to provide the county with future opportunity to amend land use boundaries, when applicable.

1.05.5 If unanticipated population growth occurs during the planning period within designated URBAN RESERVE areas, the comprehensive plan and zoning ordinance should be amended consistent with the Amendment Criteria section of this document.

1.05.6 It is the policy of Whatcom County to cooperate with the City of Lynden and the City of Everson to develop annexation policies that are consistent with the goals and policies of Whatcom County. In addition, the City of Lynden and the City of Everson are encouraged to make their annexation policies official.
2. URBAN RESERVE MEDIUM DENSITY

Intent Statement

The URBAN RESERVE MEDIUM DENSITY designation intends to provide for a transition between intensive and less intensive uses, affordable housing types, and other compatible nonresidential uses. The designation intends to promote an orderly and cost-effective transition from rural to urban uses.

Policy Statement

2.01 It is the policy of Whatcom County to promote an orderly and predictable transition from rural to urban uses and densities, and provide for affordable housing types and compatible mixed use development forms, by designating portions of the Lynden–Nooksack Valley Subarea as URBAN RESERVE MEDIUM DENSITY.

2.01.1 When urban utility services are available, including publicly provided sewer and water, and stormwater management facilities, predominant land uses shall include single-family detached dwellings, apartments, condominiums, rooming houses, mobile home parks, retirement and convalescent centers, professional offices, neighborhood parks and other public uses.

2.01.2 Until urban utility services are available, acceptable uses shall include single-family detached dwellings, neighborhood parks and other public uses.

2.02 To acknowledge existing land use forms, and to provide a transition between moderate density residential patterns and commercial and light industrial uses, the URBAN RESERVE MEDIUM DENSITY designation is applied to areas west and southwest of Lynden near the intersection of the Guide Meridian and Main Street, and near the intersection of the Guide Meridian and Kok Road. The plan designation shall be implemented with the URBAN RESIDENTIAL MEDIUM DENSITY zone district.

2.02.1 Until a full range of urban utility services is available, including publicly provided sewer and water, and stormwater management facilities, the maximum density shall be one dwelling unit per five acres.

2.02.2 When urban utility services become available, the maximum density shall automatically be increased to six dwelling units per acre.

2.03 Within designated URBAN RESERVE MEDIUM DENSITY areas, Whatcom County encourages efficient land use patterns and cooperation between the county, Lynden and special districts in the provision of a full range of services.

2.03.1 Prior to the provision of urban utility services, appropriate service levels to achieve a density of one dwelling unit per five acres include domestic water from water associations or individual on-site wells, on-site wastewater disposal, on-site stormwater management facilities, as may be necessary, county and private
roads, sheriff protection and fire protection from Fire District No. 3.

2.03.2 To achieve the density of six dwelling units per acre, appropriate services shall include water and sewer from Lynden, sheriff or police protection, and City of Lynden or Fire District No. 3 protection services. Stormwater facilities shall be consistent with the provisions of the Whatcom County stormwater management plan now under development; provided that interim on-site collection and retention may be required.

2.04 The following policies are established to guide the use of designated URBAN RESERVE MEDIUM DENSITY areas in the transition from rural to urban patterns.

2.04.1 Several methods of creating residential lots and mixed use developments are established including conventional subdivision, cluster subdivision and planned unit development. Additional policies are contained in the Land Development Options, Guidelines and Requirements Section of this document. Regulations concerning densities, parcel sizes and uses are contained in the URBAN RESIDENTIAL MEDIUM DENSITY zone text and the PLANNED UNIT DEVELOPMENT section of the Title 20 Zoning Ordinance.

2.04.2 Guidelines for establishing functional neighborhoods and site design are respectively included in URBAN RESERVE policies 1.04.2 and 1.04.3.

2.05 With the intent of facilitating cooperation between the City of Lynden and Whatcom County, URBAN RESERVE policies contained in 1.05 are herein also established for designated URBAN RESERVE MEDIUM DENSITY areas.
3. NEIGHBORHOOD COMMERCIAL

Intent Statement

The NEIGHBORHOOD COMMERCIAL designation is intended to provide small, concentrated areas for sales of convenience goods and services needed for urban or rural neighborhoods. The land uses are intended to be developed in a cohesive and coordinated form that will foster compatibility with surrounding uses. Designated areas should be approximately five acres in size, delineated in a concentrated form and be centrally located within the intended neighborhood market area.

Policy Statements

3.01 To assure the provision of convenience goods and services to rural neighborhoods, it is the policy of Whatcom County to designate certain portions of the Lynden-Nooksack Valley Subarea as NEIGHBORHOOD COMMERCIAL. Typical uses include convenience retail stores, eating and drinking establishments, professional offices, automobile service stations and personal services.

3.02 The following areas shall be designated NEIGHBORHOOD COMMERCIAL and shall be implemented with the Neighborhood Commercial zone district.

3.02.1 To acknowledge existing uses and provide for additional uses to serve the nearby rural and agricultural neighborhood, an area situated south of East Badger Road at the intersection with Northwood Road is designated NEIGHBORHOOD COMMERCIAL.

3.02.2 To acknowledge existing uses and to serve the nearby rural community, as well as residents within Everson, an area situated south of Everson-Goshen Road, adjacent to Everson, is designated NEIGHBORHOOD COMMERCIAL.

3.03 All designated NEIGHBORHOOD COMMERCIAL areas are situated in rural service areas. Appropriate service levels should be the same as the surrounding non urban areas and include on-site wastewater disposal, on-site wells or water associations, on-site stormwater collection and retention, as needed, sheriff protection, and fire protection from volunteer fire departments.

3.04 The following policies are intended to facilitate the development of NEIGHBORHOOD COMMERCIAL areas in a manner that is economical and promotes safety.

3.04.1 Ingress and egress points to state and county roads should be minimized by consolidating on-site circulation networks and by developing access points to roads that are classified as collectors or access roads, rather than arterials.

3.04.2 On-site circulation should be designed to accommodate private vehicles, delivery vehicles and pedestrians; and potential vehicular/pedestrian conflicts should be minimized.

3.04.3 Development should occur in a concentrated and compact form, and should avoid lineal development patterns. In addition, site
development should occur consistent with adopted county standards for roads, stormwater management and land alteration.

3.04.4 Site design should respond to environmental opportunities and constraints, promote building placement that will maximize open space and minimize utility extensions, and should maximize energy efficiency.

3.04.5 The Planned Unit Development provision is an option that may be used in the development of designated commercial areas. Additional policies are located in the Land Development Options, Guidelines and Requirements Section of this document; and regulations are located in the Title 20 Zoning Ordinance.

3.05 The following policies provide guidelines for amendments, during the planning period, to the location and acreage of designated NEIGHBORHOOD COMMERCIAL areas.

3.05.1 Although it is anticipated that additional NEIGHBORHOOD COMMERCIAL acreage will not be necessary, unexpected population increase and demand may result in plan amendment. Expansions to established NEIGHBORHOOD COMMERCIAL areas should be concentrated and compact forms, should avoid lineal patterns, and should be consistent with the Amendment Criteria Section of this document.

3.05.2 It is not anticipated that NEIGHBORHOOD COMMERCIAL areas will be required in areas designated URBAN RESERVE and URBAN RESERVE MEDIUM DENSITY because of the close proximity of such areas to existing and planned commercial areas in Lynden and nearby county locations.
4. GENERAL COMMERCIAL

Intent Statement

The GENERAL COMMERCIAL designation is intended to provide a broad range of retail goods and services that will benefit a large trade area. The designation also intends to facilitate safe and efficient circulation systems, provide methods to attain compatibility with surrounding noncommercial uses, and promote site design that will efficiently use available commercial land.

Policy Statements

4.01 It is the policy of Whatcom County to acknowledge existing patterns of commercial uses and to provide for additional future development by designating certain areas as concentrated centers for commercial activities. In designated areas, a broad range of goods and services should be available including sales and servicing of vehicles, mobile homes and boats; eating and drinking establishments; professional offices; service and retail establishments; commercial indoor and outdoor recreation; commercial wholesaling; and public uses that are necessary for the function of the designation.

4.02 The following areas shall be designated GENERAL COMMERCIAL and shall be implemented with the General Commercial zone district.

4.02.1 To accommodate existing uses, provide for additional uses servicing the general community and nearby planned industrial areas, and to supplement the commercial land base associated with Lynden, in a manner that is responsive to reduced speed, traffic signals and extra lanes along the Guide Meridian, an area directly west of Lynden and adjacent to the Guide Meridian is designated GENERAL COMMERCIAL.

4.02.2 To accommodate existing uses and provide for additional commercial land, an area situated north of Wiser Lake and east of the Guide Meridian is designated GENERAL COMMERCIAL.

4.02.3 To acknowledge an existing use, an approximate 45 acre area situated north of Bartlett Road and south of Wiser Lake on the east and west sides of the Guide Meridian is designated GENERAL COMMERCIAL.

4.02.4 To accommodate existing uses and provide additional commercial land to serve the general community in a manner that is consistent with increased traffic safety associated with traffic signal improvements, the intersection of Pole Road and the Guide Meridian is designated GENERAL COMMERCIAL.

4.02.5 To accommodate existing uses and provide additional commercial land to serve the general community in a manner that is consistent with traffic improvements including reduced speed and a two-way left turn lane, an area beginning south of Laurel Road and extending north to Hemmi Road is designated GENERAL COMMERCIAL.
4.02.6 To accommodate random existing commercial uses, respond to existing left turn bays at the intersection of the Guide Meridian and Axton Road, and to acknowledge future road improvements to Axton Road, an area beginning north of Axton Road and extending south to the Light Industrial Park area, for a depth of 1/8 mile on the west and east sides of the Guide Meridian is designated GENERAL COMMERCIAL.

4.02.7 To acknowledge existing uses and traffic improvements to the state highway, three quadrants of the intersection of the Guide Meridian and Smith road are designated GENERAL COMMERCIAL.

4.02.8 To accommodate existing uses and provide additional commercial land to serve nearby communities and the central county in a manner that responds to traffic safety improvements including signals and reduced speed, the central portion of Hinote’s Corner is designated GENERAL COMMERCIAL.

4.02.9 To accommodate existing uses and provide additional commercial land to serve the southeastern portion of the subarea in a manner that is consistent with reduced traffic speed, a portion of Nugent’s Corner is designated GENERAL COMMERCIAL.

4.02.10 To accommodate existing uses that serve Deming and the general community, an area south of and adjacent to the Mount Baker Highway in Deming is designated GENERAL COMMERCIAL.

4.03 With the exception of the GENERAL COMMERCIAL area directly west of Lynden, all designated GENERAL COMMERCIAL areas will be served by rural services. The following policies are intended to establish appropriate service levels, use intensities and other service considerations.

4.03.1 The GENERAL COMMERCIAL area situated directly west of Lynden shall be served with public sewer and water from Lynden, sheriff protection and volunteer fire protection. On an interim basis limited use of each parcel shall be allowed commensurate with the existing level of services including on-site wastewater disposal systems, water associations, sheriff and volunteer fire protection.

4.03.2 The remainder of designated GENERAL COMMERCIAL areas shall be served by on-site wells, water associations, on-site wastewater disposal systems, sheriff and volunteer fire protection. In addition, the presence of GENERAL COMMERCIAL locations in rural areas shall not be used as a future basis for extending public sewer systems, except when necessary to mitigate a public health condition.

4.03.3 Stormwater facilities for all designated GENERAL COMMERCIAL areas shall be consistent with the county stormwater management plan when adopted; provided that in the interim, on-site collection and retention systems may be required.
4.03.4 Maximum use of designated GENERAL COMMERCIAL areas shall be commensurate with available fire flow, public health considerations and zone district requirements. Because of the absence of planned sewerage facilities in all planned GENERAL COMMERCIAL areas, with the exception of Lynden, it is herein the policy of Whatcom County to recognize that maximum lot coverage established in the General Commercial zone may not be able to be attained due to the additional area that may be necessary for on-site septic disposal systems.

4.03.5 To facilitate intensive use of the available commercial land base in those designated GENERAL COMMERCIAL areas not intended to be provided with urban utility services and to maintain public health, developers of parcels in such areas are encouraged to work with the Bellingham-Whatcom County Department of Public Health to install innovative wastewater disposal systems, such as community septic systems.

4.03.6 The GENERAL COMMERCIAL areas located directly west of Lynden, at the Pole Road and Guide Meridian intersection, at the Laurel Road and Guide Meridian intersection, at Hinote’s Corner and at Nugent’s Corner, contain soils with rapid permeability that may cause groundwater to be vulnerable to contamination. Thus, wastewater disposal systems and stormwater drainage facilities should be designed to minimize the volume and types of leachates that could reach and adversely affect groundwater supplies.

4.04 The following policies are intended to facilitate the development of GENERAL COMMERCIAL areas in a manner that is economical, efficiently uses land and promotes safety.

4.04.1 Ingress and egress points to state and county roads should be minimized by consolidating on-site circulation networks and by developing access points to county roads.

4.04.2 On-site circulation should be designed to accommodate private vehicles, delivery vehicles and pedestrians; and potential vehicular/pedestrian conflicts should be avoided.

4.04.3 Following endorsement by the Washington State Department of Transportation, the Guide Meridian Improvement Plan, Title 22, is intended to be supplied to designated GENERAL COMMERCIAL areas adjoining the Guide Meridian.

4.04.4 Property owners in the GENERAL COMMERCIAL, LIGHT INDUSTRIAL PARK and URBAN RESERVE MEDIUM DENSITY areas situated directly west of Lynden on the west side of the Guide Meridian are encouraged to participate in the development of a parallel road system that will benefit all properties and will relieve congestion on the Guide Meridian.

4.04.5 GENERAL COMMERCIAL areas should be developed to attain aesthetic and functional compatibility with other uses within the designa-
tion, as well as with adjoining noncommercial areas by use of the following methods.

1. Overall site planning for designated areas is encouraged for landscaping, parking, lighting, signage, access, on-site circulation, building location and scale and utility placement. To this end, the Whatcom County Planning Department will provide assistance and guidance.

2. A screened and/or landscaped buffer shall be established along the periphery of the GENERAL COMMERCIAL district to minimize noise, glare and other intrusions into adjoining residential and rural areas.

4.04.6 The GENERAL COMMERCIAL area west of Lynden is encouraged to be designed and developed in a manner that is integrated with adjoining LIGHT INDUSTRIAL PARK and URBAN RESERVE MEDIUM DENSITY areas. The Planned Unit Development option may be used to attain master planning of the area.

4.05 The following policy provides guidelines for amendments, during the planning period, to the location and acreage of designated GENERAL COMMERCIAL areas.

4.05.1 Future amendments to designated GENERAL COMMERCIAL areas at the intersection of Pole Road and the Guide Meridian, and the intersection of Laurel Road and the Guide Meridian, should avoid lineal forms that would result in a commercial strip between the two centers.
5. TOURIST COMMERCIAL

Intent Statement

The TOURIST COMMERCIAL designation is intended to provide concentrated areas, located in proximity to major transportation corridors or international border crossings, for uses that serve the traveling public. The designation intends to facilitate safe and efficient circulation systems, provide methods to attain compatibility with surrounding noncommercial uses, and promote site design that will efficiently use available commercial land.

Policy Statements

5.01 To provide a limited area for uses serving private and commercial vehicles that are entering and leaving the United States, approximately eight acres of land situated at the Lynden Border Crossing is hereby designated TOURIST COMMERCIAL. Uses should be directly related to border crossing activities including customs facilities, brokerages, duty free stores, automobile service stations and tourist information centers.

5.02 The TOURIST COMMERCIAL designation is implemented with the Tourist Commercial zone district. The boundaries of the district are established in accordance with Whatcom County Ordinance No. 85-13.

5.02.1 To minimize conflict with surrounding designated AGRICULTURE areas and to acknowledge available overnight accommodations in Blaine, Ferndale, Lynden and Bellingham, permanent overnight accommodations including hotels, motels and recreational vehicle parks are discouraged from siting at this location.

5.03 The TOURIST COMMERCIAL designation is located in an agricultural area with rural utility services. Servicing levels in the TOURIST COMMERCIAL area should be similar to the surrounding area including on-site wells, on-site wastewater disposal facilities, on-site stormwater collection and retention facilities, as needed, sheriff protection and volunteer fire protection.

5.04 The following policies are intended to facilitate the economical and safe development of the TOURIST COMMERCIAL area.

5.04.1 Guidelines for establishing access points and on-site circulation are respectively included in NEIGHBORHOOD COMMERCIAL policies 3.04.1 and 3.04.2.

5.04.2 Guidelines for site development and design are established in NEIGHBORHOOD COMMERCIAL policies 3.04.3, 3.04.4 and 3.04.5.

5.04.3 A screened and/or landscaped buffer shall be established at the periphery of the Tourist Commercial district to promote compatibility with adjoining agricultural uses.

5.05 It is the policy of Whatcom County to minimize the potential conversion of adjoining agricultural lands to Tourist Commercial uses, by acknowledging that the designated area is sufficient to meet the needs, during the planning period, of persons using the border crossing. Should requests for
increases to the designated area be made, Planning Commission approval should be based on the finding that a need exists to provide additional services for persons crossing the border that will benefit the general public welfare, rather than individual pecuniary interests.

5.06 It is the policy of Whatcom County to consider potential impacts to surrounding areas that are designated AGRICULTURE when evaluating potential utility service improvements in the TOURIST COMMERCIAL area. Such improvements should not be used as a basis to convert agricultural lands to commercial uses.
6. **LIGHT INDUSTRIAL PARK**

**Intent Statement**

The intent of the LIGHT INDUSTRIAL PARK designation is to provide for uses relating to fabrication, manufacture, assembly and distribution of finished products. The uses generally will not emit smoke, glare, noise, vibrations, odors and other nuisances beyond the building exterior, and therefore, the uses are considered to be compatible with other uses in the designated area. The designation also intends to assure compatibility with uses in surrounding nonindustrial locations and is intended to make use of adjoining transportation networks including truck routes or railroads.

The designation provides for two forms of development. One form is the campus type LIGHT INDUSTRIAL PARK in which parcels are large, are suitable for master planning, and where open space, parking, circulation and utilities can be shared by park establishments. The other form of LIGHT INDUSTRIAL PARK is oriented to the single use that develops individually and independently of other uses in the designation, is not master planned, but does comply with provisions of the implementing zone.

**Policy Statements**

6.01 To accommodate existing uses, provide for additional light industrial uses and to recognize truck traffic, it is the policy of Whatcom County to designate portions of the Lynden-Nooksack Valley Subarea as LIGHT INDUSTRIAL PARK. Typical uses include fabrication and assembly of finished products from previously manufactured items, business firm headquarters, professional offices, warehousing, storage and distribution.

6.02 The following areas shall be designated LIGHT INDUSTRIAL PARK and shall be implemented with the Light Impact Industrial zone district.

6.02.1 The areas west of Lynden between Main and Tromp roads, and between Tromp and Birch Bay-Lynden are designated LIGHT INDUSTRIAL PARK. Because of their sizes, shapes and locations, these areas may be appropriate for master planning as campus-type parks.

6.02.2 To acknowledge existing uses and to consolidate future similar uses, areas west and east of the Guide Meridian between Axton and Smith roads are designated LIGHT INDUSTRIAL PARK. Because of existing use pattern, these areas are recommended for the single use form of development type—park. Joint use of necessary amenities is encouraged when possible.

6.02.3 To acknowledge existing uses and proximity to Everson, a forty acre area situated west of Everson and adjacent to Everson-Goshen Road is designated LIGHT INDUSTRIAL PARK. Because of parcel shape, parcel size, and ownership pattern, the area is encouraged for development in the single use form of industrial park.

6.02.4 To acknowledge an existing use and provide for its continued expansion, a twenty acre portion of a parcel situated in the
northwest quadrant of Fountain Lake and Pole roads is designated LIGHT INDUSTRIAL PARK.

6.03 The designated LIGHT INDUSTRIAL PARK areas situated directly west of Lynden will be provided with urban utility services and the LIGHT INDUSTRIAL PARK area situated between Smith and Axton roads will be provided with rural utility services. The following policies are intended to establish appropriate utility service levels, use intensities and other service considerations.

6.03.1 The planned industrial areas west of Lynden shall be served with public water and sewer from Lynden, the planned industrial area situated west of Everson shall be served with public water and sewer from Everson, sheriff protection and volunteer fire protection; provided that on an interim basis, on-site wastewater disposal systems, water associations, sheriff protection, and volunteer fire protection will be sufficient, commensurate with reduced building coverage and impervious surfaced.

6.03.2 The industrial areas situated between Axton and Smith roads, and east of Hinote's Corner and adjacent to Pole Road, shall be served by water associations, individual on-site wastewater disposal systems, sheriff and volunteer fire protection. In addition, the existence of this light industrial area shall not be used as a future basis for extending public sewer systems, except to mitigate a public health hazard.

6.03.3 Stormwater facilities for LIGHT INDUSTRIAL PARK areas shall be consistent with the county stormwater management plan when adopted; provided that in the interim, on-site collection and retention systems may be required.

6.03.4 Maximum use of LIGHT INDUSTRIAL PARK areas shall be commensurate with available fire flow, public health considerations and zone requirements. Because of the absence of planned sewerage facilities in the planned LIGHT INDUSTRIAL PARK areas located between Axton and Smith roads, and east of Hinote's Corner and adjacent to Pole Road, it is herein the policy of Whatcom County to recognize that the maximum lot coverage established in the Light Impact Industrial zone may not be able to be attained due to the additional area that may be necessary for on-site septic disposal systems.

6.03.5 The LIGHT INDUSTRIAL PARK areas located west of Lynden and west of Everson contain soils with rapid permeability that may cause groundwater to be vulnerable to contamination. Thus, wastewater disposal systems and stormwater drainage facilities are encouraged to be designed to minimize the volume and types of leachates that could reach and adversely affect groundwater supplies.

6.04 The following policies are intended to facilitate the development of LIGHT INDUSTRIAL PARK areas in a manner that is economical, efficiently uses land and promotes safety.
6.04.1 Ingress and egress points to state and county roads are encouraged to be minimized by consolidating access points between adjoining properties. In addition, property owners in the LIGHT INDUSTRIAL PARK, GENERAL COMMERCIAL and URBAN RESERVE MEDIUM DENSITY areas situated directly west of Lynden on the west side of the Guide Meridian are encouraged to participate in the development of a parallel road system that will benefit all properties and will relieve congestion on the Guide Meridian.

6.04.2 When possible, on-site circulation networks should be designed to serve several parcels. In addition, on-site circulation networks should be designed for private vehicles, delivery vehicles and pedestrians. Potential vehicular/pedestrian conflicts should be minimized.

6.04.3 Following endorsement by the Washington State Department of Transportation, The Guide Meridian Improvement Plan, Title 22, is intended to be applied to designated LIGHT INDUSTRIAL PARK areas adjoining the Guide Meridian.

6.04.4 Areas containing large parcels in few ownerships are encouraged to utilize master planning and joint use of internal circulation, parking and open space. Areas with small parcels in several ownerships are encouraged to consolidate parcels for use in development packages.

6.04.5 Site design is encouraged that includes underground wiring, complementary buildings and signage, structures oriented for maximum solar access and minimum wind exposure, minimum utility extensions, and responsiveness to environmental constraints and possibilities.

6.04.6 A screened and/or landscaped buffer shall be established at the designation periphery consistent with provisions of the Title 20 Zoning Ordinance. All uses shall occur within enclosed buildings, with the exception of outside storage which shall be screened. In addition, site development shall occur consistent with provisions of the Title 20 Zoning Ordinance and adopted county standards for stormwater drainage, domestic water, wastewater disposal, fire flow, land alternation, and with state and county road standards.

6.04.7 The LIGHT INDUSTRIAL PARK areas that are situated west of Lynden are encouraged to be designed and developed in a manner that is integrated with adjoining GENERAL COMMERCIAL and URBAN RESERVE MEDIUM DENSITY areas. The Planned Unit Development option may be useful to facilitate master planning of the areas.

6.04.8 The Planned Unit Development provision is an option that may be used in the development of LIGHT INDUSTRIAL PARK areas. Additional policies are located in the Land Development Options, Guidelines and Requirements Section of this document; and regulations are located in the Title 20 Zoning Ordinance.
6.05 It is not anticipated that additional LIGHT INDUSTRIAL PARK acreage will be needed during the planning period; however, unanticipated demand may result in requests for additional land. Future modification should be consistent with the Amendment Criteria Section of this document and should critically evaluate the potential irretrievable loss to the county agricultural land base associated with conversion of parcels located to the north and west of presently planned LIGHT INDUSTRIAL PARK areas.
8. RESIDENTIAL RURAL

Intent Statement

The intent of the RESIDENTIAL RURAL designation is to provide an alternative to the residential living opportunities of the urban or rural setting; recognize existing land parcelization; and acknowledge the absence of a full range of public utility services including both sewer and water. The designation also intends to provide options for future utility servicing and related density increases, and promote the efficient use of land by using the cluster subdivision option.

Policy Statements

8.01 To acknowledge existing parcelization patterns and provide alternative residential living opportunities, certain portions of the Lynden-Nooksack Valley Subarea are designated RESIDENTIAL RURAL. Typical uses in designated areas include single-family dwellings, duplexes, neighborhood parks, public recreation, home occupations, neighborhood grocery stores, and customary public and quasi-public functions.

8.02 The RESIDENTIAL RURAL designation is applied in the following locations and is implemented with the Residential Rural: Two Dwelling Units per Acre Zone.

8.02.1 An area directly west of Lynden near Flynn and Kok roads is designated RESIDENTIAL RURAL to acknowledge existing residential patterns and the provision of water from Kok Road Water Association which obtains its water from the Lynden municipal system; and to provide options concerning future utility servicing.

8.02.2 An area in proximity to Wiser Lake is designated RESIDENTIAL RURAL to acknowledge existing residential patterns, to provide for additional residences in the Wiser Lake neighborhood, and to acknowledge a partial range of public utility services including water supplied by Pole Road Water Association, a Class I purveyor.

8.02.3 An area adjoining the Old Guide Meridian and Pole Road, including the Dutch Haven subdivision, is designated RESIDENTIAL RURAL to acknowledge existing parcelization and a partial range of public utility services including water supplied by Pole Road Water Association, a Class I purveyor. Because of the partial range of planned public utility servicing, and to respond to public health considerations, future expansion of the designation into surrounding RURAL areas is discouraged.

8.02.4 An area at Hinote’s Corner is designated RESIDENTIAL RURAL to acknowledge existing parcel sizes, to acknowledge a partial range of public utility services including water supplied by Pole Road Water Association, a Class I purveyor, and to provide a transition between the GENERAL COMMERCIAL area and surrounding RURAL and AGRICULTURE areas. Because of the partial range of public utility services, and to respond to public health considerations and conserve the county agricultural land base, future expansion of the designation into surrounding AGRICULTURE areas is discouraged.
8.02.5 An area situated west of Sumas on Moe Hill is designated RESIDENTIAL RURAL to acknowledge existing parcel sizes and a partial range of utility services including water supplied by the City of Sumas. Future expansions of the designation should be consistent with a partial range of public utility services and should be located outside of 100-year floodplains.

8.03 The following policies establish appropriate service levels for RESIDENTIAL RURAL areas.

8.03.1 All areas are to be served with water supplied from Class I water associations or municipalities, have individual on-site wastewater disposal systems, and have sheriff and volunteer fire protection.

8.03.2 Stormwater facilities shall be consistent with the future adopted county stormwater management plan when adopted; provided that in the interim, on-site collection and retention facilities may be required.

8.03.3 Designated RESIDENTIAL RURAL areas have soils with moderate to rapid permeability that may cause groundwater to be vulnerable to contamination. It is the policy of Whatcom County that newly installed stormwater drainage facilities and wastewater disposal systems should be designed to minimize the volume and types of leachates that could reach and adversely affect groundwater supplies. In addition, future expansions to designated RESIDENTIAL RURAL areas shall be discouraged with the intent of conserving groundwater quality.

8.04 The following policies are intended to promote the economical, safe and efficient development of RESIDENTIAL RURAL areas in a manner that promotes compatibility with surrounding land uses of lesser residential intensity.

8.04.1 In filling of existing vacant parcels is encouraged before committing additional land to residential subdivisions.

8.04.2 Several methods of providing residential lots are available including conventional subdivision, cluster subdivision and planned unit development. Additional guidelines are contained in the Land Development Options, Guidelines and Requirements Section of this document. Regulations concerning densities and parcel sizes are contained in the Residential Rural District and the Planned Unit Development Section of the Title 20 Zoning Ordinance.

8.04.3 Subdivision ingress and egress points to state and county arterials should be minimized.

8.04.4 To reduce erosion and sedimentation, subdivision design and utility placement should minimize disturbance to natural systems and adjoining parcels.

8.04.5 Subdivisions should be designed to contain common open space and pedestrian circulation networks which are integrated with residential areas.
9. **RURAL**

**Intent Statement**

The primary intent of the RURAL designation is to accommodate areas that are suitable for multiple uses including agriculture, forestry, low density residential, surface mining and home occupations. The designation recognizes physical factors that preclude higher densities such as extremely rapid or slow soil percolation rates, shallow depths to aquifers, steep topography and the presence of aquifers. In addition, the designation is responsive to environmentally fragile areas and retains future options for access to nonrenewable natural resources including sand, gravel, coal, other minerals, Prime Farmland soils and productive forest soils. The designation acknowledges the absence of planned public utility services, and circulation system funding that is only maintenance oriented. Thus, the designation intends to provide for uses needing minimal public expenditure and provides options for future land use decisions beyond the planning period.

**Policy Statements**

9.01 To acknowledge the existing variety of uses and lifestyles present in the Lynden-Nooksack Valley Subarea, to affirm the continued viability of several citizen land use petitions initiated in the past, and to recognize the absence of planned public utility services, large portions of the subarea are designated RURAL. Typical uses include a mixture of very low density residential, part and full-time agriculture, woodlots, commercial forestry, surface mining, home occupations, neighborhood grocery stores, small scale processing of agricultural and forestry products, and public and quasi-public uses that enhance the functioning of RURAL areas.

9.02 The RURAL plan designation is implemented by three zone districts including Rural: One Dwelling Unit per Two Acres, Rural: One Dwelling Unit per Five Acres, and Rural: One Dwelling Unit per Ten Acres. The following policies establish the location, boundaries and densities of the plan designation and zone districts.

9.02.1 To acknowledge existing parcelization patterns and provide a transition between uses of different intensities, the following areas are designated RURAL and zoned Rural: One Dwelling Unit per Two Acres.

1. An area west of Lynden, south of Birch Bay Road and north of the Nooksack River floodplain.

2. An area situated near the intersection of East Badger and Northwood roads.

3. An area situated in proximity to East Wiser Lake, Van Dyk and Hannegan roads.

4. An area situated in the northeast quadrant of the Pole and Hannegan road intersection between the planned GENERAL COMMERCIAL and AGRICULTURE areas.
5. An area generally situated in the southwest quadrant of Pole and Hannegan roads, including the Vista Lamonte Subdivision.

6. An area situated south of East Pole Road and extending from Hinote's Corner.

7. An area generally situated between Mount Baker Highway and Deming Road, including Deming.

8. An area situated northeast of Berthusen Park.

9. An area 1/8 mile deep on the east and west sides of the Guide Meridian, and generally located between Pole and King Tut roads.

9.02.2 To acknowledge existing parcelization patterns, to provide for additional low density settlement, to affirm several citizen petitions initiated in the past, to provide uniformity with planned land use densities in adjoining subareas, and to provide a transition to areas planned AGRICULTURE and FORESTRY, the following areas are planned RURAL and shall be implemented with the Rural: One Dwelling Unit per Five Acre zone district.

1. An area situated in the northwest part of the subarea generally located between the International Border, and Burk, Delta Line and Markworth roads.

2. Part of the west central subarea in the vicinity of Harksell, Delta Line and Woodland roads.

3. An area situated in proximity to Loomis Trail and Berthusen roads, including Bertranda Estates, nearby parcels of less than five acres in size, and existing wooded parcels.

4. An area generally located between Rathbone and Berthusen roads in the vicinity of Birch Bay-Lynden Road.

5. An area generally situated between Bartlett and King Tut roads in proximity to the Old Guide and Guide Meridian, exclusive of areas planned RESIDENTIAL RURAL or GENERAL COMMERCIAL.

6. An area located at Hinote's Corner that adjoins planned RESIDENTIAL RURAL or GENERAL COMMERCIAL in the northeast and northwest quadrants of the Hannegan and Pole road intersection.

7. An area east of the City of Nooksack generally situated between the Sumas River floodplain, North Pass, South Pass, Aim and Breckenridge roads.

8. An area located at the base of Sumas Mountain and east of Goodwin and Siper roads.
9. An area located in Deming Valley between the base of Sumas Mountain and the Nooksack River floodplain.

10. A large area in the south central and central part of the subarea generally situated between Everson, planned AGRICULTURE areas, the Nooksack River floodplain and the base of Stewart Mountain; extending west beyond the Guide Meridian, exclusive of the Rural: One Dwelling Unit per Ten Acre District.

11. An area generally situated south of East Badger Road, between Vinup and Northwood roads.

9.02.3 To promote compatibility with adjoining planned AGRICULTURE and FORESTRY areas, to accommodate physical constraints including steep slopes and clay soils, to provide uniformity with planned land use densities in adjoining subareas, and to acknowledge existing land use and parcelization patterns, the following areas are planned RURAL and shall be implemented with the Rural: One Dwelling Unit per Ten Acre Zone District.

1. An area generally situated between East Badger Road, the Nooksack River floodplain, Trapline Road, and the Sumas River floodplain.

2. An area situated between the Sumas River floodplain and Vedder Mountain, near North Pass and Minaker roads.

3. An area situated at the southeast quadrant of the intersection of North Pass and South Pass roads, adjacent to Sumas Mountain.

4. An area situated at the base of Sumas Mountain near the south terminus of Goodwin Road.

5. An area situated in the central part of the subarea between planned AGRICULTURE areas, and Everson-Goshen, Medcalf and Axton roads.

6. An area situated in the west central part of the subarea between Aldrich, Hemmi and Pole roads.

9.03 Appropriate service levels in designated RURAL areas include on-site wells, water associations, individual on-site wastewater disposal systems, volunteer fire protection and emergency services, and law enforcement provided by the Washington State Patrol and Whatcom County Sheriff's Department.

9.03.1 Cluster subdivisions may require on-site stormwater collection and retention facilities, consistent with Engineering Bureau requirements or regional stormwater management plan provisions.

9.03.2 When residential or other structural uses are intended to be supplied with potable water from off-site sources such as streams, written permission shall be obtained from the affected property
owner, prior to subdivision approval or building permit issuance, as applicable.

9.03.3 Several planned RURAL areas overlie moderate or high-yield aquifers and have soils with rapid permeability that make groundwater vulnerable to contamination. Whatcom County encourages designs for stormwater drainage facilities and wastewater disposal systems, for development in such areas, that will minimize the volume and type of leachates that may reach and adversely affect groundwater quality.

9.04 The following policies are intended to promote the economical, safe and efficient use of RURAL planned areas in a manner that promotes compatibility with surrounding land uses and physical constraints.

9.04.1 Several methods of providing residential lots are available including conventional subdivision, cluster subdivision and planned unit development. Additional guidelines are contained in the Land Development Options, Guidelines and Requirements Section of this document. Regulations concerning densities and parcel sizes are contained in the Rural District and Planned Unit Development Section of the Title 20 Zoning Ordinance.

9.04.2 Subdivision ingress and egress points to state and county roads should be minimized.

9.04.3 To reduce erosion and sedimentation, subdivision design and utility placement should minimize disturbance to natural systems and adjoining parcels.

9.04.4 To minimize potential degradation of regional groundwater supplies, extraction of sand and gravel in the vicinity of East Pole and Everson-Goshen roads shall not extend below the yearly average groundwater level. In addition, reclamation materials shall not be of the type that through leaching could adversely affect groundwater quality.

9.05 The following policies are established to address concerns that may occur during the planning period.

9.05.1 It is the policy of Whatcom County to recognize the planned RURAL area that is directly southwest and south of the present City of Everson as the preferable direction for future municipal expansion and urban utility servicing for sewer and water. Municipal expansion should avoid the Nooksack River 100-year floodplain, as well as designated AGRICULTURE areas.

9.05.2 It is the policy of Whatcom County to recognize the planned RURAL area that is northeast and east of the present City of Nooksack as the preferable direction for future municipal expansion and urban utility servicing for sewer and water. Municipal expansion should avoid the 100-year floodplain and designated AGRICULTURE areas.
9.05.3 Whatcom County supports the acquisition of conservation easements by public land trusts, consistent with the intentions of affected property owners in RURAL areas to:

1. Conserve Prime Farmland soils;
2. Conserve agricultural operations;
3. Conserve forest resources;
4. Conserve wildlife habitats; or
5. Provide scenic corridors.

9.05.4 In recognition of the variety of commercial uses provided in the Rural Zone District, it is the policy of Whatcom County to support the retention of RURAL designated areas along the Guide Meridian, until such time that available acreage in planned commercial areas is nearing full occupancy. Consistent with future demand, the preferred action is to convert presently planned RURAL areas that are immediately adjacent to planned commercial areas to the appropriate commercial plan designation. Amendment requests shall be reviewed in accordance with the Amendment Criteria Section.

9.05.5 Whatcom County supports the continued efforts of citizen groups engaged in promoting agricultural and forestry education, operations and marketing.
10. **AGRICULTURE**

**Intent Statement**

The intent of the AGRICULTURE designation is to maintain and encourage the conservation of agricultural lands in Whatcom County. The designation promotes the continuation of viable economic livelihoods for the agricultural operator, agricultural producer and related agricultural services. The designation also provides clear direction for nonagricultural uses to locate in other urban or rural designations; thereby minimizing potential conflicts between agricultural operators and uses that are not directly involved in agriculture. Additional intents of the designation include maintenance of open space; conservation of natural resources and systems; minimizing energy and expense through encouraging agricultural operations at fertile locations; sustaining existing county agricultural products; encouraging the development of additional agricultural products; and encouraging the stewardship approach to land management.

**Policy Statements**

10.01 To acknowledge existing agricultural land uses and Prime Farmland soils, and to affirm the continued applicability of the 1970 Comprehensive Plan relative to agriculture, large portions of the Lynden-Nooksack Valley Subarea are designated AGRICULTURE.

10.01.1 Predominant uses include the cultivation and management of field, shrub, vine, greenhouse, orchard and forest crops; dairying; livestock raising; animal husbandry; beekeeping; and uses that are accessory to agricultural operations including operator and farmhand residences, small-scale product marketing and home occupations.

10.01.2 Other uses shall be subject to public review to assure maintenance of the agricultural resource and compatibility with agricultural operations. Such uses include various public uses, animal hospitals, agricultural worker housing, processing of agricultural products, limited sand and gravel extraction, and commercial activities that directly provide agricultural goods and services to the agricultural operator.

10.02 The following areas are designated AGRICULTURE and shall be implemented with the Agriculture zone district.

9.02.1 The floodplains associated with the Nooksack and Sumas rivers; the areas situated to the west, north and northeast of Lynden; the Nooksack Valley between Nooksack and the Canadian border; the area to the east of the Nooksack River floodplain between Nooksack and Nugent's Corner; the Deming valley; and an area trending southwest from Everson.

9.02.2 The boundaries of designated AGRICULTURE areas acknowledge existing agricultural land uses, land in agricultural current use tax assessment, areas with Prime Farmland soils, 100-year floodplains, and areas with parcel sizes or land ownership patterns of generally greater than twenty acres. In
addition, the boundaries are established to minimize periphery length and peninsular forms, and maximize consolidation and unification of agricultural areas.

9.02.3 Several minimum parcel sizes are provided as follow.

1. Variable minimum parcel size shall be permitted, consistent with the generally acceptable size for an economically viable operation for the particular form of intended agricultural pursuit, subsequent to affirmative review by representatives from the Bureau of Buildings and Code Administration, the Planning Department, the Cooperative Extension Agency and the Soil Conservation Service.

2. Parcels of less than five acres in size will be permitted for the residential use of retiring farm operators, public and quasi-public uses that are necessary in agricultural areas, and for purposes of securing bank loans for farm residences.

3. Forty acres shall be the minimum size for parcels used solely for residential purposes, except as described above, with the intent of minimizing the introduction of people into agricultural areas who are not associated with agriculture. In addition, one dwelling will be permitted on each legally created parcel of record existing at the time of adoption of this document of greater than one acre in size.

10.03 Appropriate utilities and facilities in designated AGRICULTURE areas include on-site wells or water associations for the provision of potable and irrigation water, individual on-site wastewater disposal systems, volunteer fire protection and law enforcement provided by the county Sheriff's Department and the Washington State Patrol.

10.03.1 The continued efforts of drainage improvement districts are encouraged to enable improved use of agricultural lands.

10.03.2 The continued efforts of flood control and diking districts are encouraged to enhance use of floodplains for agriculture, as well as increase protection of existing agricultural investments in land improvements and buildings.

10.04 The following policies are intended to promote the continued economic viability of agriculture in Whatcom County and conserve associated resources.

10.04.1 Consolidation of adjoining parcels in the same ownership by filing a new deed is encouraged to promote easily workable farm units.

10.04.2 Residential subdivisions and other uses not related to agriculture are discouraged from locating in designated AGRICULTURE areas.
10.04.3 The stewardship approach to land management is encouraged to foster the long-term productivity of the agricultural land base, associated industries and life styles of Whatcom County.

10.04.4 The agricultural community is supported in its efforts to diversify the types of agricultural operations in the county and to continue to incorporate techniques that will enhance agricultural productivity and efficiency.

10.04.5 To enhance economic returns to the operator, direct marketing of products to the consumer is supported. In addition, to minimize "overhead" in the conduct of farm businesses, the formation of cooperatives is supported for warehousing, processing, and providing agricultural supplies and equipment.

10.04.6 To increase direct economic benefits to Whatcom County originating with agriculture, continued local processing of agricultural products is encouraged, as well as the development of additional processing facilities.

10.04.7 In recognition of the prevailing type of agricultural operation, Whatcom County encourages the continuation of the small farm as the basic unit of farm production. In addition, Whatcom County encourages the continued efforts of citizen groups engaged in promoting agricultural education, operations and marketing.

10.04.8 Locating major transportation and utility corridors that would preclude the agricultural use of land is discouraged in designated AGRICULTURE areas.

10.05 The following policies are established to address other aspects of agricultural concerns.

10.05.1 Agriculture in its various forms is the preferred use of areas designated AGRICULTURE. Although it is anticipated that adjustments to designated AGRICULTURE areas will not be necessary during the planning period, proposed conversions shall be processed consistent with the Amendment Criteria Section of this document. In addition, Whatcom County should develop a system for addressing potential conversions that uses the principles established in the "Land Evaluation System Analysis (LESA)," formulated by the Soil Conservation Service.

10.05.2 Agricultural operators are encouraged to use the information and assistance that is available from the Soil Conservation Service and the Cooperative Extension Service for building siting, manure storage, recommended agricultural uses and new technologies.
10.05.3 Agricultural operators are encouraged to fence streams and ditches to prevent the direct introduction of livestock and livestock wastes to conserve surface water quality and reduce stream bank erosion and soil loss. In addition, to minimize any potential short and long-term impacts to groundwater supplies, agricultural operators are encouraged to use only those chemicals in conservative amounts that are necessary for crop production, applied according to state and federal guidelines, and to use chemicals having low potency and residuals of short duration.

10.05.4 Whatcom County supports the acquisition of conservation easements by public land trusts, consistent with the intentions of affected property owners in AGRICULTURAL areas to:

1. Preserve agricultural operations;
2. Conserve Prime Farmland soils;
3. Conserve wildlife habitats; or
4. Conserve scenic resources.

10.05.5 Conservation of agricultural operations and Prime Farmland soils is encouraged through using the current use tax assessment opportunities of the Open Space Taxation Act (RCW 84.34).

10.05.6 Implementation of "special district" and water association plans, and other capital improvements, shall be approved or supported only when it is found that designated AGRICULTURE areas will benefit.

10.05.7 It is the policy of Whatcom County to support the future annexation for industrial purposes of the area bounded by the Burlington Northern Railroad, Halverstick Road and the city limits to the City of Sumas.
11. **FORESTRY**

**Intent Statement**

The intent of the FORESTRY designation is to promote the conservation of forest lands for sustained yield management; and thereby foster continued economic vitality for the county's forest industries. The designation intends to identify areas that are suitable for long-term forestry use, guard against premature conversion of forest lands to non forest uses, and minimize the type and extent of uses that could adversely affect customary forest operations. In addition, the designation intends to accommodate other activities that are compatible with forest management including mineral extraction, wildlife management, watershed management and occasional outdoor recreation. The designation intends that all uses will be conducted in accordance with applicable local, state and federal regulations.

**Policy Statement**

11.01 To acknowledge existing forest lands and associated nonrenewable resources, portions of the Lynden-Nooksack Valley Subarea are designated FORESTRY. The principal use of designated areas is the sustained yield management of forest resources, conducted in accordance with the Washington State Forest Practice Act (RCW 76.09) and the attendant regulations of WAC 222, which are administered by the Department of Natural Resources. Such uses include timber production, harvesting and reforestation; forest chemical use; logging road construction and maintenance; and fire prevention and suppression. Other compatible uses include watershed and wildlife habitat management, woodlot operations, certain forest industries, utilities, mineral extraction, and occasional outdoor recreation.

11.02 The FORESTRY designation is applied to Vedder, Sumas and Stewart mountains. The designation is implemented with the Forestry zone district. Minimum parcel size is twenty acres for the majority of uses; however, a density of one dwelling unit per twenty acres is applicable when calculating the maximum number of residential building sites.

11.03 The following policies establish appropriate service levels for designated FORESTRY areas.

11.03.1 Forest management areas generally shall be served by private logging roads; fire suppression shall be provided by individual property owners and the Department of Natural Resources; and law enforcement shall be provided by the Sheriff Department and the Department of Natural Resources.

11.03.2 Residential or other structural uses in designated FORESTRY areas shall have individual on-site wells or stream sources of potable water, volunteer fire protection or individual structural fire suppression systems consistent with county Fire Marshall requirements, and law enforcement shall be provided by the county Sheriff Department.
11.03.3 When residential or other structural uses are intended to be supplied with potable water from off-site sources, written permission shall be obtained from the affected property owner, prior to subdivision approval or building permit issuance, as applicable.

11.04 The following policies are intended to promote the economical, safe and compatible use of designated FORESTRY areas.

11.04.1 Forest practices are to be conducted in accordance with the Forest Practice Act (RCW 76.09), Forest Protection laws (RCW 76.04) and attendant regulations, as administered by the Department of Natural Resources.

11.04.2 Other permitted or conditionally permitted uses shall be conducted in accordance with applicable local, state and federal regulations.

11.04.3 Several methods of providing parcels for residential and other structural uses are available including conventional subdivision, cluster subdivision and planned unit development. Additional guidelines are contained in the Land Development Options, Guidelines and Requirements Section of this document. Regulations concerning densities and parcel sizes are contained in the Forestry zone district and the Planned Unit Development section of the Title 20 Zoning Ordinance.

11.04.4 Given that the majority of designated FORESTRY areas have slopes in excess of 15%, residential building site placement is encouraged on benches, terraces and other topographic features with slopes of less than 15%.

11.04.5 To promote compatibility with forest uses, residential and other structural activities shall be sited at a minimum of 100 feet from parcel boundaries when situated adjacent to existing forest management areas.

11.04.6 Residential building site placement shall avoid areas that may be vulnerable to debris flows, consistent with policies in the Physical Constraints and Natural Resources Section of this document or regulations adopted in the future.

11.04.7 Corridors of plant materials shall be encouraged for retention along stream channels to moderate runoff rates, foster stream bank stability, and promote water quality in accordance with the Forest Practice Act Rules and Regulations (WAC 222) for forest operations; or in accordance with Whatcom County standards for parcels associated with permanent structures, when adopted.

11.05 Whatcom County encourages forest land owners to be aware that their activities on forest lands may have an impact on adjacent landowners. The county also encourages residents living in or adjacent to desig-
nated FORESTRY areas to be aware of the type of activities that are customary with commercial forest operations.

11.05.1 To promote safe use of forest chemicals, forest operators are encouraged to strictly comply with the Forest Practice Act Rules and Regulations (WAC 222) when applying pesticides and fertilizers. In addition, the following policies are provided.

1. Forest operators are encouraged to informally contact adjoining property owners within FORESTRY or RURAL areas to inform them of forthcoming spraying. As a means to reduce citizen concerns about forest chemical use, forest operators are encouraged to investigate alternatives to aerial spraying including hand slashing of competing vegetation by community groups and ground application of chemicals.

2. The forest industry is encouraged to keep informed about advances in forest chemical technology, and to support research that intends to objectively identify any short and long-term effects of forest chemicals.

11.05.2 To promote safe and effective slash burning that will minimize disturbance to nearby residents, forest operators are encouraged to strictly comply with the Forest Protection Laws (RCW 76.04). In addition, forest operators are encouraged to informally contact nearby residents and local newspapers to provide information concerning the forthcoming burn, anticipated date and what can be expected.

11.05.3 Property owners are encouraged to use the current use tax assessment provisions of the Open Space Taxation Act (RCW 84.34), Designated Forest (RCW 84.28) and Classified Forest (RCW 84.33).
12. **PUBLIC**

**Intent Statement**

The intent of the PUBLIC designation is to assure the continued provision of a variety of public services in a manner that is commensurate with population and demand. In addition, the policies intend to promote efficient public investments and compatibility between public functions and surrounding land uses.

**Policy Statements**

12.01 To assure the continued provision of a variety of public services, it is the policy of Whatcom County to designate certain portions of the Lynden-Nooksack Valley Subarea as PUBLIC. Typical uses in PUBLIC designated areas include facilities and services related to recreation, education, utilities, wildlife management, solid waste disposal and health care facilities.

12.02 The PUBLIC designation is applied to Berthusen Park, schools, fire stations, municipally owned water sources, federally owned electrical transmission line corridors, substations, wildlife management areas owned by public agencies and solid waste disposal sites.

12.02.1 Berthusen Park and public agency-owned wildlife management areas shall be implemented with the Recreation and Open Space zone.

12.02.2 All other public functions shall be uses by right or condition within zone districts.

12.03 The appropriate standard of service for PUBLIC areas concerning domestic water, wastewater disposal, stormwater drainage, law enforcement, fire protection and transportation networks shall be the same as adjoining parcels.

12.04 The following policies are established to guide the development of PUBLIC designated areas.

12.04.1 Whenever practical, it is the policy of Whatcom County to encourage multi-purpose use of public lands and facilities to promote efficient public expenditure.

12.04.2 It is the policy of Whatcom County to minimize visual and functional impacts of PUBLIC land uses by encouraging the use of aesthetic site design and other methods to attain compatibility with surrounding areas.

12.04.3 Public agencies are encouraged to acquire those parcels that benefit the continued operation of the particular function.

12.04.4 Review of proposed uses in PUBLIC designated areas shall consider the effects to surrounding land uses relative to protection of the public health, safety and welfare.
Pursuant to the Inter-Local Cooperation Act (RCW 39.34), it is the policy of Whatcom County to encourage public agencies to prepare and adopt long-range plans that address future land, facility and service requirements, with the intent to coordinate public and private activities, and to minimize future conflict between public agencies and the private sector.

It is the policy of Whatcom County to cooperate and coordinate with the Parks Department to integrate existing park plans into a Recreation and Open Space Element that will supplement the Comprehensive Land Use Plan; and to participate in neighborhood park planning within areas that are designated URBAN RESERVE, URBAN RESERVE MEDIUM DENSITY and RESIDENTIAL RURAL.
13. **LAND DEVELOPMENT OPTIONS, GUIDELINES AND REQUIREMENTS**

**Intent Statement**

The intent of this section is to provide options for land development that are environmentally efficient and that minimize public and private utility and transportation expenditures. This section provides general information and requirements that affect the majority of land use designations within the Lynden-Nooksack Valley Subarea. Guidelines and requirements that are unique are provided in the applicable land use policy section.

**Policy Statements**

13.01 Areas that are designated URBAN RESERVE, URBAN RESERVE MEDIUM DENSITY, RESIDENTIAL RURAL, RURAL, AGRICULTURE and FORESTRY have the option of creating new residential parcels using the conventional subdivision method. Parcel sizes in conventional subdivisions are uniform and are specifically established in each implementing zone text.

13.02 Areas that are designated URBAN RESERVE, URBAN RESERVE MEDIUM DENSITY, RESIDENTIAL RURAL, RURAL and FORESTRY have the option of creating new residential parcels using the cluster subdivision method. The purpose is to provide economic flexibility to the individual property owner, promote economic lot design, conserve nonrenewable and renewable natural resources, minimize disturbance to environmentally fragile areas, promote compatibility with surrounding nonresidential land uses, and provide options beyond the planning period for land use decisions. Cluster subdivision is defined as an alternative method of creating building parcels that are spatially efficient and economical, and that will retain options for future uses and densities by treating land as a commodity and resource. The following policies establish subdivision guidelines and implementation considerations.

13.02.1 Minimum parcel size shall be established consistent with the provisions of specific implementing zones or Health Department requirements, whichever is greater.

13.02.2 Subdivision design shall be discouraged from forming lineal residential patterns adjacent to roads by minimizing ingress and egress points, and by consolidating access for several parcels.

13.02.3 When possible, it is preferred that residential structures be sited at the perimeter of fields, at the perimeter of woodlots, in woodlots or be partially concealed by topographic features.

13.02.4 When possible, structures on open landscapes should be sited and designed to minimize view disruptions from adjacent properties and public roadways.

13.02.5 When a cluster subdivision is situated adjacent to a less intensive use including large parcel residential, agriculture or forestry, the subdivision shall be buffered at the site...
periphery to prevent the encroachment of vehicles, pedestrians, animals and nuisances onto less intensively used parcels.

13.02.6 Vehicular and pedestrian networks should be oriented to the interior of clustered subdivisions.

13.02.7 To maintain area character and settlement patterns, and to achieve visual compatibility and land carrying capacity similar with the surrounding area, the Subdivision Administrator and Hearing Examiner may request that the potential number of building sites for a particular parcel be clustered into two or more residential concentrations.

13.03 Areas that are designated URBAN RESERVE, URBAN RESERVE MEDIUM DENSITY, RESIDENTIAL RURAL, RURAL, FORESTRY, NEIGHBORHOOD COMMERCIAL, GENERAL COMMERCIAL, TOURIST COMMERCIAL and LIGHT INDUSTRIAL PARK have the option of using the Planned Unit Development provision of the Title 20 Zoning Ordinance. Planned Unit Development is defined as an official control that allows greater flexibility in density, bulk regulations, building types and land use mixture than is generally permitted in the specific implementing zone text. The option is intended to encourage creative site planning, permanent open space, variety in living, working and recreational settings, conservation of environmentally fragile areas, and mixed use developments.

13.04 When located adjacent to existing agricultural or forestry operations, either within the same land use designation or outside thereof, conventional and cluster residential subdivisions shall be required to have a "hold harmless" agreement attached to the face of the plat; the intent of which is to facilitate the unhampered continuation of legal and customary operations associated with agriculture and forestry.
TRANSPORTATION POLICIES

Intent Statement

It is the intent of Whatcom County to ensure that land use patterns and transportation planning mutually support the safe and efficient movement of people and goods; are consistent in encouraging a predictable pattern of urban and rural development; and together conserve and enhance existing public investments and resources.

Policy Statements

1.01 Whatcom County shall use the development approval process of subdivision, zoning, and building permits to establish community circulation patterns and to secure rights-of-way and construction of all functional road classifications. Whatcom County shall use the development approval process to ensure that all residential development includes safe vehicular access for citizens and emergency vehicles.

1.02 It is the policy of Whatcom County to cooperate with federal, state and municipal agencies in providing for a coordinated transportation system.

1.02.1 Whatcom County shall coordinate and cooperate with the cities of Lynden, Nooksack, Everson and Sumas and the State of Washington in the planning of new arterial routes in the Lynden-Nooksack Valley Subarea. Specifically, the land development process shall be used to facilitate the acquisition of additional right-of-way width for state highways having substandard right-of-way widths.

1.02.2 Whatcom County shall promote and encourage the provision of public transit as demand increases in the Lynden-Nooksack Valley Subarea, where warranted by potential ridership.

1.03 It is the policy of Whatcom County to maintain and enhance its natural and economic resources, land use patterns, and the safety and well-being of its citizens through the application of the following standards to its transportation system.

1.03.1 Whatcom County shall approve new road construction projects or improvements to existing roads consistent with the regional stormwater management plan now under development. Should the private or public sector begin such projects before the plan is complete, the county shall implement appropriate measures to assure total containment of excess stormwater runoff for each development proposal. Upon completion of the stormwater management plan, land area currently used for retention may be converted to permitted uses and densities consistent with the applicable zone district.

1.03.2 Whatcom County shall make every effort to preserve mature trees and unique wildlife habitats and other elements of the natural environment during the design and construction of road improvement projects. Where disruption of the natural environment is unavoidable, special techniques such as rounded slopes, erosion control,
reseeding and revegetation shall be employed to return road sides to their natural state.

1.03.3 Bikeways and pedestrian walkways shall be included as integral parts of the transportation system. Bikeways and pedestrian ways shall be provided in new developments, where warranted, to link residential areas, shopping areas, recreational areas and educational facilities. Whenever practical, bikeways proposed in new developments shall connect with the planned bikeways in the Whatcom County Trails Plan.

1.03.4 Whatcom County shall encourage the use of noise buffers and visual screens between future residential areas and high volume transportation routes such as Guide Meridian, Pole road, Badger Road, Birch Bay-Lynden Road and Hannegan Road.

1.03.5 Whatcom County intends to minimize the amount of impervious surfaces including streets, driveways, sidewalks, etc., whenever possible, by using "natural" engineering design methods such as the use of open, shallow, grassed street swales instead of curbs and gutters. In addition, Whatcom County shall encourage the use of surfacing options such as porous asphalt pavement, pre-cast interlocking blocks and rolled brick or cinder chips that reduce total surface runoff, slow concentration and capture particulates.

1.03.6 Whatcom County shall encourage the construction of new roads contiguous to existing development. Such phased road construction is intended to discourage the occurrence of "leap frog" development.

1.04 It is the policy of Whatcom County to use the following criteria to implement a safe and economic transportation system as indicated on the road classification plan designated on the Lynden-Nooksack Valley Subarea Roadway Classification Map, and to amend the Roadway Classification Map as necessary.

1.04.1 Whatcom County shall identify the need for and the approximate location of new principal and minor arterial routes in the Lynden-Nooksack Valley Subarea and shall program the construction of these routes in Whatcom County's Capital Improvement Program.

1.04.2 Whatcom County shall encourage a parallel road system around Lynden to decrease through traffic in congested areas, pursuant to GENERAL COMMERCIAL policy 4.04.2 and LIGHT INDUSTRIAL PARK policy 6.04.1.

1.04.3 Following endorsement by the Washington State Department of Transportation, The Guide Meridian Improvement Plan, Title 22, is intended to be applied to designated GENERAL COMMERCIAL, RESORT COMMERCIAL, LIGHT INDUSTRIAL PARK, and GENERAL MANUFACTURING areas adjoining the Guide Meridian.

1.04.4 Where The Guide Meridian Improvement Plan, Title 22, doesn't apply on the Guide Meridian Corridor, a 100 foot right-of-way shall be set aside.
1.04.5 Whatcom County intends to enforce clear vision standards at intersections in accordance with the Whatcom County Development Standards and Title 20 standards; specifically to reduce the accident potential at the intersection of East Pole Road and the Everson-Coshen Road.

1.04.6 Whatcom County has classified "H" Street Road between Sunrise Road and the Guide Meridian as a minor collector. All maintenance, signage and improvements should be designed to discourage the use of "H" Street Road as a truck route.

1.04.7 Through the land development approval process, Whatcom County shall improve the operational efficiency of the intersections along Guide Meridian. The intent of this policy is to reduce the number of automobile accidents occurring at intersections by improving access and reducing uncontrolled turning movements. Appropriate design criteria shall be applied consistent with the functional classification of the Guide Meridian and other applicable design criteria as provided in the Whatcom County Development Standards.

1.04.8 Whatcom County shall encourage the use of shared access roads from commercial, industrial and residential developments to limit intersections with arterials.

1.04.9 Through the development approval process, Whatcom County shall identify the short and long-range traffic impacts to subarea roads. The estimated number of vehicle trips generated by a project shall be compared with the planned level of service for each road segment and intersection in accordance with Whatcom County Engineering Department design standards and specifications. If it is determined that a proposed development will cause traffic impacts that will result in a level of service below that planned for all affected road classifications, Whatcom County shall request the developer to make the necessary improvements to maintain the pre-planned level of service or to make an equivalent cash contribution to Whatcom County.
COMMUNITY FACILITIES AND UTILITIES

Intent Statement

The implementation of land use designation is closely related to the provision of community facilities and utilities. In addition, the responsible application of various land use designations is affected by existing and projected service levels during the planning period. Thus, the underlying intent of the policies is to assure a beneficial balance between the demand and supply for community facilities and utilities, and to assure predictability during the development of planned land uses. The following policies address issues related to the provision of water, wastewater disposal, education, recreation, stormwater drainage, fire protection and law enforcement.

Policy Statements

1.01 It is the policy of Whatcom County to encourage cooperation among municipalities, special districts, water associations and other groups in the planning and provision of public services.

1.01.1 It is the policy of Whatcom County to work with Fire Districts One, Three, Four and Fourteen, as well as with the cities of Lynden, Everson, Nooksack and Sumas, to assure an adequate level of fire protection and emergency services for planned land uses.

1.01.2 It is the policy of Whatcom County to cooperate with and provide information to school districts that are located in the subarea to assist in determining facility siting and space requirements, commensurate with planned land use and densities.

1.01.3 Whatcom County shall assure that necessary staff and equipment are available to the Sheriff's Department to provide law enforcement, commensurate with anticipated population levels.

1.01.4 Whatcom County encourages the continued cooperation between the County Engineer, Soil Conservation Service and drainage improvement districts to provide positive drainage in designated RURAL and AGRICULTURE areas.

1.02 The following policies are established to guide the inter-relationship between land uses and water associations.

1.02.1 It is the policy of Whatcom County to cooperate and exchange information with water associations relative to land use designations, residential densities and anticipated service levels, with the intent of assuring adequate levels of potable water and fire flow for planned land uses.

1.02.2 Whatcom County shall discourage the formation of additional water associations; and instead shall encourage the consolidation or enlargement of water associations, or the formation of water districts, as preferable methods of providing domestic and irrigation water.
1.02.3 The provision of water in designated RESIDENTIAL RURAL, RURAL and AGRICULTURE areas shall be consistent with the comprehensive sewer and water plan now under development.

1.02.4 The presence or expansion of water associations shall not be used as the basis for growth inducement and increased densities in RESIDENTIAL RURAL, RURAL and AGRICULTURE areas. In addition, it is the policy of Whatcom County to recognize only those areas with concentrations of parcels of less than one acre in size that are provided with domestic water from Class I water associations as appropriate for application of the RESIDENTIAL RURAL designation. Class I water associations are those that have 100 or more services as defined in WAC 248-54-560(1).

1.03 The following policies are established to guide the provision of potable water and wastewater disposal for the designated URBAN RESERVE, URBAN RESERVE MEDIUM DENSITY, GENERAL COMMERCIAL and LIGHT INDUSTRIAL PARK areas that adjoin Lynden.

1.03.1 The City of Lynden is recognized as the intended purveyor of sewer and water to the aforementioned areas.

1.03.2 When services are provided outside of municipal boundaries, utility local improvement districts (ULID's) shall be contiguous to existing development, shall not result in "leap frog" development patterns, and shall be of the size and configuration to facilitate cost effective and efficient development.

1.03.3 When services are provided through annexation, the size and configuration of the proposed annexation area shall facilitate cost effective and efficient extensions of utility lines.

1.03.4 On-site wastewater disposal systems and water association or private wells may be used in GENERAL COMMERCIAL and LIGHT INDUSTRIAL PARK areas in the interim until public sewer and water become available; provided there is a commensurate reduction in the usage of each parcel.

1.04 The following policies establish appropriate service levels for other parts of the subarea.

1.04.1 The City of Sumas is recognized as the intended purveyor of potable water for the planned RESIDENTIAL RURAL area situated to the west of the city. Kok Road Water Association that obtains water from the City of Lynden is recognized as the purveyor of potable water for the RESIDENTIAL RURAL area situated west of Lynden. Wastewater disposal for both areas is intended to be accomplished through individual on-site systems.

1.04.2 Other designated RESIDENTIAL RURAL areas shall obtain water from Pole Road Water Association, a Class I purveyor, and shall provide for wastewater disposal through individual on-site methods.
1.04.3 Individual on-site wastewater disposal systems, wells and water associations are the intended levels of service for areas that are designated RURAL, AGRICULTURE, FORESTRY, NEIGHBORHOOD COMMERCIAL, TOURIST COMMERCIAL and PUBLIC.

1.05 On-site stormwater collection and retention facilities may be required for designated URBAN RESERVE, URBAN RESERVE MEDIUM DENSITY, GENERAL COMMERCIAL, LIGHT INDUSTRIAL PARK and RESIDENTIAL RURAL areas. Subsequent to adoption of the regional stormwater management plan, stormwater drainage shall be modified, as necessary, to be consistent with the plan.

1.06 Whatcom County recognizes the value of retaining wetlands including swamps, bogs, marshes and ponds as natural catchment basins for runoff generated in all comprehensive plan designations of the subarea. Runoff during development shall be controlled, consistent with Whatcom County Development Standards.

1.07 Whatcom County encourages the formulation of appropriate diking and flood control methods to minimize potential damage associated with flooding.

1.08 Whatcom County recognizes Puget Sound Power and Light as the primary electrical energy purveyor in the subarea. However, use of alternative energy systems including passive and active solar space and water heating, small scale hydroelectric, and wind power is encouraged.
PHYSICAL CONSTRAINT AND NATURAL RESOURCE POLICIES

Intent Statement

Natural conditions can facilitate various land uses and promote economic opportunities; however, natural conditions also can cause increased expenditure during development or threaten human lives and property. The underlying intent of the policies is to promote the well-reasoned use of renewable and nonrenewable resources with attendant immediate and long-term benefits to the county’s economy, to promote identification of physical constraints, and to formulate appropriate management techniques. In addition, the policies intend to conserve certain wildlife habitats in recognition of their irreplaceable character, and to maintain or enhance present water, air and noise quality.

Policy Statements

1.01 To minimize potential impacts to human life and property, and to maximize the use of Prime Farmland soils, the following policies are established for 100-year floodplains.

1.01.1 Agriculture is the preferred use of 100-year floodplains.

1.01.2 Certain areas located in 100-year floodway fringes are designated RURAL. The clustering option is encouraged for new residential subdivisions, building sites are encouraged to be sited outside of floodway fringes and use of floodway fringes as "reserve tracts" is encouraged.

1.01.3 Several parcels exist within 100-year floodplains that are of insufficient size to be used for customary forms of agriculture. When possible, such parcels are encouraged to be consolidated into larger parcels that are suitable for agricultural operations. If used for residential, commercial or industrial purposes, such parcels are encouraged to incorporate flood proofing and flood protection measures into structural design, consistent with Federal and Washington State Department of Ecology regulations.

1.01.4 Future requests for amendments to the comprehensive plan and zoning ordinance that would result in increased residential densities in 100-year floodplains will be discouraged.

1.02 Extreme localized rainfall combined with existing slope gradients, soil characteristics, surficial geologic units and land uses, create the potential for debris flows on several subarea creeks including Saar, Breckenridge, Swift, Smith, McCauley, Mitchell and Anderson creeks. The following policies are intended to minimize potential hazards to human life, property and investments.

1.02.1 Whatcom County shall encourage studies to determine the potential extent of debris flows from the above mentioned streams. Property owners of parcels located in the headwaters and downstream portions of the streams are encouraged to cooperate with Whatcom County in the formulation of policies and regulations that will minimize potential damage in debris flow prone areas.
1.02.2 Until future studies provide specific delineation of areas prone to debris flows, new residential structures shall be discouraged from being sited on alluvial fans associated with the above mentioned streams.

1.02.3 Whatcom County shall support very low density and low intensity uses in areas that may be subject to debris flows. Appropriate density should be no greater than one dwelling unit per five acres.

1.02.4 Retention of stream bank vegetation is encouraged in order to maximize moisture holding capacity and debris catchment potential.

1.02.5 Whatcom County endorses the efforts of property owners of parcels in the headwaters of the above mentioned streams to self-monitor stream channel debris and take appropriate action, including debris removal, as necessary.

1.02.6 In recognition of the potential for instability and erosion in the Swift Creek drainage basin, the Department of Natural Resources is encouraged to manage state lands for open space. In addition, Whatcom County encourages the continued efforts of the Soil Conservation Service and the local diking district to maintain stream channel carrying capacity in the down stream portions of Swift Creek.

1.03 Whatcom County encourages the use of slopes in excess of 15% that are associated with the foothills of or are situated on Vedder, Sumas and Stewart mountains for use as open space, very low density residential development, woodlots and commercial forestry.

1.03.1 If residential structures are placed in such areas, Whatcom County encourages structural placement on localized terraces and benches of lesser slope.

1.03.2 Buildings that are proposed to be sited on slopes in excess of 15% or on unstable slopes shall be constructed consistent with the regulations of the Uniform Building Code and a site safety confirmation prepared by a qualified geologic engineer, structural engineer or geologist will be required.

1.03.3 In recognition of the substantial portion of the subarea with slopes of less than 15%, Whatcom County encourages the development of such areas for residential and rural purposes instead of areas with slopes in excess of 15%.

1.03.4 Whatcom County encourages the use of construction techniques for logging, county and recreational roads that will be located on unstable or steep slopes to minimize subsequent earth movements, erosion and water impoundments.

1.03.5 It is the policy of Whatcom County to develop unstable slope regulations that will be included in the Title 20 Zoning Ordinance.
1.04 To conserve surface water quality that is suitable for domestic consumption, irrigation, livestock watering and instream resources, and to minimize associated bank erosion and soil loss, the following policies are provided. Applicable water bodies include subarea creeks, rivers, ditches and lakes.

1.04.1 Residential and rural developments shall establish green belts extending at least thirty feet from the vegetation lines of subarea streams or of a distance that is consistent with the Shoreline Management Program, whichever is greater.

1.04.2 Stream greenbelts are encouraged to be incorporated into subdivision design as common open space.

1.04.3 To foster and enhance existing salmon spawning, rearing and migration, and steelhead and sea run cutthroat spawning, stream bank disturbance to subarea streams and rivers is discouraged.

1.05 The major area of groundwater resources in Whatcom County is situated in the Lynden-Nooksack Valley Subarea. Until such time that specific studies have been prepared, potential high and moderate yield aquifers shall be determined to be consistent with the areas established in Environmental Geology of Western Whatcom County by Easterbrook. To continue to assure present and future groundwater quality that is suitable for a variety of beneficial uses, the following policies are established.

1.05.1 Whatcom County encourages federal, state and local agencies to conduct studies to define the extent of county aquifers, aquifer recharge areas and aquifer flow characteristics.

1.05.2 Whatcom County encourages low intensity and density uses for areas overlying potential high and moderate yield aquifers.

1.05.3 Solid waste and hazardous waste storage facilities are discouraged in areas overlying potential high and moderate yield aquifers. Whatcom County shall promote the formulation of local regulations that will prohibit new siting of such facilities in aquifer areas. In addition, Whatcom County encourages federal, state and local assistance to abate and remove existing solid waste and hazardous waste storage in aquifer areas when found to be degrading water quality.

1.05.4 Sand and gravel extraction in areas overlying potential high and moderate yield aquifers should not extend to depths that expose the regional groundwater table. In addition, reclamation shall be conducted with materials that if leached to aquifers will not cause water quality degradation.

1.05.5 The northwestern portion of the subarea is located within Blaine's groundwater supply interest area. In designated RURAL and AGRICULTURE areas, uses that may adversely affect Blaine's municipal water supply shall be discouraged.

1.05.6 Whatcom County Public Works Department is encouraged to explore cost effective alternatives to herbicide control for roadside
vegetation in areas overlying potential high and moderate yield aquifers.

1.05.7 It is the policy of Whatcom County to participate in and cooperate with various county departments and the State of Washington in the formulation of local regulations that will assure continued groundwater quality.

1.06 To conserve soils classified by the Soil Conservation Service as Prime Farmland, the following policies are provided.

1.06.1 AGRICULTURE is the preferred comprehensive plan designation for Prime Farmland soil areas and RURAL is the designation of second choice for such areas.

1.06.2 Whatcom County encourages agricultural operators to use soil conservation techniques by taking advantage of information and assistance available through the Soil Conservation Service.

1.07 To conserve the renewable resource base associated with mountainous portions of the subarea, the following policies are established.

1.07.1 Forestry and associated activities are the preferred uses in the mountainous portions of the subarea.

1.07.2 Designated FORESTRY areas shall be discouraged from conversion to other uses that might preclude continued forest management.

1.07.3 Public land trusts in cooperation with property owners are encouraged to acquire conservation easements in forested areas with the intent of maintaining renewable resources.

1.08 Portions of the Lynden–Nooksack Valley Subarea contain known sand, gravel and coal deposits. It is the policy of Whatcom County to foster low residential densities in such areas with the intent of facilitating access. Surface extraction of sand and gravel, and attendant processing shall be consistent with local land use regulations and state requirements. Subsurface extraction shall be conducted consistent with federal regulations.

1.09 It is the policy of Whatcom County to encourage the maintenance of air quality consistent with the Federal Clean Air Act, as administered by the Northwest Air Pollution Authority and other agencies. In addition, Whatcom County encourages the Northwest Air Pollution Authority to consider the effects on customary agricultural operations and the economic vitality of agriculture, when processing odor complaints originating from residents not involved with agriculture.

1.10 Whatcom County encourages the provision of an undisturbed 300-foot radius, consistent with State Department of Game guidelines, around the Great Blue Heron rookery located near the northwest quadrant of the intersection of Markworth and "H" Street roads.

1.11 Retention of the beaver ponds situated in the northwest portion of the subarea, as illustrated on the Environmental Constraints and Resources Map,
is encouraged during the development of future residential and rural land uses.

1.12 Whatcom County supports the acquisition of conservation easements by public land trusts, consistent with the intents of property owners, of parcels providing terrestrial, avian and aquatic wildlife habitats. In addition, Whatcom County encourages property owners of lands containing wildlife habitats to take advantage of current use tax assessment provisions contained in the Open Space Taxation Act (RCW 84.34).

1.13 The acquisition of conservation easements by public land trusts, consistent with the intentions of the affected property owner, is supported as a means of protecting scenic corridors and implementing the "Assessment Procedures for Countryside Landscapes" developed in 1984 with the assistance of the Soil Conservation Service.
ECONOMIC POLICIES

Intent Statement

The intent of this section is to assure that economic values are considered along with other goals and values, in a manner that will satisfy the economic requirements of present and future generations of Whatcom County citizens. Thus, the underlying intent of this section is to provide guidelines for evaluating existing resources and future development proposals of various types to establish a balance between social expectations, environmental opportunities and constraints, and economic alternatives.

Policy Statements

1.01 It is the policy of Whatcom County to productively manage economic resources including human resources, capital investments and natural resources with consideration for immediate and long-term economic benefits to residents and investors in the county.

1.02 Whatcom County shall encourage cooperation among state agencies, municipalities, economic development groups and private land owners to enhance economic resources and local development.

1.03 Owners of agricultural and forest lands are encouraged to conserve the economic base associated with the major productive natural resources in the county, by using the current use tax assessment provisions of the Open Space Taxation Act including RCW 84.28, RCW 84.33 and RCW 84.34.

1.04 It is the policy of Whatcom County to consider all impacts, including economic, related to adoption of the comprehensive Land Use Plan and attendant implementation tools.

1.05 To assist development and investment in Whatcom County, Whatcom County Planning Department shall make available to potential investors and developers information that is formulated during the subarea planning process that may be useful to augment private sector decision making.

1.06 To promote economic stability and protect existing investments in the Lynden-Nooksack Valley Subarea, those existing uses that are not permitted outright or by condition in specific implementing zones shall be classified as legal nonconforming uses.

1.07 It is the policy of Whatcom County to strengthen and stabilize the tax base through fostering economic development.

1.08 It is the policy of Whatcom County to support the formulation of a public benefit rating system for evaluation of property that is being considered for current use tax assessment through the provisions of the Open Space Taxation Act (RCW 84.34). Granting of current use tax assessment status should be based on the determination that the public benefit derived from maintaining the parcel in its present use is greater than the loss or deferral of revenue to the county. In addition, Whatcom County supports review of parcels presently enrolled in current use tax assessment programs to assure that the intent of state enabling legislation is being served; and if not, the parcels should be considered for removal from the programs.
VII. COMPREHENSIVE PLAN AMENDMENTS

The Lynden-Nooksack Valley Subarea Comprehensive Land Use Plan is a policy document that will guide land use decisions affecting both the private and public sectors. For the comprehensive plan to function effectively, it must be flexible enough to respond to changes in social expectations, technology, the economy and legislative policy.

Two types of plan amendments are envisioned. The first type is a review conducted every five years that is initiated by the Planning Commission. The review should re-examine the plan, re-evaluate the Whatcom County Goal Statements, update land use elements, and reaffirm or amend comprehensive plan policies and boundaries, as necessary. This review is the responsibility of the Whatcom County Planning Commission, Planning Department staff and subarea citizens.

The second type of amendment is initiated by individuals or groups from the private sector. Land uses that are designated on the Comprehensive Plan Map are the result of applying the Whatcom County Goal Statements and subarea policies. The private sector may propose plan policy or map amendments. Such proposals, submitted as an amendment application or by petition with an application, shall be processed consistent with statutory requirements of the Planning Enabling Act, RCW 36.70 and with the following Amendment Criteria.

The Planning Commission shall make the following findings before adopting any amendments to the Comprehensive Plan Map or policies, whether initiated by the public or private sector. The amendment:

1. Is based on changed conditions; or
2. Corrects a previously unknown informational error; and
3. Is consistent with the adopted Whatcom County Goal Statements; and
4. Fulfills a need benefitting the general public health, safety and welfare, consistent with the policies and intents of this document, rather than individual pecuniary interests; and
5. Is not arbitrary and capricious; and
6. Is consistent with existing and planned surrounding land uses; and
7. Will not result in unmitigated adverse impacts to existing or planned transportation networks, or existing or planned utility servicing.
WHATCOM COUNTY
PLANNING COMMISSION

Repeal the 1986 Lynden-Nooksack Valley Subarea Plan and
Amend Provisions in the Whatcom County Comprehensive Plan
relating to Subarea Plans

FINDINGS OF FACT AND REASONS FOR ACTION

1. The subject proposal includes:
   a. Amending Whatcom County Comprehensive Plan provisions relating to
      subarea plans.
   b. Repealing the Lynden-Nooksack Valley Subarea Plan (1986).

2. A determination of non-significance (DNS) was issued under the State
   Environmental Policy Act (SEPA) on April 5, 2013.

3. Notice of the Planning Commission hearing was posted on the County website
   on April 9, 2013.

4. Notice of the Planning Commission hearing and that the proposal had been
   posted on the County website was sent to the Cities of Lynden, Everson,
   Nooksack and Sumas and citizen, media and other groups on the County’s e-
   mail list on April 10, 2013.

5. Notice of the subject amendments was submitted to the Washington State
   Department of Commerce on April 18, 2013.

6. Notice of the Planning Commission hearing for the subject amendments was
   published in the Bellingham Herald on April 26, 2013.

7. The Planning Commission held a public hearing on the subject amendments
   on May 9, 2013.

8. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive
   plan amendments the County must find all of the following:
   a. 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.
b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.

c. 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:

i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

ii. The anticipated effect on 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.

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

d. The amendment does not include or facilitate spot zoning.

e. Urban growth area amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.

**Growth Management Act**

9. The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080 ("Comprehensive plans – Optional elements").

10. However, the GMA requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

11. The Lynden-Nooksack Valley Subarea Plan was adopted in 1986, prior to enactment of the GMA in 1990. The Whatcom County Comprehensive Plan was adopted in 1997 and subsequently amended from time to time. The Subarea Plan is inconsistent with the Whatcom County Comprehensive Plan. Specifically, the Subarea Plan does not address urban growth areas (UGAs), contains different land use designations, is inconsistent with the Comprehensive Plan’s rural element, and has a different planning period.
County-Wide Planning Policies

12. The County-Wide Planning Policies do not require the County to retain old subarea plans.

Interlocal Agreements

13. The Lynden, Everson, Nooksack and Sumas UGAs are included in the Lynden-Nooksack Valley Subarea.

14. Interlocal agreements between these cities Whatcom County concerning Planning, Annexation and Development within the UGAs were signed in 2012. These interlocal agreements do not require the County to retain this subarea plan.

Further Studies/Changed Conditions

15. The Lynden-Nooksack Valley Subarea Plan was adopted in 1986.

16. The GMA, adopted in 1990, included a requirement to designate UGAs. The 1986 Lynden-Nooksack Valley Subarea Plan does not address UGAs.

17. The GMA was amended in 1997 to include criteria for limited areas of more intensive rural development (LAMIRDs). The 1986 Lynden-Nooksack Valley Subarea Plan does not address LAMIRDs.

18. The Whatcom County Comprehensive Plan was originally adopted in 1997, and subsequently amended. The 1986 Lynden-Nooksack Valley Subarea Plan is not consistent with the County Comprehensive Plan.


20. The cities of Lynden, Everson, Nooksack, and Sumas adopted and/or updated their comprehensive Plans after adoption of the Subarea Plan.

21. Changed conditions including enactment of the GMA, adoption of newer plans and the passage of time warrant repealing the 1986 Lynden-Nooksack Valley Subarea Plan.

Public Interest

22. Repealing the 1986 Lynden-Nooksack Valley Subarea Plan will serve the public interest by removing a plan that is inconsistent with the Whatcom County Comprehensive Plan.
Spot Zoning

23. The subject proposal does not involve rezoning property.

CONCLUSION

The subject proposal is consistent with the approval criteria of WCC 2.160.080.

RECOMMENDATION

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends the following:

1. Approval of Exhibit A, amendments to Whatcom County Comprehensive Plan Chapter 2 (Land Use).

2. Repealing Exhibit B, the Lynden-Nooksack Valley Subarea Plan (1986).

WHATCOM COUNTY PLANNING COMMISSION

Michelle Luke, Chair

Sam Ryan, Secretary

May 21, 2013

Commissioners present at the May 9, 2013 meeting when the vote was taken: Ken Bell, Ben Elenbaas, Michelle Luke, David Onkels, Jeff Rainey, Mary Beth Teigrob, and Gerald Vekved.

Vote: Ayes: 7, Nays: 0, Abstain: 0, Absent: 2. Motion carried to adopt the above amendments.
NOTE:

Exhibits A and B are attached to the proposed Ordinance that will be considered by the County Council in order to avoid redundancy.
Regular Meeting

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

Roll Call
Present: Michelle Luke, Ben Elenbaas, Jerry Vekved, David Onkels, Jeff Rainey, Mary Beth Teigrob, Ken Bell
Absent: Gary Honcoop, Rod Erickson

Staff Present: Mark Personius, Matt Aamot, Becky Boxx

Department Update

Mark Personius gave the following updates:

- A Short Course on Local Planning will be presented by the City of Bellingham on May 21st.
- There will be a Water Supply Symposium May 30th & 31st sponsored by the WRIA I board.
- The Compliance order schedule: The Planning Commission/Staff proposals were submitted to the Council for introduction on May 7th. There will be a public hearing on May 21st, followed by Council meetings on June 4th and 18th.
- The Commission’s next meeting will be a public hearing on capital improvement projects.
- PDS has been conducting interviews for a new Planner. A decision should be made next week.

Open Session for Public Comment

There was no public comment.

Commissioner Comments

There were no Commissioner comments.

Public Hearings

File # PLN2013-00005: Repealing the Birch Bay-Blaine Subarea Plan, which was adopted in 1987. The proposal would also amend related provisions in the Whatcom County Comprehensive Plan.

Matt Aamot gave a power point presentation which highlighted the following: The GMA says counties can adopt subarea plans but they must be consistent with the County Comprehensive Plan.

The Birch Bay-Blaine Subarea Plan was first adopted in 1977. At that time the plan had a land use map which had resort and higher density designations in the core of bay, within what is now the Urban Growth Area (UGA). The predominante designation in the outlying areas was suburban. The plan also included a promenade area along the shoreline. A new subarea plan was adopted in 1987. This plan covered a larger area than the 1977 plan.
and preserved the promenade area. In 2004 the Birch Bay Community Plan was created and included the UGA boundary and had the promenade and berm included. There are a number of inconsistencies between the 1987 subarea plan and the Comprehensive Plan, which includes population projections, the planning horizon and different land use designations. Staff finds that the subarea plan served its purpose, it is outdated, inconsistent with GMA and inconsistent with the Comprehensive Plan so they recommended it be repealed.

The hearing was opened to the public. There was no public testimony. The hearing was closed to the public.

Commissioner Onkels moved recommend repeal of the plan. Commissioner Teigrob seconded. After discussion the Commission felt the motion should be worded differently so they voted down the motion.

Commissioner Bell suggested adding a new finding to state: Repeal of the Plan eliminates redundancy and ambiguity. The Commission agreed to add the finding.

Commissioner Onkels moved to recommend approval of Exhibit A which amends the Whatcom County Comprehensive Plan, approval of Exhibit B which repeals the Plan and the findings as amended. Commissioner Teigrob seconded. Roll Call Vote: Ayes – Bell, Elenbaas, Luke, Onkels, Rainey, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent – Erickson, Honcoop. The motion carried.

File # PLN2013-00006: Repealing the Chuckanut-Lake Samish Subarea Plan, which was adopted in 1986. The proposal would also amend related provisions in the Whatcom County Comprehensive Plan.

Matt Aamot gave a power point presentation which highlighted the following: The Chuckanut-Lake Samish Subarea Plan was adopted in 1986. It includes the Yew Street, Lake Samish and Chuckanut areas. It summarizes citizen input that was received in the 1980s. The Yew Street residents were in favor of rural residential land use patterns. For the Lake Samish area residents were concerned about traffic, water quality, and water source. In the Chuckanut area the residents were concerned with residential development being compatible with scenic qualities and beach access. Staff findings indicate the plan served its purpose, it is outdated, inconsistent with GMA and inconsistent with the Comprehensive Plan so they recommended it be repealed.

The hearing was opened to the public. There was no public testimony. The hearing was closed to the public.

Commissioner Teigrob moved to recommend approval of Exhibit A which amends the Whatcom County Comprehensive Plan, approval of Exhibit B which repeals the Plan and the findings as amended. Commissioner Onkels seconded. Roll Call Vote: Ayes – Bell, Elenbaas, Luke, Onkels, Rainey, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent – Erickson, Honcoop. The motion carried.
File # PLN2013-00007: Repealing the Lynden-Nooksack Valley Subarea Plan, which was adopted in 1986. The proposal would also amend related provisions in the Whatcom County Comprehensive Plan.

Matt Aamot gave a power point presentation which highlighted the following: The plan was adopted in 1986. The subarea covers a large area which contains large areas of agriculture. Staff compared the agricultural policies in the subarea plan to the Comprehensive Plan agricultural policies and concluded there may be some things that could be transferred over to the Comprehensive Plan in the 2016 update. The Agricultural Advisory Committee may review these policies over the next few years. There are four small cities in the subarea; Lynden, Everson, Nooksack and Sumas. PDS is working with officials from these cities regarding the 2016 update. Staff findings indicate the plan served its purpose, it is outdated, inconsistent with GMA and inconsistent with the Comprehensive Plan so they recommended it be repealed.

The hearing was opened to the public. There was no public testimony. The hearing was closed to the public.

Commissioner Onkels moved to recommend approval of Exhibit A which amends the Whatcom County Comprehensive Plan, approval of Exhibit B which repeals the plan and the findings as amended. Commissioner Teigrob seconded. Roll Call Vote: Ayes – Bell, Elenbaas, Luke, Onkels, Rainey, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent – Erickson, Honcoo. The motion carried.

The meeting was adjourned at 7:25 p.m.

Minutes prepared by B. Boxx.

WHATCOM COUNTY PLANNING COMMISSION ATTEST:

Michelle Luke, Chair

J.E. "Sam" Ryan, Secretary
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

<table>
<thead>
<tr>
<th>Originator:</th>
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<tr>
<td>Matt Aamot</td>
<td>M.A.</td>
<td>5/23/2013</td>
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| Division Head:  |  |  |  |
|-----------------|  |  |  |
| Mark Personius  |  |  |  |

| Dept. Head:  |  |  |  |
|---------------|  |  |  |
| Sam Ryan      |  |  |  |

| Prosecutor:  |  |  |  |
|--------------|  |  |  |
| Royce Buckingham |  |  |  |

| Purchasing/Budget:  |  |  |  |
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| Executive:  |  |  |  |
|------------|  |  |  |
| Jack Levens |  |  |  |

TITLE OF DOCUMENT:
Repeal the Birch Bay-Blaine Subarea Plan and amend provisions in the Whatcom County Comprehensive Plan relating to subarea plans.

ATTACHMENTS:
1. Staff Memo
2. Proposed Ordinance and Exhibits
3. Planning Commission Findings of Fact and Reasons for Action
4. Planning Commission minutes
5. Public Comment

Other background information is on file at the Council office.

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.)

Repeal the Birch Bay-Blaine Subarea Plan and amend provisions in the Whatcom County Comprehensive Plan relating to subarea plans. The Birch Bay-Blaine Subarea Plan was adopted in 1987, prior to enactment of the Growth Management Act GMA in 1990.

NOTE: Final approval of these amendments would occur as part of concurrent review of comprehensive plan amendments in early 2014.

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.

492
May 23, 2013

To: Jack Louws, The Honorable Whatcom County Executive  
The Honorable Whatcom County Council

From: Matt Aamot, Senior Planner

Through: Mark Personius, Long Range Planning Division Manager

RE: Repeal the Birch Bay-Blaine Subarea Plan and Related Amendments

The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080. However, the GMA also requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

Most of the comprehensive land use plan designations in the 1987 Birch Bay-Blaine Subarea Plan are not the same as the designations utilized in the current Whatcom County Comprehensive Plan. Additionally, the requirement to designate urban growth areas was not enacted until after the Subarea Plan was adopted. The Subarea Plan has “Urban Reserve” designations, but they do not match the current UGA designations. The GMA’s rural element requirements did not exist when the Subarea Plan was adopted. Finally, the Subarea Plan utilized a 15-year planning period (which ended in 2002). Therefore, we recommend repealing the Subarea Plan and amending provisions in the Whatcom County Comprehensive Plan relating to subarea plans.

Planning & Development Services is requesting Council consideration of these amendments on July 9. However, the proposed Comprehensive Plan amendments are subject to concurrent review. Therefore, the Council would not render a final decision on the proposal until early 2014.

Thank you for your consideration of this matter.
ORDINANCE NO. ____________

REPEALING THE 1987 BIRCH BAY-BLAINE SUBAREA PLAN
AND AMENDING PROVISIONS IN THE WHATCOM COUNTY
COMPREHENSIVE PLAN RELATING TO SUBAREA PLANS

WHEREAS, The Whatcom County Council initiated the subject amendments for review in 2013; and

WHEREAS, The Whatcom County Planning Commission held a public hearing on May 9, 2013; and

WHEREAS, The Whatcom County Planning Commission recommended the comprehensive plan amendments on May 9, 2013; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The subject proposal includes:
   a. Amending Whatcom County Comprehensive Plan provisions relating to subarea plans.

2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on April 5, 2013.

3. Notice of the Planning Commission hearing was posted on the County website on April 9, 2013.

4. Notice of the Planning Commission hearing and that the proposal had been posted on the County website was sent to the City of Blaine and citizen, media and other groups on the County’s e-mail list on April 10, 2013.

5. Notice of the subject amendments was submitted to the Washington State Department of Commerce on April 18, 2013.
6. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on April 26, 2013.

7. The Planning Commission held a public hearing on the subject amendments on May 9, 2013.

8. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive plan amendments the County must find all of the following:

   a. 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.

   b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.

   c. 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:

      i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

      ii. The anticipated effect on 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.

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

   d. The amendment does not include or facilitate spot zoning.

   e. Urban growth area amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.

**Growth Management Act**

9. The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080 (“Comprehensive plans – Optional elements”).
10. However, the GMA requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

11. The Birch Bay-Blaine Subarea Plan was adopted in 1987, prior to enactment of the GMA in 1990. The Whatcom County Comprehensive Plan was adopted in 1997 and subsequently amended from time to time. The Subarea Plan is inconsistent with the Whatcom County Comprehensive Plan. Specifically, the Subarea Plan does not address urban growth areas (UGAs), contains different land use designations, is inconsistent with the Comprehensive Plan’s rural element, and has a different planning period.

County-Wide Planning Policies

12. The County-Wide Planning Policies do not require the County to retain old subarea plans.

Interlocal Agreements

13. Blaine is the only city within the Birch Bay-Blaine Subarea.

14. An interlocal agreement between the City of Blaine and Whatcom County concerning Planning, Annexation and Development within the Blaine UGA was signed in May 2012. This interlocal agreement does not require the County to retain the subarea plan.

Further Studies/Changed Conditions

15. The Birch Bay-Blaine Subarea Plan was adopted in 1987.

16. The GMA, adopted in 1990, included a requirement to designate UGAs. The 1987 Birch Bay-Blaine Subarea Plan does not address UGAs.

17. The GMA was amended in 1997 to include criteria for limited areas of more intensive rural development (LAMIRDs). The 1987 Birch Bay-Blaine Subarea Plan does not address LAMIRDs.

18. The Whatcom County Comprehensive Plan was originally adopted in 1997, and subsequently amended. The 1987 Birch Bay-Blaine Subarea Plan is not consistent with the County Comprehensive Plan.


20. The Birch Bay Community Plan was adopted in 2004.

21. The City of Blaine Comprehensive Plan was adopted in 2006 and subsequently amended.
22. Changed conditions including enactment of the GMA, adoption of newer plans and the passage of time warrant repealing the 1987 Birch Bay-Blaine Subarea Plan.

Public Interest

23. Repealing the 1987 Birch Bay-Blaine Subarea Plan will serve the public interest by removing a plan that is inconsistent with the Whatcom County Comprehensive Plan.

24. Repeal of the Plan eliminates redundancy and ambiguity.

Spot Zoning

25. The subject proposal does not involve rezoning property.

CONCLUSIONS

The subject proposal is consistent with the approval criteria of WCC 2.160.080.
NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Whatcom County Comprehensive Plan Chapter 2 (Land Use) is hereby amended as shown on Exhibit A.

Section 2. The Birch Bay-Blaine Subarea Plan (1987) is hereby repealed as shown on Exhibit B.

Section 3. 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

Chairperson

APPROVED as to form:

Civil Deputy Prosecutor

( ) Approved ( ) Denied

Jack Louws, Executive

Date: ____________________
Exhibit A

Amend Chapter 2 of the Whatcom County Comprehensive Plan as follows:

Policy 2L-1: Use the subarea planning process, where appropriate, to identify and support distinctions among different areas of the county.

Policy 2L-2: Retain and periodically review/update the adopted Subarea Plans (Lummi Island, Cherry Point-Ferndale, Lake Whatcom, Urban Fringe, Lynden-Nooksack Valley, Chuckanut-Lake Samish, Birch Bay Community Plan, Birch-Bay-Blaine, Foothills, Point Roberts, South Fork Valley, and Eliza Island). Subarea Plans represent a long history of plan development in Whatcom County and provided the foundation for the county’s first Growth Management comprehensive plan adopted in 1997.

a. Utilize a process which ensures consistency between the Whatcom County Comprehensive Plan and subarea plans. The subarea plan review/update process should include the following steps:

1) Consistency Analysis. The County should review subarea plans based on the priority order in subsection “b” for gaps, overlaps, or inconsistencies. Topics include, but are not limited to, plan boundaries, growth forecasts, land uses, capital facilities and services, horizon year, and other appropriate issues.

2) Regional and Local Government Coordination. The County should consult and coordinate with cities where city-associated UGAs are included in subarea plan boundaries.

3) Public Participation. Each subarea plan update process will be based on a public participation program that addresses citizen input on the key issues associated with the subarea plan update.

4) Subarea Plan Amendment. Only those portions of existing subarea plans in conflict with the Comprehensive Plan are required to be amended. Local issues of concern or changed conditions may be addressed.

5) Comprehensive Plan Revisions. Where the subarea plan process recommends growth levels, growth boundaries, or other essential features, Comprehensive Plan amendments will be considered in conjunction with the subarea plan update.
process. Land capacity analysis may also be updated if appropriate.

b. Prioritize review update of subarea plans. Subarea plans should be reviewed updated in the following order.

1) Post-GMA Subarea Plans addressing UGAs. These subarea plans should be reviewed and amended, if necessary, during Whatcom County’s periodic review of the comprehensive plan. 7-Year Review scheduled for completion in 2011. Subarea plans addressing UGAs associated with a city should be coordinated with the city’s comprehensive plan update process.

2) Post-GMA Subarea Plans addressing Rural Areas. These subarea plans should subject to a consistency review. If significant inconsistencies are found, these should be considered for potential update during Whatcom County’s periodic review of the comprehensive plan. 7-Year Review scheduled for completion in 2011. Minor updates may be considered through the County’s docket process in subsequent years.

3) Pre-GMA Subarea Plans. These should be repealed or updated in accordance with County department work programs or the docketing process. Priority criteria may be used to determine the order of update. Example criteria include:

   a) whether update is needed for health, safety, or welfare concerns;
   b) whether there is a city-associated UGA included in the subarea plan boundaries – in which case, the subarea plan update could be timed to be developed in association with or following city comprehensive plan update process;
   c) whether the subarea plan would benefit from broader policy concepts to be completed in advance or in tandem, such as agricultural land protection measures;
   d) whether a significant policy objective would be met by amending the plan.

In the event there is an inconsistency between a Subarea Plan and the Whatcom County Comprehensive Plan, the Whatcom County Comprehensive Plan shall prevail.

NOTE: The text of Policy 2L-2 above is also being amended in association with the proposed repeal of the Chuckanut-Lake Samish Subarea Plan (file # 2013-00006) and the proposed repeal of the Lynden-Nooksack Valley Subarea Plan (file # 2013-00007). The changes to Policy 2L-2 proposed in the subject amendment are intended to be harmonious and compatible with the changes to Policy 2L-2 proposed in these other two amendments.
Amend the Comprehensive Plan Designation Descriptors text in Chapter 2 of the Whatcom County Comprehensive Plan as follows:

**Comprehensive Plan Designation Descriptors**

These descriptors are intended to be general in nature. More specific criteria and explanation may be incorporated into subarea plans.

Amend the Land Use Action Plan in Chapter 2 of the Whatcom County Comprehensive Plan as follows:

**Subarea Plans**

11. Revise county subarea plans, if appropriate, to incorporate urban growth area boundaries as identified in this plan, ensure consistency with this plan, and eliminate any redundancy in policy. Continue to implement existing subarea plan action items that are consistent with this plan.

13. Update the Blaine-Birch-Bay Subarea Plan to re-evaluate the amount and location of area designated as resort commercial and multiple-family, and the total amount of land dedicated to urban land use in light of available water and sewer supplies.

**Citizen Involvement**

1516. Establish Council appointed subarea citizens' committees to participate in the updating and review of subarea plans, if appropriate.
Exhibit B

(Repealing the Subarea Plan)
BIRCH BAY
BLAINE
SUBAREA

a component of the

Whatcom County
Comprehensive Land Use Plan

- Cherry Pt. - Ferndale Subarea
- Lake Whatcom Subarea
- Urban Fringe Subarea
- Lummi Island Subarea
- Chuckanut - Lake Samish Subarea
- Lynden - Nooksack Valley Subarea
- Birch Bay - Blaine Subarea
- Foothills Subarea
- South Fork Valley Subarea
- Pt. Roberts Subarea
BIRCH BAY-BLATNE SUBAREA
COMPREHENSIVE PLAN
November, 1987

Whatcom County Executive
Shirley Van Zanten

Whatcom County Council
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Whatcom County Planning Department
401 Grand Avenue
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(206) 676-6756
THE BIRCH BAY-BLAINE SUBAREA COMPREHENSIVE PLAN
A COMPONENT OF THE WHATCOM COUNTY COMPREHENSIVE PLAN

Adopted this 21st day of September, 1987,
by the Whatcom County Planning Commission.

[Signature]
David Simpson, Chairperson

[Signature]
Daniel W. Taylor, Secretary

Certified this 17th day of November, 1987,
by Whatcom County Council.

[Signature]
Tom Burton, Chairperson

Approved this 17th day of November, 1987,
by the Whatcom County Executive.

[Signature]
Shirley Van Zanten, Executive

Attest:
By: [Signature]
Clerk of the Council
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I. COMPREHENSIVE LAND USE PLANNING

A. STATUTORY AUTHORITY

Statutory authority for county comprehensive land use planning is established in the Washington State Planning Enabling Act, in which it is stated that "each planning agency shall prepare a comprehensive plan for the orderly physical development of the county or any portion thereof..." (RCW 36.70.320). The Birch Bay-Blaine Subarea Comprehensive Plan has been developed in response to statutory authority as well as in recognition of the widely accepted principle that future Whatcom County land use decisions should be made in a coordinated and responsible manner by both the public and private sectors.

B. DEFINITION AND APPLICATION

The Whatcom County Comprehensive Plan is defined as an official public document to be used by both the public and private sectors as a policy guideline for making orderly decisions concerning the future use of land in the County. The plan has been formulated by the Whatcom County Planning Commission and is comprehensive, general and long-range in nature. The plan is comprehensive in that it encompasses major geographic areas of the county and the functional elements that bear on physical development. The plan is general in that it summarizes major policies and proposals and is not, by statute, a detailed regulation. The plan is long-range in application because it addresses current issues, as well as anticipated problems and possibilities of the future.

The purpose of this document is to foster a responsible process of land use decision-making. The goals, policies and land use plan map contained herein serve to amend the 1977 Birch Bay Comprehensive Plan and the 1970 Whatcom County Comprehensive Plan for the geographic area defined as the Birch Bay-Blaine Subarea. The 1970 and 1977 plans served as a basic plan for the past 10-15 years, but as times change, people's attitudes, technologies and economies also change. Consequently, the primary decision-making document of local government must be revised to address current and anticipated issues of the future.

In consideration of the changes that have occurred in the areas subject to the 1970 Plan since the existing plan was adopted, the Planning Commission resolved in December, 1978, to revise and update the 1970 Comprehensive Plan. For the area covered under the 1977 Birch Bay plan, the major change needed is to use better tools to implement the 1977 plan objectives. That plan itself was developed through an extraordinary amount of time volunteered by citizens, and the general framework is excellent, although the implementing recommendations at the end of the plan regarding a creative approach to zoning regulation were not capable of being accomplished through the Interim Zoning Ordinance and the zone districts available in 1977. This plan supports the 1977 plan and uses it as a source document while acknowledging the change in zoning tools and the increased knowledge of the conditions in the area. It updates some of the population and other data in the 1977 plan, reflects the intent of the interim
zoning districts used in the 1977 plan with the addition of the county wide goals the County Council adopted in 1979 to guide the development and application of the permanent zoning ordinance, and implements the objectives in the 1977 plan through the permanent zoning ordinance, Title 20.

The Commission is also aware that changes will continue and realizes that the policies contained herein will be subject to modification and revision over a period of time. As is discussed in the following section, this subarea plan will be reviewed on a seven-year basis.

C. SUBAREA PLANNING CONCEPT

Because of the county's diverse physical and cultural composition, the Planning Commission elected to revise the plan on an individual geographic area basis. Thus, the Commission divided the western one-third of the county into ten logical geographic areas where the planning process could be applied in a uniform and consistent manner. Denoted as "subareas", these geographic areas were delineated to address various land use related issues that appeared to be unique to particular areas of the county.

The criteria used by the commission to delineate subarea boundaries include natural and physical features; political subdivisions such as sewer, water, fire and school districts; existing land use patterns; and the presence of a city or town to act as a nucleus for the area. Thus, subareas are planning units determined through the application of criteria and are considered as a practical means of revising the comprehensive plan in a consistent and orderly fashion.

D. WHATCOM COUNTY PLANNING PROCESS

The Whatcom County comprehensive planning process is defined as a continual process of evaluating goals, conducting various land-related studies, and then using the goals and studies to fashion a balanced and practical set of land use policies and proposals for future land uses in the County. Stated differently, the planning process serves as a blueprint for the logical development of the comprehensive plan, as well as the formulation of effective implementation tools.

The process describes, through a logical sequence, the various land use related factors that must be considered to effect the formulation of responsible and meaningful land use policies and proposals. These factors include the definition of county-wide goals; the inventory and analysis of land use, community facilities and utilities, transportation, and environmental resource characteristics; the forecasting of population levels and the county's economic vitality; the analysis of issues both technical and citizen related; the development of policies to resolve or address the relevant issues; and the transformation of policies into the plan map and attendant implementation tools.
The planning process is continual. The implementation of the comprehensive plan, through the application and use of various regulatory tools, must be continually monitored. The effectiveness of the planning process in Whatcom County relies on the county's ability to keep the major components of the plan current through periodic review and adoption of any necessary amendments.

E. PLAN FORMAT

The Comprehensive Plan for the Birch Bay-Blaine Subarea includes the necessary information for the appropriate formulation of land use decisions by both the public and private sectors of Whatcom County. The components of the plan include the following:

I. Comprehensive Land Use Planning: To assist both the public and private sectors in understanding the development, adoption, and amendment of the comprehensive plan policies and map.

II. Goal Statements: To provide the overall direction for land use planning in Whatcom County.

III. Population Forecasts: To correlate anticipated demand for land uses with the supply of land.

IV. Subarea Description: To generally define subarea characteristics and establish issue topics as determined by area residents, the Planning Commission and the planning staff.

V. Rationale and Locational Criteria: To establish the necessity of land use designations and the spatial determinants to be used in applying land use designations.

VI. Policies: To provide the primary decision-making tools required to address the land use, community facility and utility, transportation/circulation, parks and recreation, and the environmental resource and economic issues of the subarea.

VII. Amendment Criteria: To assist both the public and private sectors with respect to revisions of the comprehensive plan policies and map.

VIII. Comprehensive Land Use Plan Map: To reflect the spatial distribution of the policy statements together with the policies; perhaps, the most widely used component of the comprehensive plan.

IX. Legal Description of Boundaries: To provide the precise boundaries of each plan designation and zoning district through legal descriptions.
Whatcom County Planning Process

- Goals
- Continuous Update
- Implementation
  - Zoning Ordinance
  - Subdivision Regs.
  - Shoreline Mgt.
  - City agreements
  - Floodplain Regs.
- Whatcom County Council
- Proposed Subarea Comprehensive Plan
- Public Hearing
- Inventory and Analysis by Subarea
  - Land Use
    - residential
    - commercial
    - industrial
  - Transportation
  - Comm. Services
  - Population
  - Parks-Recreation
  - Physical Features
  - Shoreline Mgt.
- Determination of Issues
- Subarea Citizen Participation: Phase 1
- Formulation of Preliminary Subarea Policies and Plan
  - Map by Planning Commission
- Subarea Citizen Participation: Phase 2
- Refinement of Preliminary Subarea Policies and Plan
  - Map by Planning Commission
II. GOAL STATEMENTS

The following goals provide the general direction for making land use decisions in the subarea and Whatcom County as a whole. They were developed and adopted by the Planning Commission and County Council in July, 1979.

A. REGIONAL DESIGN GOALS

1. Future urban development should occur within or immediately adjacent to existing urban areas in order to eliminate sprawl and strip development, assure the provision of an adequate range of urban services, conserve agricultural and forestry lands, optimize investments in public services and conserve energy resources.

2. Future development in rural areas should be low density, complement existing rural character, contribute to the conservation of agricultural and forest land and not result in demands for urban-level services.

B. GROWTH MANAGEMENT GOALS

1. To promote a conscientious program designed to plan, guide and influence the appropriate location, timing, intensity, type and servicing of diverse land use patterns.

2. To determine the required amounts of land anticipated to be utilized within the planning period (15 years) while retaining options for future land use decisions beyond the planning period.

3. To encourage a predictable pattern of urban and rural development which utilizes previously committed land areas and existing facility investments before committing new areas for development.

4. To ensure that a beneficial balance exists between the supply and demand for public services. To encourage the cooperation among municipalities, special districts, and associations in the planning and provision of public services. To discourage the proliferation of unnecessary special purpose districts.

5. To develop a concise, equitable and practical set of land use regulations intended to implement the goals, policies and proposals of the County Comprehensive Plan in a timely and orderly fashion.

C. LAND USE GOALS

1. To conserve the agricultural and forest lands of Whatcom County for the continued production of food, forage and timber crops while promoting the expansion and stability of the county's agricultural and forestry economies.

2. Urban residential development should be planned in areas that can be economically and efficiently served with existing or planned services,
optimize energy use, function as integral neighborhood units and can environmentally support intensive land uses.

3. Adequate community and neighborhood commercial facilities should be encouraged in appropriate locations while avoiding incompatible land uses and the proliferation of unnecessary new commercial areas.

4. To encourage a balanced and diversified economy in order to assure desirable local employment opportunities and to strengthen and stabilize the tax base. To accommodate anticipated economic development in an environmentally responsible manner with due consideration for public cost, energy availability, land use compatibility and transportation accessibility.

5. To promote the availability of economical and attractive housing for all income, age and ethnic groups, while also enhancing the integrity and identity of existing communities.

6. To promote a functional, coordinated and multi-mode transportation system which provides for the safe and efficient movement of people and goods, avoids undesirable environmental impacts, and optimize public investments and the conservation of energy resources.

7. Adequate facilities and services which provide diverse education, recreation, cultural and social opportunities should be encouraged.

D. CULTURAL AND NATURAL RESOURCES

1. To identify and manage environmentally sensitive areas in such a manner as to prevent destruction of the resource base and reduce potential losses to property and human life.

2. To continue the identification of cultural and natural resources and formulate viable methods to preserve and conserve such resources in recognition of their irreplaceable character.

3. To promote a park and recreation system which is integrated with existing and planned land use patterns and is diverse, abundant and assures maximum public access and usage.

E. CITIZEN INVOLVEMENT AND INTERGOVERNMENTAL COORDINATION

1. To assure opportunity for citizens to be involved in the formulation of land use goals, policies and proposals and to provide a structure for citizen participation in the planning program of federal, state, regional and local agencies.

2. To participate in intergovernmental coordination with federal, state, provincial, regional and local agencies, to develop a coordinated approach to problems which transcend local government bodies and to create an environment for the exchange of information and technical assistance.
III. POPULATION FORECASTS

A. INTRODUCTION

The purpose of population forecasting, as it relates to land use planning, is to accommodate the long-term spatial requirements of various land uses such as residential, commercial, and recreational. Population forecasting may also be of assistance in decision making for land use related matters, such as determining the appropriate scale and location of public works facilities and land development activities. Population forecasts are subject to revision which may be accomplished in the comprehensive plan update process.

The population information contained in this section is a summary of the forecasts prepared by several agencies. Because of the technical difficulties involved with current and projected population assessment on a subarea basis, the information has been presented by total county, unincorporated county and incorporated community. Furthermore, this information has been used in a qualitative manner or as a general guideline, rather than as a specific numerical forecast.

Table A indicates the historic and projected population changes of Whatcom County. Graphs A, B, and C respectively relate to total Whatcom County, unincorporated Whatcom County, and City of Blaine population trends. Conclusions about population growth derived from Table A include:

1 - Blaine grew 17% between 1970 and 1980.
2 - At the rate Blaine grew between 1980 and 1986 total growth rate for the decade will be 1.2%
3 - Unincorporated Whatcom County grew 43% between 1970 and 1980
4 - At the rate Unincorporated Whatcom County grew between 1980 and 1986, total growth for the decade will be 16%
5 - At the rate that Whatcom County grew between 1980 and 1986 total growth for the decade will be 16% which is close to the state Office of Financial Management projection of 17%

B. BIRCH BAY-BLAINE SUBAREA APPLICATION

To relate this information to the Birch Bay-Blaine Subarea Comprehensive Plan, the following assumptions have been made based upon the data provided in the graphs, Table, and Background Document.

1. Location of population growth: The majority of population growth will occur in areas adjacent to existing population centers, i.e. adjacent to Blaine and Birch Bay.

2. Reasonable population growth: Barring any major economic changes, the rate of population growth will be at unincorporated Whatcom County rates. The state predicts a 38.89% growth from 1980 to 2000 for Whatcom County as a whole; however, unincorporated areas have been growing much faster than the cities. (See Table A.) A reasonably optimistic growth rate for the subarea would be from 30% to 50% during the next 15 to 20 years.

3. Maximum population growth: In 1980 industrial employment accounted for 22% of jobs held by subarea residents, and the number of jobholders
equalled about one fourth of Cherry Point employment. If industrial operations at Cherry Point, with similar employment requirements as the existing industries, expand and fill the existing vacant industrially zoned land, then industrial jobs will increase by 200% to 300%. Based upon this increase, assuming one fourth of new employees will continue to settle within the subarea, and that the multiplier effect from industrial jobs is about four, a maximum growth projection for the subarea for this planning period would be 300%. This rate of growth is realistically almost impossible to attain. The "boom" decade of 1970-1980 had a growth rate of 30%, and at that rate in twenty years the subarea's population would increase about 70%.

4. Limitations on population growth: Current information about the quantity of groundwater available indicates that population growth would be limited to somewhere between a 50% increase and a 300% increase. Discovery of additional sources would expand the possible growth that could be supported. In addition, the transportation system would have to be considerably improved and expanded to handle a large, rapid increase.

The zoning adopted in the 1970s would allow a growth in dwelling units, and presumably population, of over 1000%. The zoning based upon this comprehensive plan would allow about 900% growth in dwelling units plus any bonuses obtained through the PUD process.

C. ASSUMPTIONS AND VARIABLES RELATING GENERALLY TO POPULATION FORECASTS

All population forecasts are based on assumptions which affect the numerical results, and different population forecasting agencies do not make the same assumptions. The following items are intended to present an overview of assumptions as they relate to Whatcom County populations:

1. In-migration will continue to contribute substantially to population increases at the Washington State and Whatcom County levels.
2. The trend of decreasing family size and population per household will continue.
3. Labor market potential and location will affect population distribution, gross natural increase and in-migration levels.
4. The purpose of the population forecast affects assumption utilization, which in turn affects the results.

Agencies which prepare population forecasts often make revisions due to changes in the variables affecting their assumptions. The following variables are intended as an overview for potential Whatcom County population forecast revisions, and may not affect all the agencies whose forecasts are contained herein:

1. Changes in Whatcom County birth, death and in-migration rates.
2. Changes in the level of industrial development and the related labor market potential of Whatcom County.
3. Changes in the Canadian economy and the related level of Canadian spending in Whatcom County.
4. Changes in the demand for the products of local resources such as agriculture, forestry, fishing and mining by local, state, national, and international markets.
TOTAL WHATCOM COUNTY
INCORPORATED AND UNINCORPORATED

figure a

UNINCORPORATED WHATCOM COUNTY

figure b
BLAINE, WASHINGTON

![Graph showing population trends from 1970 to 2000 with projections for WCCOG, Mean, and CB&I.](image)

Footnotes for text and graphs
1 Whatcom County Council of Governments; Population Forecasts; June, 1980.
5 In-migration is equal to total population less natural increase, in which natural increase is equal to total births less total deaths.
6 The Whatcom County Council of Government's population forecast exhibits a high correlation with the Canadian Impact Study and is thus presumed to accommodate Canadian spending.

### TABLE A - POPULATION CHANGES

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IV. SUBAREA DESCRIPTION

A. INTRODUCTION

In June, 1987, the Whatcom County Planning Department published the background document for the Birch Bay-Blaine Subarea. A portion of the document contains descriptions of existing conditions related to land use, the physical environment, transportation, and community facilities and utilities. In addition, the document identified specific issues for the subarea. The issues identified by the planning department staff, Planning Commission and citizens have been evaluated and addressed through the development of specific comprehensive plan policy statements. For additional detail concerning findings and issues, the Birch Bay-Blaine Subarea Background Document can be consulted.

Subarea boundaries were delineated by Planning Commission in 1979 prior to beginning the comprehensive plan update process. Delineation of the boundaries was based on the intent to analyze agricultural resources and related soils of Whatcom County, to conserve forest resources, to enhance the recreational potential for attracting additional development, and to manage growth in unincorporated communities and areas adjacent to incorporated communities.

B. FINDINGS

The Birch Bay-Blaine Subarea is located in the northwestern corner of Whatcom County. It contains approximately 27,000 acres, or 43 square miles. The subarea is bounded on the north by the Canadian border and on the west by the Puget Sound. It extends east to the Delta Line Road, and to the south to Bay Road including the residential areas of Point Whitehorn. The city of Blaine is the only incorporated community in the subarea. Unincorporated communities include Birch Bay and Custer.

1. ENVIRONMENTAL FEATURES

Existing environmental conditions relate to topography, geology, geologically related resources, soils, water resources, flora and fauna.

Topography: Elevation in the Birch Bay-Blaine Subarea reaches heights of 400 to 500 feet north of the Blaine-Lynden road, adjacent to the Canadian border. To the southeast the land gradually rises to an elevation of 350 feet. The topography in the rest of the subarea generally remains within 200 feet of sea level. Slope gradients in the subarea are mostly between zero and five percent. A few areas of steeper slope gradients exist along the coast and near the Canadian border.

Geology: There are seven separate geologic units identified in the Birch Bay-Blaine Subarea. These include: Alluvial Deposits, Peat Deposits, Terrace Deposits, Sumas Outwash, Sumas Clay and Silt Bellingham Drift, and Sand and Gravel Overlying Bellingham Drift (Qbg). The majority of the lowlands are underlain by Sumas Outwash, Sumas clay and Silt Bellingham Drift, and Sand and Gravel overlying Bellingham Drift. Gravel currently is mined in the subarea, and there may be oil and/or gas deposits.
Soils: The 55 soils in the subarea are generally fair to excellent. However, in much of the subarea either very poor permeability or too much permeability prevent its use for intensive farming purposes. Roughly half of the subarea has severe limitations for development.

Groundwater Resources: Groundwater supply appears to be generally low or of uncertain quality in the subarea. The Boundary Highlands aquifer, located east of the city of Blaine, provides the only known source of large quantities of groundwater. Studies indicate a maximum flow of four or eight million gallons per day. Most of the groundwater in the rest of the subarea is found relatively close to the earth's surface and is susceptible to contamination.

Surface Water Resources: The Birch Bay-Blaine subarea is dominated by its marine environment with most of the residents living within a few miles of the coastal shoreline. Upland surface water generally appears in the form of numerous small streamways contributing to four major coastal creek drainage basins. Several small lakes and ponds along with numerous freshwater wetland areas are also present in the subarea. Over two-thirds of the Birch Bay-Blaine subarea's 15 miles of marine shoreline lie within 2 shallow, protected bays—Drayton Harbor and Birch Bay. Two of the four coastal creek basins, California and Dakota creeks, drain into Drayton Harbor, while Terrell Creek drains into central Birch Bay.

2. COMMUNITY FACILITIES AND UTILITIES

Community services in the subarea include education, public safety, fire protection, energy, solid waste, flood control and drainage, water and wastewater systems, plus transportation systems and parks and recreation facilities.

Education: Education is provided by Ferndale School District No. 502, Blaine School District No. 503. All school districts have sufficient capacity within their systems to accommodate additional students.

Law enforcement: Law Enforcement in the subarea is provided by the Whatcom County Sheriff's Department. An average of 440 calls per year are presently received on a per capita personnel basis.

Fire Protection: Fire protection is provided by four Whatcom County fire protection districts including District No. 1, District No. 3, District No. 4 and District No. 14.

Energy: Puget Sound and Light Company and Cascade Natural Gas Company provide energy to the Birch Bay-Blaine Subarea. Both have the capacity to serve additional customers.

Solid Waste: Solid waste disposal is accomplished by residents or private haulers taking refuse to sanitary land fills or to the incineration plant located on Slater Road. Sanitary land fills serving subarea residents are located at Cedarville Road, Y Road and Birch Bay. Nooksack Valley Disposal, Inc. and Sanitary Service Company are certified to collect both residential and commercial waste.
Sewage Disposal: Sewage disposal is provided by the City of Blaine, Water District No. 8, and individual private septic tank systems. The 1980 U.S. Census indicates that there are about 2800 dwelling units in the subarea and in Blaine. About 1800 of these rely on individual septic tank systems. In addition, a mobile home and RV count in 1986 indicated another 1700 of these units beyond what the census counted, and presumably these are served by Water District 8. The City of Blaine provides sewer service within the city limits and in some areas outside its current boundaries; however, portions of the city are still using septic tanks. The sewer system currently serves 2,000 households and multiple businesses with secondary sewage treatment. The sewage treatment plant is located across Drayton Harbor on Semiahmoo Spit. Water District No. 8 provides sewer service to the area surrounding Birch Bay. The District maintains sewer lines along all urbanized portions of the Bay’s shoreline. Sewage is carried along these lines to a secondary treatment facility south of Birch Bay State Park, with the sewage outfall located off of Point Whitehorn. This system currently serves 3,362 households and commercial ventures, and can double the number served.

Water: The City of Blaine currently operates the largest water system in the Blaine-Birch Bay Subarea. It serves the entire city population and also provides water to Water District No. 8 and to water associations. The water comes from wells located northeast of the city. Water District 6 is in the process of merging with Water District 8, with Water District 6’s well sources having various quality problems. In addition to the two large public water purveyors, Water District 8 and Blaine, the state operates water systems at the Custer rest areas serving Interstate 5 traffic and at Birch Bay State Park where water is purchased from Water District 8. Depending upon whether the total capacity of Blaine’s wells is four million or eight million gallons per day, public water service could be expanded by 50% to 300%. Non-public water sources include eight water associations. The 1980 U.S. Census indicates that approximately 700 houses (out of a total of about 4,000 houses including Blaine) are served by individual wells or surface water withdrawal in the subarea.

Transportation: Regional, State, and international highway access to the subarea is provided by Interstate 5, a major freeway connecting Vancouver, B.C. to the north and Seattle to the south. Four major collector routes connect with Interstate 5 to the west, and provide primary access to the Birch Bay and Semiahmoo Spit. These are Blaine Road, Birch Bay-Lynden Road, Grandview Road, and Bay Road. To the east of I-5 three major collector routes provide access to the predominantly rural landscape of the inland subarea. These are H Street Road, Sweet Road, and Birch Bay-Lynden Road. All weather industrial road access is provided by Portal Way and Blaine Road, plus the portions of Bruce Road and Custer School Road adjacent to Portal Way.

Due to the recreational nature of the Birch Bay area, traffic volumes vary widely with the seasons. Average summer traffic volumes can be as high as 60 percent above the annual average during the summer and 35 percent below the annual average during the winter. Most of the roads in the Subarea currently have adequate capacity to accommodate existing traffic volumes at acceptable service levels, even on the peak weekend day of the year. Notable exceptions are Birch Bay Drive between Harbor View and Jackson Roads, and Blaine Road.
north from Drayton Harbor Road. Provisions for pedestrians and bicycles are lacking along Birch Bay Drive and many of the other roads in the area.

Parks and Recreation: Recreational sites and facilities in the subarea are provided by the State, County, City of Blaine, and various private organizations and commercial ventures. Most of the sites are located on or close to marine shorelines. Birch Bay State Park, the international boundary park, and several Whatcom County parks comprise most of the park acreage.

3. SETTLEMENT AND DEVELOPMENT

Economic activity: The subarea's economy traditionally has been based on the resource based industries and tourism. Because of the proximity of Canada and major border ports of entry, and the fishing economy, international decisions hold more significance in the Birch Bay-Blaine subarea than in any other part of Whatcom County, with the exception of Point Roberts. Fisheries, agriculture, forestry, and mining no longer provide as large a portion of households' income as does manufacturing jobs. Only about 14% of the manufacturing jobs held by subarea residents are provided for within the subarea, the rest are presumably located at Cherry Point or other manufacturing centers outside of the subarea.

Population and characteristics: The 1980 census counted a population of 5500 in the area approximately the same as the subarea. A total of 2016 dwelling units were counted; however, the 1997 count of mobile home or RV spaces occupied in the subarea was 1709 while the 1980 census count was only 418. Based upon this, the figure that is used for this document are a total of 4500 dwelling units. The 1970 and 1977 zoning allow about 46,000 dwelling units in the subarea, or an increase of over 1000%. The proposed zoning would allow about a 900% increase plus any bonuses obtained through the PUD process.

From 1970 through 1986 unincorporated areas of Whatcom County were growing much faster than the incorporated cities. According to the state census, Blaine has grown only 1% during the last 6 years, while unincorporated areas throughout Whatcom County have grown 16%. However, declining value of the Canadian dollar compared to American dollars in past years may tend to counteract this trend in the Birch Bay Area. If the Birch Bay-Blaine Subarea follows the same pattern as the rest of the county, the unincorporated area should grow about 30% to 50% over the next 20 years. In addition, about one fourth of all dwelling units are for seasonal use, and the actual occupancy rate will depend partially on the Canadian/American monetary exchange rate.

4. LAND USE

Acres and percentage of land in each use: Of the approximately 27000 acres of land in the subarea, agriculture is the most prevalent land use, comprising approximately 12,000 acres or 44% of all land. Agriculture for the most part is limited to pasture, small dairy farms, and subsistence farming. Forest land is second with approximately 9,540 acres or 35% of the total area in forest. Most of the forest areas are of a mixed
deciduous/coniferous composition in various stages of development with limited commercial value.

Residential use is the third most prevalent land use in the subarea, comprising approximately 2,700 acres and representing approximately 10% of all land uses. Single family residences make up approximately 2,340 acres or 8.6% of uses. Many single family residences are dispersed throughout the subarea, reflecting its rural flavor. However, the most intense residential development has taken place along the shores of Birch Bay; notably the Birch Bay residential development on the north shore of the bay, and the numerous multifamily condominiums and apartments that mix with commercial development on the west side of the bay. In addition to single family residences, condominiums, and apartments, there are 346 acres of recreation vehicle (RV) parks and mobile home parks primarily concentrated around Birch Bay.

Commercial uses, although the sixth most prevalent land use, have a larger impact on surrounding land uses. Approximately 340 acres or 1.3% of all subarea land uses are commercial. Of those, 210 acres are in commercial uses directly related to recreational activities in and around Birch Bay. Industrial uses are limited in the subarea. Gravel and sand is extracted from several commercial pits in the area, making up most of the 392 acres found in the industrial land use category.

Parks and recreation and public and quasi-public lands comprise approximately 380 acres. Parks and recreation refers to all public parks and public lands that are being used or have the potential to be used for recreational activities. Public and quasi-public land uses comprise approximately 55 acres or .2% of the subarea and are the ninth most frequently occurring land use. The majority of public and quasi-public uses relate to public recreational facilities such as bingo halls, and clubs. The remainder are schools, and churches and similar uses. Communications, utilities and transportation use 129 acres or .5% of the total area in subarea. These are generally represented by water associations, fire stations and road rights-of-way.

Vacant land comprises approximately 1,758 acres of vacant land and represent 6.4% of all land uses. This acreage is situated throughout the subarea.

Lands in current use property tax status: This land will probably remain undeveloped since property tax penalties are assessed if it is withdrawn from agriculture, forestry, or open space current use tax categories. It comprises 9,197 acres in the subarea (included in the above totals for land use), or about 33% of all land in the subarea. All except 330 acres of it is in agricultural or forestry use. Tax reductions range up to 90% and represent a considerable savings to the landowner.

The built environment: The Birch Bay and Custer areas are population centers that were begun many years ago and are, in some respects, showing their age. They represent a considerable investment of economic resources, and the Birch Bay area also has abundant natural resources. Inland areas are of a rural character. Areas adjacent to Blaine are currently rural, but may be expected to become suburban in character when Blaine grows.
5. EXISTING LAND USE REGULATIONS

1970 and 1977 Zoning Districts and current land uses: Thirteen comprehensive plan designations have been applied to the subarea. These include: Suburban, Potential Suburban, Residential Medium Density, Rural, Rural Farm, Resort Medium Density, Resort High Density, General Commercial, Neighborhood Business, Public Use, Parks, Recreational Beach Area, and Agriculture. The zoning districts that implement the above designations include: Residential Medium Density (7 families/acre), Suburban (4 families/acre), Rural One Acre, Rural Farm, Resort-Medium Density, Resort-High Density, Neighborhood Commercial, Tourist Business, Agriculture, General Protection, and Recreation and Open Space.

Of the 495 acres in the Agricultural Zone, 450 acres are actually used for agricultural purposes. The remaining land has 30 acres in single family and 15 acres vacant.

The Rural Farm Zoning District implements the Rural Farm Comprehensive Designations District. The plan designation has been adopted incrementally between 1971 and 1978, through a series of twelve comprehensive plan amendments requested by citizens. There are 305 acres located in the Rural Farm District, with only 15 acres in residential use. Land uses provide a rural flavor to those who visit Birch Bay State Park immediately to the north. Any development in this district should consider the impact it may have on the numerous bogs, marshlands and Terrell Creek which provide habitats for a variety of wildlife.

The Rural One Acre zone of 400 acres has 65 acres in single family residences and 14 acres in RV and mobile home parks. In the southern part of the district where the comprehensive plan designation is Suburban, residential development has taken place. About 72% of the acreage has not developed.

The Suburban (4 dwelling units per acre) zone has about 2200 acres in forest and 950 acres in agriculture out of a total of 4015 acres, so the total area has far exceeded demand for suburban dwelling units.

There are approximately 790 acres in Residential Medium Density (7 units per acre). Mobile home and RV parks comprise 165 acres, plus 160 acres in single family residences and 5 acres in multi-family residences, leaving about 60% of the acreage undeveloped, non-commercial forests using the most land in this district with 240 acres.

There are approximately 65 acres in Resort District-Medium Density which is split into three areas: one (35 acres) at the corner of the Birch Bay-Lynden Road and Harbor View Road; one to the south (15 acres) abutting the beach on Birch Bay Drive; and the last (15 acres) is to the north abutting the beach on Birch Bay Drive. The land uses include 10 acres of commercial recreation, 10 acres of single family residences, 10 acres of multifamily residences, 5 acres of commercial property, and 30 acres (40%) in forestry or vacant.
There are 225 acres of land in the two Resort District-High Density areas located on the shores of Birch Bay. RV and mobile home parks use 50 acres. There are 35 acres in single family residences, 45 acres in commercial recreation, and 9 acres in other commercial use. Vacant and agricultural lands comprise 86 acres, or 38% of the area.

There are 22 acres zoned Neighborhood Commercial in the subarea in three locations. The first is located on the Harbor View Road between Anderson Road and Lincoln Road and contains a convenience store, 7 acres of RV park, and a restaurant. The second location is situated on the shoreline of Birch Bay directly in front of Birch Bay Park. A commercial building is located here that once served as a restaurant and boat launch; however, it is now vacant and in very poor repair. The third NC location is on the northern part of the bay where Birch Bay Drive turns into Birch Point Road. This 8 acre strip is roughly half farm land and half vacant with no commercial uses present.

There are 130 acres in the Tourist Business district located at the intersection of I-5 and the Birch Bay-Lynden Road. The district to date is entirely undeveloped with 55 acres occupied by forest, 50 acres vacant, and 25 acres in agriculture.

The General Protection District includes over 20,405 acres, by far the largest zoning district. Agriculture, primarily inland, uses the most acreage within this district with 10,219 acres. Forests, concentrated on Birch Point and along the Canadian Border, amount to 6,506 acres. Single family residences comprise approximately 1400 acres with 1390 acres in vacant land. Industrial sites, most of which are gravel pits, amount to 392 acres. The remaining land-uses in GP include: communications, utilities and transportation with 110 acres; 80 acres in commercial property; 40 acres each in RVs and mobile homes; 47 acres in public and quasi-public lands; 20 acres in aquaculture; 15 acres in multi-family; 11 acres in parks and recreation; and 155 acres in commercial recreation property.

Shoreline Management Program Designations: The Whatcom County Shoreline Management Program was adopted in 1976 and applies to areas generally within 200 feet of the ordinary high water mark of streams, rivers greater than 20 cubic feet per second mean annual flow, lakes larger than 20 acres in size, and Puget Sound. Shorelines in the subarea which are within the jurisdiction of the Washington State Shoreline Management Act include much of the lower stretches of California, Dakota and Terrell Creeks, along with the entire marine coastline. Beaver Lake, a small lake in the northeast corner of the subarea, is also included. Some conflicts between the regulations for Urban, Urban Resort, Rural, Conservancy, Natural, and Aquatic shoreline areas and existing zoning regulations and/or land uses were found. A fuller discussion of these issues and recommendations regarding their resolution can be found in: The Shorelines of the Birch Bay-Blaine Subarea - An Examination of Their Physical and Regulatory Environment, Mitchell A. Press, April 1987, Whatcom County Planning Department.
V. LAND USE DESIGNATIONS

A. INTRODUCTION

The land use designations as illustrated on the Comprehensive Land Use Plan Map, together with the policies, represent the most appropriate uses of land in the subarea for the planning period. These land use designations have been developed as a means of addressing or resolving particular land use needs. One new designation and associated zone district, Gateway Industrial, has been developed to address the land use needs and issues of the subarea. To be consistent in the application of the designations, as well as to avoid confusion about how the land use boundaries were established, the following rationale and locational criteria for each land use designation are set forth.

B. URBAN RESERVE

1. Rationale

It is a well established trend in the western United States for urban areas to respond to growth pressures by outward expansion of their boundaries. As long as this trend continues, there will be a continuing demand for land, the most fundamental of all urban resources. Although outward expansion is an accepted city planning practice, problems have typically arisen when potential urban lands have been committed to long-term "nonurban" uses. Primarily caused by the lack of coordinated public policy among governmental jurisdictions, this situation has resulted in uncoordinated and costly service systems, inefficient transportation networks and unmanageable land use patterns.

As a means of alleviating the problems associated with outward expansion, the Comprehensive Plan establishes the URBAN RESERVE land use designation. The rationale underlying the designation is to reserve certain land areas for future urban purposes and to encourage interim uses that are complementary to and compatible with future urban uses, densities, and services. When urban services are eventually provided to these areas, land use densities shall increase and result in an orderly, economic and expeditious transition from rural to urban land use patterns.

The application of the URBAN RESERVE designation is intended to accomplish the following objectives:

a. To reduce urbanization and encroachment pressures on lands that are most suitable for other uses.

b. To stabilize land speculation and the artificial inflation of land values in the "urban fringe" by designating an adequate amount of land for urban growth and uses during the planning period.

c. To provide land owners with a reasonable expectation of future municipal and county land use policies.
d. To reduce inequitable taxing structures on nonurban land located near urbanizing areas.

e. To conserve energy resources by reducing unnecessary travel between living, shopping and work places.

f. To encourage the conservation of natural resources and environmentally sensitive areas, both within and outside of the area designated as URBAN RESERVE.

The URBAN RESERVE designation is applied to those areas adjacent to municipal boundaries that are appropriate for urban land use patterns whenever a full range of urban services (sewer, water, storm drainage, transportation improvements, and police and fire protection) can be efficiently provided. It may also be applied to those satellite areas where urban densities and services have been previously planned and the available level of water and sewer service and existing land use character warrant it.

2. Locational Criteria

The criteria to be utilized for the application of the URBAN RESERVE designation include the following:

a. Land areas adjacent to the City of Blaine, or satellite areas, that are of sufficient size to adequately accommodate the projected demands for residential, commercial, transportation and public uses for a ten- to fifteen-year period.

b. Land areas where a range of urban services such as sewer, water, storm drainage, transportation improvements, fire and sheriff protection, and parks and recreation presently exist or can be economically and efficiently provided in the near future.

c. Areas that contain an adequate supply of vacant urbanizable land to avoid the artificial inflation of land values.

d. The boundaries of the URBAN RESERVE designation should:

1) be well defined, logical, provide a physical "sense of community", and be capable of being expanded to accommodate additional urban growth as the need arises; and

2) acknowledge the existing character of land use densities and the existing or potential level of utility servicing.

3. Zoning Density Criteria

The URBAN RESERVE comprehensive plan designation shall be implemented with two Urban Reserve zone district densities: three dwelling units per acre and four dwelling units per acre. These densities are based upon existing provision of an urban level of services including public sewer, public water, storm drainage, transportation, fire and police
protection. Until such time that public sewer and water are provided, and stormwater drainage facilities are provided where specified by the comprehensive plan policies, the density shall be one dwelling unit per five acres. The density shall automatically become either three or four dwelling units per acre according to the zone district when these services are provided. The following criteria define the application of each of these densities.

a. The density of three dwelling units per acre shall be applied where:
   1) adjacent city land uses and neighborhood densities are less than or equal to three dwelling units per acre;
   2) the existing and planned transportation system or sewer and water service levels prohibits increased density;
   3) areas within a watershed used in providing water for domestic purposes.

b. The density of four dwelling units per acre shall be applied where:
   1) adjacent city land use densities are greater than or equal to four dwelling units per acre;
   2) the existing and planned transportation system and sewer and water service level allow for increased density.

C. URBAN RESERVE MEDIUM DENSITY

1. Rationale

Within areas that are planned for urban residential types of uses, Whatcom County recognizes the need to provide areas where affordable housing types can be situated including condominiums, apartments, townhouses and mobile home parks. To address the need for compatibility between uses within and outside of medium density residential areas, the URBAN RESERVE MEDIUM DENSITY plan designation is provided with a maximum density of six dwelling units per acre.

2. Locational Criteria

The following Locational Criteria provide direction for application of the plan designation.

a. The density of six dwelling units per acre should be applied to areas that are adjacent to low density Urban Reserve areas or are in transition between low density Urban Reserve areas and higher intensity uses such as commercial or light industrial.

b. Land areas should be feasible to supply with public sewer, water, storm drainage, transportation improvements, fire and sheriff protection, and parks and recreation facilities during the planning period.
c. The areas may be situated adjacent to similarly designated areas within existing municipalities.

D. RESIDENTIAL RURAL

1. Rationale

Not all citizens prefer to live in concentrated urban areas, instead some prefer a setting of lower density. Lower density usually implies that urban utility services (public provision of both sewer and water) are not planned, sheriff and fire protection are provided to a lesser degree than in urban areas, roadways have not been scheduled for capital improvements to county standards, and the residential landscape is visually different than in urban areas. Residents of such areas usually rely on urban areas for amenities such as shopping, employment and entertainment. Because of the nonurban nature of RESIDENTIAL RURAL areas, transportation facilities are limited to a secondary arterial or lower classification, and road improvements are limited to maintenance only. Thus, the purpose of the RESIDENTIAL RURAL designation is to provide land areas in close proximity to urban areas where nonurban living patterns may develop with minimal public services.

2. Locational Criteria

The criteria to be used for the application of the RESIDENTIAL RURAL designation include the following:

a. Land currently served or planned to be served with a partial range of urban level services, i.e. publicly provided sewer or water, fire and sheriff protection, and storm drainage where appropriate;

b. Land areas where low density residential development currently exists and where such densities are planned to continue in the future; and

c. Lands containing soils that are generally not suitable for agriculture, forestry or mineral extraction.

d. The boundaries of Residential Rural areas should be well defined by physical or man-made features.

E. RURAL

1. Rationale

The present land use pattern in portions of the subarea is characterized by part to full-time farming or forestry and low density residential activity. This type of landscape can be considered as "rural", i.e. an area containing a combination of pasture land, forest and dispersed very low density residential settlement patterns.

Dispersed settlement patterns are a function of physical conditions such as soils, water or topography that impose constraints to higher densities of development. They also can be a function of the absence of past and future
public commitments for the provision of sewer, water and roadway improvements. Very low density residential areas offer alternative residential living styles allowing for preferences for increased privacy, aesthetic advantages of particular sites, or small scale agriculture and forestry, compared to that of the urban or moderately dense residential setting. These areas may contain nonrenewable natural resources, such as soils which contribute to agricultural or forestry productivity, sand and gravel deposits suitable for extraction, or natural scenic resources that form the visual identity of an area. Existing parcel sizes are large and would be able to accommodate land uses such as agricultural, forestry or low to moderate density residential areas in future planning periods.

The RURAL designation is important in the Subarea Plan because it provides flexibility concerning very low density residential, forestry and agricultural land uses while retaining a range of private and public land use options for the future. One of these options is the potential for future industrial development in the areas abutting the Cherry Point Spur Railroad Line and Burlington Northern Main Line when appropriate public services, i.e. all weather roads and sewer and water utilities, are available and additional industrial land is needed. In order to facilitate the potential for future industrial development, large parcel Rural zoning is appropriate while still allowing immediate rural uses such as mineral resource extraction and agriculture.

2. Locational Criteria

In order to define those locales where the RURAL designation would be most appropriate, the following criteria are applied.

a. Those areas that possess a very low residential density and are compatible with existing land use plans.

b. Those areas where a buffer is needed between higher density population and land use practices associated with commercial agriculture and forestry.

c. Those areas where features of the physical environment, such as lack of adequate ground water, slow permeability rates, seasonal ponding or steep topography require very low densities in order to mitigate the impacts of these physical constraints. Also, those areas where there exists the possibility of utilization of a natural resource, i.e., soils, sand/gravel, coal or timber.

d. Those areas where there are no planned capital improvements to community facilities, utilities or transportation systems.

e. Those areas where for potential forms of economic development to be feasible large parcel sizes and lack of residential development are desirable.
3. Zoning Density Criteria

The RURAL comprehensive plan designation shall be implemented with three Rural zone district densities: one dwelling unit per two acres; one dwelling unit per five acres; and one dwelling unit per ten acres. The following criteria define the application of each of these densities.

a. The density of one dwelling unit per two acres shall be applied where:

1) existing density is less than or equal to one dwelling unit per five acres and average parcel size is greater than or equal to two acres;

2) physical limitations such as lack of adequate groundwater, slow permeability rates, seasonal ponding or steep slopes prohibit increased densities;

3) existing public services do not justify greater densities and there are no planned capital improvements to existing public services; and

4) maximum buildout at the prescribed density level will be compatible with the surrounding land use character.

b. The density of one dwelling unit per five acres shall be applied where:

1) existing density is less than or equal to one dwelling unit per ten acres and average parcel size is greater than or equal to five acres;

2) 2, 3 and 4 of Section a above are applicable.

c. The density of one dwelling unit per ten acres shall be applied where:

1) existing density is less than or equal to one dwelling unit per twenty acres and average parcel size is greater than or equal to ten acres;

2) the possibility of the utilization of natural resources, i.e., sand/gravel, coal, timber requires low densities to facilitate their extraction;

3) agriculture and silviculture are, or possibly could be, viable economic enterprises;

4) 3 and 4 of Section a above are applicable; and

5) where significant investments have been made to infrastructure that would support the potential for industrial development in the future.

F. AGRICULTURE

1. Rationale

The AGRICULTURE land use designation identifies areas suitable for the practice of commercial agriculture. Commercial agriculture is a significant industry in Whatcom County and has the potential to become increasingly significant as indicated by trends related to local farm
incomes. Related industries add additional dollars to the local and regional economy as a direct result of agricultural production.

As significant as agriculture is in the local economy, agricultural lands are often considered for other purposes, namely urban or rural uses. Urban and rural encroachment can raise assessed valuation, resulting in higher property taxes for the agricultural operator. In addition, encroachment of residences not associated with agriculture can create conflicts with customary agricultural operations. Premature conversion to urban or rural uses occasionally forces the operator to cease agricultural uses. This situation is especially pronounced in the fringe areas of communities where residential growth pressures are most evident. The rapid rate of farmland conversion is being recognized by federal, state and local governments. Increasingly, communities are taking steps to inventory existing farmland and agriculturally productive soils, to determine alternative locations for residential uses, and to devise techniques for preserving farmland with the assistance and cooperation of the agricultural operator.

The comprehensive plan established the AGRICULTURE designation to promote agriculture by identifying and retaining land suitable for commercial agricultural pursuits.

2. Locational Criteria

Areas that are suitable for application of the AGRICULTURE designation conform to the following criteria.

a. The majority of area contains Prime Farmland Soils as determined by the Soil Conservation Service.

b. The area may contain 100-year floodplains as delineated by the Soil Conservation Service and the U.S. Army Corps of Engineers.

c. Existing land uses are primarily full-time agriculture intermixed with part-time agriculture and woodlots; and minimal commitment to non farm uses has been made.

d. The area is composed of agricultural operations that have historically been and continue to be economically viable.

e. Parcel sizes are generally greater than forty acres.

f. Urban utility services including public sewer and water are not planned.

g. Special purpose districts that are oriented to enhancing agricultural operations exist, including drainage improvement and flood control.

h. Areas have a pattern of landowner capital investment in agricultural operation improvements including irrigation, drainage, manure storage, barn refurbishing, enhanced livestock feeding techniques, livestock upgrading, agricultural worker housing, etc.

i. Areas contain a predominance of parcels that have current use tax assessment derived from the Open Space Taxation Act. RCW 84.34.
G. PUBLIC

1. Rationale

This designation recognizes those parcels and facilities currently under or planned for public ownership. The intent of this designation is to assure continuation and potential expansion of public services at levels consistent with population requirements, while providing sufficient acreage to be compatible with surrounding land uses.

2. Locational Criteria

To identify areas which are suitable for the PUBLIC designation, the following criteria are employed:

a. Parcels are currently owned or are being considered for ownership by public agencies such as the Federal Government, State of Washington, Whatcom County, cities, special purpose districts such as school, fire and water district and independent jurisdictions such as the Port of Bellingham; and

b. The function of parcel ownership is to provide public services such as recreation, education, utilities, communications, transportation (not including roadways), solid waste disposal and health care.

H. NEIGHBORHOOD COMMERCIAL

1. Rationale

The delivery of goods and services to people is an integral part of our economic system. The type of commercial activity is dependent on the composition of the market to be served and represents several different land use patterns. These land use patterns are designated as neighborhood, general, tourist or resort commercial. To meet the market needs of the Chuckanut–Lake Samish Subarea, two commercial designations are used: NEIGHBORHOOD COMMERCIAL and TOURIST COMMERCIAL.

Locational Criteria

Areas suitable for the NEIGHBORHOOD COMMERCIAL designation shall conform to the following criteria.

a. Parcels are served by collector streets or minor or secondary arterials.

b. Parcels have the same level of sewer and water service as that provided to the surrounding neighborhood.

c. The designation is in a location central to the neighborhood area the commercial activity would serve.

d. The designation is applied to a minimum area of five acres configured in a consolidated arrangement.
e. The designation is applied to property located where ownership patterns and land parcelization would be conducive to future development.

f. The designation should be located where a public need for a neighborhood shopping area exists.

I. GENERAL COMMERCIAL

1. Rationale

The rationale pertaining to the GENERAL COMMERCIAL plan designation is to provide a broad range of goods and services to people living within Whatcom County, as well as other regions. The designation intends to maximize safe and efficient on and off-site transportation systems, delineate areas that are conducive to overall site planning, acknowledge existing patterns of GENERAL COMMERCIAL land use forms, and promote compatibility with surrounding noncommercial uses.

2. Locational Criteria

Areas that are suitable for application of the GENERAL COMMERCIAL plan designation conform to the following criteria.

a. Parcels are served by principal or minor arterials, or major collectors.

b. Parcels are provided with urban services including public sewer and water, stormwater drainage, sheriff and fire protection.

c. The designation contains a minimum of ten (10) acres configured in a concentrated and consolidated arrangement.

d. The designation is located on property where ownership patterns and land parcelization are conducive to feasible land packaging for future development.

e. The designation is located where a public need for general commercial shopping exists.

J. RESORT COMMERCIAL

1. Rationale

It is a well established trend in the western United States for areas of scenic and recreational resources to experience development pressures for both residential and commercial uses. There will be a continuing demand for land in these areas. Although this can be of overall economic benefit, problems have typically arisen when differing uses are adjacent, and when seasonal use overloads existing public services.

As a means of alleviating the problems associated with mixed uses and future need for intense land uses, the Comprehensive Plan establishes the RESORT COMMERCIAL land use designation. The rationale underlying the
designation is to provide land areas for future urban density and mixed residential, high density residential and commercial uses. Design standards provide a framework within which varying uses can harmoniously coexist and which promote the continuing use and enjoyment of the scenic and recreational resources.

The application of the RESORT COMMERCIAL designation is intended to accomplish the following objectives:

a. To promote the economic potential of resort areas; and

b. To stabilize land speculation and the artificial inflation of land values in the fringe area around existing scenic and recreational resources by designating an adequate amount of land for projected growth of residential and commercial uses during the planning period.

The RESORT COMMERCIAL designation is applied to those areas adjacent to resort areas that are appropriate for urban density land use patterns wherever a full range of urban services (sewer, water, storm drainage, transportation improvements, and police and fire protection) can be efficiently provided. Further the provision for multiple types of residential uses and appropriate commercial uses is intended to recognize the market needs and opportunities for resort areas while design standards safeguard the existing character of the area and the natural amenities that provide the economic basis for development.

2. Locational Criteria

The criteria to be utilized for the application of the RESORT COMMERCIAL designation include the following:

a. Land areas adjacent to scenic or recreational resources that comprise a logical resort area and are of sufficient size to adequately accommodate the projected demands for residential, commercial, transportation and public uses for ten to twenty years;

b. Land areas where a range of urban services such as sewer, water, storm drainage, transportation improvements, fire and sheriff protection, and parks and recreation presently exist or can be economically and efficiently provided in the near future;

c. Areas that contain an adequate supply of vacant urbanizable land to avoid the artificial inflation of land values;

d. The boundaries of the RESORT COMMERCIAL designation should be well defined, logical, provide a physical "sense of community", and be capable of being expanded to accommodate additional growth as the need arises; as well as acknowledge the character of land use existing development and the existing or potential level of utility servicing; and

e. For commercial uses, parcels should be served by arterial or collector roadways.
J. GATEWAY INDUSTRIAL

1. Rationale

Currently the county's economy is significantly influenced by its location adjacent to Canada and the large population in Vancouver, B.C., and this role is anticipated to continue in the future. To augment the positive impact of the Canadian market, it is desirable to provide a reasonable supply of land for a variety of light industrial uses that would be attractive to the business traveler using the major international traffic corridors.

Since appropriate land areas for this type of display industrial use are necessarily limited by the location of major transportation corridors and further limited by the need for all weather road access and public services, it is extremely important that they be preserved for those uses that are most likely to interest the business traveler and that will concurrently present a positive image of the county's business opportunities. Uses in this zone are thus limited and are those appropriate for a light industrial park setting. Light industrial parks frequently are large land areas that are master planned for aesthetic and functional compatibility, but can be composed of small tracts of land in different ownerships, whereby industrial uses occur independently but under overall design standards. Because of the limited opportunity to present a positive business image of Whatcom County to the business traveler and because of the relatively small parcel sizes in the area, standards for site, landscaping, building, and signage design have been made integral parts of the comprehensive plan and zoning text rather than being adopted as part of a master plan by the individual developer. In order to foster the economic vitality of the area, commercial uses are also allowed where the transportation system makes them appropriate; however, the design standards and buffering requirements are intended to discourage commercial uses except where they are clearly more appropriate than industrial uses.

The underlying rationale of the GATEWAY INDUSTRIAL designation is to supply a reasonable amount of land for displaying industrial capabilities during the current planning period and to allow for phased expansion in area so that each phase presents a healthy economic image. Urban services must be available and will extend to each phase in an efficient and rational growth pattern.

2. Locational Criteria

Criteria relate to transportation, urban services and proximity to major international transportation routes. All weather truck routes, rail, and freeway access should be available to Gateway Industrial areas, and they should be located immediately adjacent to and visible from major international business traffic routes. Public sewer, water and storm drainage should either be presently available or should be feasibly provided during the planning period. Finally, potential labor supply pools should be situated within a forty-five minute commute.
VI. POLICIES

A. INTRODUCTION

The policies, together with the comprehensive land use plan map, designate the locations of the various land uses that are the most economic and suitable for this planning period. The policies also indicate how Whatcom County can assure orderly and economic implementation of the land use designations through actions taken regarding community services and community resources. The policies specify the course of action that Whatcom County shall follow in meeting the Whatcom County Goal Statements listed in Section II.

The Birch Bay-Blaine Subarea is a relatively small subarea that is primarily suitable for residential, recreational, and agricultural uses as indicated by past land use development patterns. Whatcom County has developed sixteen land use designations to allow for the necessary flexibility and specificity in applying land use standards, and seven of the land use designations are applied within this subarea. In addition, a new designation was developed to address the unique characteristics of the subarea. GATEWAY INDUSTRIAL is designed to take advantage of the opportunities associated with proximity to major international traffic corridors.

Residential land use designations were determined according to existing ownership and density patterns, suitability for residential uses, and availability of services as described in the URBAN RESERVE, RESIDENTIAL RURAL and RURAL Locational Criteria. In addition, the changes in residential land use designations from the previous comprehensive plan reflect the Regional Design Goals and Land Use Goals in Section II and consider the following planning principles.

1. The economic impacts of proposed changes. The subarea has one major population cluster along the shore of Birch Bay that is based upon an environmental amenity that is important to the continued economic attractiveness of the neighborhood. The inland areas have scattered population and rely on resource extraction and rural atmosphere for their economic worth. In addition, densities were kept as high as possible to protect investments made on the basis of prior land use designations.

2. The coordination of growth patterns with adjoining municipalities. Projected population growth of the City of Blaine and land use designations within its borders were considered when examining land use designations for adjoining areas.

3. Allowance for an ample amount of population growth. The unincorporated Whatcom County population growth projection in Section III indicates an approximate increase of 30% to 50% during the planning period of 15 years. With the aesthetic and recreational amenities available in this subarea, a somewhat greater than average increase might occur if Cherry Point industrial area developed further or if Canadian/American exchange rates or property values became more favorable. This plan allows a sufficient number of residential dwelling units to accommodate about 900% growth in dwelling units due to the consistent application of the Locational Criteria and the
consideration of the preceding two objectives. However, the availability of public water for urban densities may restrict the total number of units built.

Before full development of the residential zones occurs, improvements should be made to water, wastewater and transportation systems. The residential land use designations including URBAN RESERVE, URBAN RESERVE MEDIUM DENSITY, RESIDENTIAL RURAL, and RURAL were applied by balancing the high densities of the prior Comprehensive Plan and the potential carrying capacity of water sources, wastewater service options and feasible transportation system service levels. In this subarea RURAL areas primarily reflect: multiple use capability, predominance of parcels under current use tax status, lack of public water and sewer, and lack of need for additional residential area. The RURAL zone of one dwelling unit per ten acres is based upon existing parcel size and dwelling unit density (about one dwelling unit per twenty acres), the possibility of other forms of development in the future, and the protection of water quality in the subarea. The RURAL zone of one dwelling unit per five acres is based upon existing parcel size and to offer the opportunity rural home site subdivision.

The commercial zones were applied in recognition of existing commercial centers and those areas that were planned for commercial activity in the previous 1977 plan. RESORT COMMERCIAL mixes high density residential uses with commercial uses and is applied consistent with the 1977 plan. Significant improvements need to occur in the transportation system before this zone could fully develop. A new zone, GATEWAY INDUSTRIAL, is applied between the Interstate highway and an all weather road and railroad line in order to facilitate a positive business image for Whatcom County to international travelers. AGRICULTURE was applied in the area where prime farmland soils and existing pattern of large parcels would allow productive agricultural operations.

B. LAND USE DESIGNATION POLICIES

The intent of the policies for each land use designation is contained in a brief introductory discussion in each section. The following sections provide policies for each land use designation. The format for these policies is:

.01 Purpose, Uses, and Densities
.02 Land Use Designation Boundaries
.03 Zoning District Boundaries
.04 Community Facilities and Resources
.05 Other
1. URBAN RESERVE

The primary purpose of the URBAN RESERVE policy is to promote an orderly transition from rural land uses and densities to urban uses and densities, while moving toward the attainment of the Regional Design Goal with respect to future urban development. The policy intends to encourage the responsible growth of urban areas by assuring that an adequate range of urban services (sewer, storm water drainage, schools, parks, water, fire and sheriff protection) are available to support urban level densities. When such services are available, development should occur in neighborhood units which have appropriate levels of densities, uses, and circulation networks. To facilitate future urban growth, the URBAN RESERVE policy is intended to discourage the establishment of interim uses and subdivision patterns which may foreclose significant future alternatives pertaining to urban densities and the efficient provision of services. Prior to the provision of public services, the policy intends to maintain a low density character and to allow reasonable uses of property by permitting compatible residential, recreational, commercial, forestry and agricultural land uses.

1.01 It is the policy of Whatcom County to promote an orderly transition from rural land uses and densities to urban uses and densities by designating certain portions of the Birch Bay-Blaine Subarea as URBAN RESERVE.

1.01.1 The predominant land use pattern within the URBAN RESERVE areas shall be residential and related forms, including neighborhood commercial, neighborhood parks and other public uses. The URBAN RESERVE policy discourages the establishment of interim uses and subdivision patterns that can foreclose significant alternatives pertaining to future urban densities and the efficient provision of services. Therefore, this policy maintains the low density character of the area while permitting compatible residential, recreational, commercial and forestry land uses until an urban level of water, and sewer and stormwater facilities are available.

1.01.2 To implement this policy the two residential zone districts densities of three or four dwelling units per acre shall not go into effect until such time that a full range of urban services is provided as specified in Section 1.04 below. In areas where such services do not yet exist, the applicable density shall be one dwelling unit per five acres of land.

1.02 The areas designated as URBAN RESERVE shall be indicated as such on the Comprehensive Land Use Plan Map, with legal descriptions in the Appendix.

1.03 Whatcom County shall implement the URBAN RESERVE land use designation by application of the URBAN RESIDENTIAL Zone District, which has two densities after urban services have been provided. The density in this subarea is four dwelling units per acre and is applied based upon the URBAN RESERVE Locational Criteria.

1.04 It is the policy of Whatcom County to encourage efficient land use patterns and the cooperation among municipalities, special districts, associations,
and other governmental agencies in provision of a full range of urban services in the URBAN RESERVE areas.

1.04.1 In the URBAN RESERVE areas, public sewer and water shall be provided by the City of Blaine, or Water Districts 6 or 8. Until such time that public sewer and water is provided, these areas shall have a density of one dwelling unit per five acres.

1.04.2 In URBAN RESERVE areas stormwater drainage facilities shall be subject to the regional stormwater management plan when adopted. On-site stormwater collection and retention shall be required during development and in accordance with the regional stormwater management plan when adopted by the county.

1.04.3 Where urbanization occurs on the periphery of large lot land use forms, urban residential subdivisions and other urban uses shall be designed to buffer less intensively utilized parcels with adequate landscaping, screening or fencing to prevent encroachment by vehicles, pedestrians, animals and nuisances.

1.04.4 Where practical, subdivisions and other urban uses adjoining other zone districts shall be designed so that vehicular and pedestrian networks are channelled to the internal area of the site and intersections with county roads are as few as possible.

1.04.5 Cluster subdivision and Planned Unit Development shall be allowed in URBAN RESERVE areas and encouraged for large parcels. These alternative methods of land subdivision are described more fully in Section VI.B.11.

1.05 It is the policy of Whatcom County to cooperate with municipalities within the county to effectively manage growth. If the City of Blaine amends its residential density zone designations in the areas north, south, and west of the city/county boundary, Whatcom County shall reexamine the land use designations in the Blaine area for possible expansion of the URBAN RESERVE areas.

1.05.1 To further a joint exchange of information Whatcom County shall send copies of applications for major land use, transportation and service entity activities proposed within the subarea to the City of Blaine within fifteen (15) days of application receipt by the county.

1.05.2 The City of Blaine is requested to send copies of future proposals concerning the expansion of the City's Water Service Zone boundaries, Sewer Service Zone boundaries, and comprehensive plan and zone amendments to the Whatcom County Planning Department so that the County may respond appropriately.
2. URBAN RESERVE MEDIUM DENSITY

The URBAN RESERVE MEDIUM DENSITY designation intends to provide for a transition between intensive and less intensive uses, affordable housing types, and other compatible nonresidential uses. The designation intends to promote an orderly and cost-effective transition from rural to urban uses. To facilitate future urban growth, the URBAN RESERVE MEDIUM DENSITY policy is intended to discourage the establishment of interim uses and subdivision patterns which may foreclose significant future alternatives pertaining to urban densities and the efficient provision of services. Prior to the provision of public services, the policy intends to maintain a low density character and to allow reasonable uses of property by permitting compatible residential, recreational, commercial, forestry and agricultural land uses.

2.01 It is the policy of Whatcom County to promote an orderly and predictable transition from rural to urban uses and densities, and provide for affordable housing types and compatible mixed use development forms, by designating portions of the Birch Bay-Blaine Subarea as URBAN RESERVE MEDIUM DENSITY.

2.01.1 When urban utility services are available, including publicly provided sewer and water, and stormwater management facilities, predominant land uses shall include single-family detached dwellings, apartments, condominiums, rooming houses, mobile home parks, retirement and convalescent centers, professional offices, neighborhood parks and other public uses.

2.01.2 Until urban utility services are available, acceptable uses shall include single-family detached dwellings, neighborhood parks and other public uses.

2.02 The areas designated as URBAN RESERVE MEDIUM DENSITY shall be indicated as such on the Comprehensive Land Use Plan Map, with legal descriptions in the Appendix.

2.02.1 Until a full range of urban utility services is available, including publicly provided sewer and water, and stormwater management facilities, the maximum density shall be one dwelling unit per five acres.

2.02.2 When urban utility services become available, the maximum density shall automatically be increased to six dwelling units per acre.

2.03 Within designated URBAN RESERVE MEDIUM DENSITY areas, Whatcom County encourages efficient land use patterns and cooperation between the county and special districts in the provision of a full range of services.

2.03.1 Prior to the provision of urban utility services, appropriate service levels to achieve a density of one dwelling unit per five acres include domestic water from water associations or individual on-site wells, on-site wastewater disposal, on-site stormwater management facilities as may be necessary, county and private
roads, sheriff protection and fire protection from Fire District No. 13.

2.03.2 To achieve the density of six dwelling units per acre, appropriate services shall include water and sewer from Water District B, or other water or sewer district, sheriff or police protection, Fire District No.13 protection services. Stormwater facilities shall be consistent with the provisions of the Whatcom County stormwater management plan when adopted; provided that interim on-site collection and retention may be required.

2.04 The following policies are established to guide the use of designated URBAN RESERVE MEDIUM DENSITY areas in the transition from rural to urban patterns.

2.04.1 Several methods of creating residential lots and mixed use developments are established: including conventional subdivision, cluster subdivision and planned unit development. Additional policies are contained in Section VI.B.11. Regulations concerning densities, parcel sizes and uses are contained in the URBAN RESIDENTIAL MEDIUM DENSITY zone text and the PLANNED UNIT DEVELOPMENT section of the Title 20 Zoning Ordinance.

2.04.2 Where practical, subdivisions and other urban uses adjoining other zone districts shall be designed so that vehicular and pedestrian networks are channelled to the internal area of the site and intersections with county roads are as few as possible.

2.05 In accordance with the 1977 Birch Bay Comprehensive Plan, specific site design criteria to encourage economic vitality for the entire Birch Bay area through establishing a positive visual identity and an adequate circulation system are as follows:

2.05.1 The subdivision design and site plan shall encourage the use of pedestrian and/or bicycle ways through providing bicycle trails, pedestrian pathways and street crossings for use by the general public that link and extend pathways connecting to public recreational or view areas. Trail or sidewalk environment shall be enhanced by use of appropriate materials, landscaping, lighting, graphics, street furniture, and design.

2.05.2 The subdivision plan, signage and landscape plan shall enhance the attractiveness and efficiency of the resort environment, within the development and in relation to other existing or proposed developments, by: making scenic views available where possible; making pedestrian and bicycle paths to the beach visible to the maximum extent possible from upland parcels and from existing roads, and when the alignment of future roads is identified, from those planned rights-of-way; and by screening storage areas, garbage areas, parking areas and similar features in a manner that maximizes the attractiveness of the development from the public right-of-way.

2.05.3 Landscaping along Birch Bay Road, Blaine Road, Birch Bay - Lynden Road, Alderson Road, Bay Road, and Jackson Road within the
district shall present a unified resort image through street trees and street setback planting areas consisting of: ground cover giving immediate coverage of at least fifty percent with an eighty-five percent coverage within two years; shrubs at least twenty-one inches in height above finished grade; and trees of appropriate species as specified in the 1977 Birch Bay Comprehensive Plan planted in clumps to average one per twenty (20) feet of road frontage, with evergreen trees a minimum height of six feet above finished grade and deciduous trees at least one and one-half inches in diameter measured four feet above ground level.

2.05.5 The site, building, signage and landscape design for any commercial uses shall incorporate elements that create a common community identity with the traditional small cottage resort character of the area, and shall use as one of these elements the "beach cobble motif" as specified in the 1977 Birch Bay Comprehensive Plan.
3. **RESIDENTIAL RURAL**

The intent of the RESIDENTIAL RURAL land use designation is to maintain the existing non-urban character of a residential area. Densities should range from one dwelling unit per acre to three dwelling units per acre, depending upon the range of public services, existing lot sizes, prior density and location. In recognition of the existing population center known as Custer, the density of two dwelling units per acre shall be used without the provision of public water or sewer if the requirements of the Bellingham-Whatcom County Health Department are met. As a means of efficiently utilizing land, maintaining the present low density residential character and retaining options regarding increased densities and services in the future, it is the intent of the RESIDENTIAL RURAL designation to provide for the option of "clustering" in the design of new subdivision proposals.

3.01 It is the policy of Whatcom County to maintain the character of existing low density residential areas by designating certain portions of the Birch Bay-Blaine Subarea as RESIDENTIAL RURAL.

3.01.1 Within the areas designated as RESIDENTIAL RURAL typical uses shall include single-family attached and detached dwellings, public parks and recreation facilities, home occupations, and neighborhood grocery stores.

3.01.2 To implement this policy residential density of two dwelling units per acre shall be provided.

3.02 The areas designated as RESIDENTIAL RURAL shall be indicated as such on the Comprehensive Land Use Plan Map, with legal descriptions in the Appendix.

3.03 Whatcom County shall implement the RESIDENTIAL RURAL land use designation by application of the RESIDENTIAL RURAL Zone District. The residential density is in the Birch Bay-Blaine Subarea is two dwelling units per acre.

3.04 It is the policy of Whatcom County to encourage efficient land use patterns and the cooperation among municipalities, special districts, associations, and other governmental agencies in provision of a partial range of urban services in RURAL RESIDENTIAL areas.

3.04.1 Either public water or public sewer shall be provided when available, in the RURAL RESIDENTIAL area known as Custer water association water service shall be acceptable. Stormwater detention shall be required during development and in accordance with the stormwater management plan when adopted.

3.04.2 When a subdivision is situated adjacent to less intensive land use designations, the subdivision shall be buffered at the site periphery to prevent the encroachment of vehicles, pedestrians, animals and nuisances onto other less intensively utilized areas.

3.04.3 Subdivisions shall be designed so as to minimize intersections along existing county roads and to discourage lineal residential patterns adjacent to county roads.
4. RURAL

The RURAL policy is intended to acknowledge physical and cultural factors which currently are and during the planning period will continue to be limitations to higher densities. Cultural factors pertain to the absence of public services and circulation networks, the acreage held under current use tax status, and the availability for residential development of more than sufficient land area within other land designations. Physical factors include acknowledging the economic potential of multiple resource based uses such as farming, woodlots, and mining. The policy is intended to retain future access options with respect to nonrenewable natural resources (sand, gravel, coal and minerals, and soils which contribute to agricultural and forest productivity) and also to preserve options for other zone districts when economic development potential exists. It is also intended to retain the "rural" character of an area as an option to urban and suburban patterns elsewhere in the subarea. RURAL policy also provides the option of "clustering" in the design of new rural subdivisions in order to retain productive land uses and future options for development.

4.01 It is the policy of Whatcom County to provide for very low density residential areas where multiple uses are suitable, or where community facility or resource constraints preclude higher densities, by designating certain portions of the Birch Bay-Blaine Subarea as RURAL.

4.01.1 Within the areas designated as RURAL typical uses shall include low density residential, occasional pasture, agriculture, woodlots and home occupations.

4.01.2 To implement this policy residential densities of one dwelling unit per five acres, and one dwelling unit per ten acres shall be provided.

4.02 The areas designated as RURAL shall be indicated as such on the Comprehensive Land Use Plan Map, with legal descriptions in the Appendix.

4.03 Whatcom County shall implement the RURAL land use designation by application of the RURAL Zone District. The residential density is one dwelling unit per ten acres, or one dwelling unit per five acres, and is applied according to the Locational Criteria.

4.04 It is the policy of Whatcom County to encourage effective land use patterns and adequate provision of services for RURAL densities.

4.04.1 RURAL areas shall be served by private water, water associations, and septic drainfields. Where water is obtained from off-site sources, written agreement must be made with all affected property owners and presented as part of subdivision or building permit review.

4.04.2 Several methods of creating residential lots and mixed use developments are established including conventional subdivision, cluster subdivision and planned unit development. Additional policies are contained in Section VI.B.11. Regulations concerning
densities, parcel sizes and uses are contained in the RURAL zone
text and the PLANNED UNIT DEVELOPMENT section of the Title 20
Zoning Ordinance.

4.04.3 Subdivisions shall be designed so as to minimize intersections
along existing county roads and to discourage lineal residential
patterns adjacent to county roads.

4.05 It is the policy of Whatcom County to recognize the potential for industrial
development in RURAL areas that have existing infrastructure that would
provide some of the necessary services. These RURAL areas may be amended to
LIGHT IMPACT INDUSTRIAL or GATEWAY INDUSTRIAL in order to allow for site-
specific development proposals by the private sector or a public agency when
the following criteria are met:

4.05.1 The request shall conform to the goals of the subarea plan;

4.05.2 The request shall be compatible in design and operation with
existing and planned uses of the adjacent area, including
mitigation measures where necessary;

4.05.3 The amendment request shall be a logical geographic area that has
all weather road access to Interstate 5, has rail access, has
sewer and water service provided by Water District 8 or by other
public purveyor, and has made adequate provision of all other
necessary services without resulting in unmitigated negative
impacts on publicly provided services;

4.05.4 The amendment request shall provide for protection of California
Creek and Terrell Creek and shall demonstrate adequate provisions
prevent any accidental pollution that might result from
potential on-site industrial uses; and

4.05.5 The amendment request shall demonstrate that changed circumstances
have created a land use need for additional light impact
industrial uses along the Cherry Point Spur Rail Line or for
additional gateway industrial uses along the Burlington Northern
Main Line.
5. AGRICULTURE

The intent of the AGRICULTURE designation is to maintain and encourage the conservation of agricultural lands in Whatcom County. The designation promotes the continuation of viable economic livelihoods for the agricultural operator, agricultural producer and related agricultural services. The designation also provides clear direction for nonagricultural uses to locate in other urban or rural designations; thereby minimizing potential conflicts between agricultural operators and uses that are not directly involved in agriculture. Additional intents of the designation include maintenance of open space, conservation of natural resources and systems, minimizing energy and expense through encouraging agricultural operations at fertile locations, sustaining existing county agricultural products, encouraging the development of additional agricultural products; and encouraging the stewardship approach to land management.

5.01 In recognition of the policy of Whatcom County to provide for the continuation of agriculture as an important part of the local economy, and to recognize the nonrenewable resource of soils well suited for agriculture, the southeastern corner of the Birch Bay-Blaine Subarea is designated AGRICULTURE.

5.01.1 Predominant uses include the cultivation and management of field, shrub, vine, greenhouse, orchard and forest crops; dairying; livestock raising; animal husbandry; beekeeping; and uses that are accessory to agricultural operations including operator and farmhand residences, small-scale product marketing and home occupations.

5.01.2 Other uses shall be subject to public review to assure maintenance of the agricultural resource and compatibility with agricultural operations. Such uses include various public uses, animal hospitals, agricultural worker housing, processing of agricultural products, limited sand and gravel extraction, and commercial activities that directly provide agricultural goods and services to the agricultural operator.

5.02 The areas designated as AGRICULTURE shall be indicated as such on the Comprehensive Land Use Plan Map, with legal descriptions in the Appendix.

5.02.2 The boundaries of designated AGRICULTURE areas acknowledge existing agricultural land uses, land in agricultural current use tax assessment, areas with Prime Farmland soils, and areas with parcel sizes or land ownership patterns of generally greater than twenty acres.

5.02.3 Several minimum parcel sizes are provided as follow.

(1) Variable minimum parcel size shall be permitted, consistent with the generally acceptable size for an economically viable operation for the particular form of intended agricultural pursuit, subsequent to affirmative review by representatives from the Bureau of Buildings and Code Administration, the
Planning Department, the Cooperative Extension Agency and the Soil Conservation Service.

(2) Parcels of less than five acres in size will be permitted for the residential use of retiring farm operators, public and quasi-public uses that are necessary in agricultural areas, and for purposes of securing bank loans for farm residences.

(3) Forty acres shall be the minimum size for parcels used solely for residential purposes, except as described above, with the intent of minimizing the introduction of people into agricultural areas who are not associated with agriculture. In addition, one dwelling will be permitted on each legally created parcel of record existing at the time of adoption of this document of greater than one acre in size.

5.03 Appropriate utilities and facilities in designated AGRICULTURE areas include on-site wells or water associations for the provision of potable and irrigation water, individual on-site wastewater disposal systems, volunteer fire protection and law enforcement provided by the county Sheriff's Department and the Washington State Patrol.

5.03.1 The continued efforts of drainage improvement districts are encouraged to enable improved use of agricultural lands.

5.03.2 The continued efforts of flood control and diking districts are encouraged to enhance use of floodplains for agriculture, as well as increase protection of existing agricultural investments in land improvements and buildings.

5.04 The following policies are intended to promote the continued economic viability of agriculture in Whatcom County and conserve associated resources.

5.04.1 Consolidation of adjoining parcels in the same ownership by filing a new deed is encouraged to promote easily workable farm units.

5.04.2 Residential subdivisions and other uses not related to agriculture are discouraged from locating in designated AGRICULTURE areas.

5.04.3 Farm operators are encouraged to use the farm management assistance available from the Whatcom County Conservation District and U.S. Soil Conservation Service to foster the long-term productivity of the agricultural land base.

5.04.4 The agricultural community is supported in its efforts to diversify the types of agricultural operations in the county and to continue to incorporate techniques that will enhance agricultural productivity and efficiency.

5.04.5 To enhance economic returns to the operator, direct marketing of products to the consumer is supported. In addition, to minimize "overhead" in the conduct of farm businesses, the formation of
cooperatives is supported for warehousing, processing, and providing agricultural supplies and equipment.

5.04.6 To increase direct economic benefits to Whatcom County originating with agriculture, continued local processing of agricultural products is encouraged, as well as the development of additional processing facilities.

5.04.7 In recognition of the prevailing type of agricultural operation, Whatcom County encourages the continuation of the small farm as the basic unit of farm production. In addition, Whatcom County encourages the continued efforts of citizen groups engaged in promoting agricultural education, operations and marketing.

5.05 The following policies are established to address other aspects of agricultural concerns.

5.05.1 Agriculture in its various forms is the preferred use of areas designated AGRICULTURE. Although it is anticipated that adjustments to designated AGRICULTURE areas will not be necessary during the planning period, proposed conversions shall be processed consistent with the Amendment Criteria Section of this document. In addition, Whatcom County should develop a system for addressing potential conversions that uses the principles established in the "Land Evaluation System Analysis (LESA)," formulated by the Soil Conservation Service.

5.05.2 Agricultural operators are encouraged to fence streams and ditches to prevent the direct introduction of livestock and livestock wastes to conserve surface water quality and reduce stream bank erosion and soil loss. In addition, to minimize any potential short and long-term impacts to groundwater supplies, agricultural operators are encouraged to use only those chemicals in conservative amounts that are necessary for crop production, applied according to state and federal guidelines, and to use chemicals having low potency and residuals of short duration.

5.05.3 Whatcom County supports the acquisition of conservation easements by public land trusts, consistent with the intentions of affected property owners in AGRICULTURAL areas to:
   1. Preserve agricultural operations;
   2. Conserve Prime Farmland soils;
   3. Conserve wildlife habitats; or
   4. Conserve scenic resources.

5.05.4 Conservation of agricultural operations and Prime Farmland soils is encouraged through using the current use tax assessment opportunities of the Open Space Taxation Act (RCW 84.34).

5.05.5 Implementation of "special district" and water association plans, and other capital improvements, shall be approved or supported only when it is found that designated AGRICULTURE areas will benefit.
G. PUBLIC

With reference to parcels that are owned or planned for ownership by public agencies, the intent of the following policies is to implement the County Goal Statements relating to public facilities and services and to assure the continued public provision of a variety of services in a manner that is commensurate with population levels and requirements. The policies also are intended to optimize public investments and promote compatibility between public functions and surrounding land uses.

G.01 It is the policy of Whatcom County to ensure the continued public provision of a variety of parks and recreational facilities, educational facilities, and other utilities and services in a manner that is commensurate with population levels and requirements by designating certain portions of the Birch Bay-Blaine Subarea as PUBLIC. Typical uses in PUBLIC planned areas include facilities and services related to the provision of recreation, education, utilities, communications, solid waste disposal, health care and water diversion works.

G.02 The areas designated as PUBLIC shall be indicated as such on the Comprehensive Land Use Plan Map, with legal descriptions in the Appendix.

G.03 Whatcom County shall implement the PUBLIC land use designation by application of the zone district consistent with the adjacent zone that is most suitable.

G.04 It is the policy of Whatcom County to encourage effective land use patterns and cooperation among governmental jurisdictions in providing appropriate levels of service to the various public areas.

G.04.1 Services shall include public water and sewer where available and appropriate to the use, and stormwater drainage shall be required according to the regional stormwater management plan when adopted.

G.04.2 Whenever practical, multi-purpose use of public lands, facilities, and services is encouraged.

G.04.3 Visual and functional impacts of PUBLIC land uses should be minimized through utilization of aesthetic site design which is compatible with the character of the surrounding area.

G.04.4 Public agencies are encouraged to acquire those parcels which benefit the continued operation of their function. Whenever practical, joint agreements between agencies shall be encouraged to expedite efficient public expenditure.

G.04.5 It is the policy of Whatcom County to augment recreational opportunities by seeking means to secure public access to beaches and tidelands through public acquisition or dedication; encouraging cooperation among property owners, the Department of Natural Resources, and the Whatcom County Parks Department.
6.05 Pursuant to the Inter-Local Cooperation Act (RCW 39.34), it is the policy of Whatcom County to prepare and adopt long range plans that address future land, facility and service requirements, coordinate public and private activities, and minimize potential future conflict between various public agencies and the private sector regarding plan implementation.

6.05.1 Whatcom County shall cooperate and coordinate with the Whatcom County Parks Department in the integration of existing park plans into a Parks and Recreation Element contained within the Comprehensive Plans.

6.05.2 The County Parks Department shall be encouraged to participate in neighborhood park planning within the areas designated as URBAN RESERVE, URBAN RESERVE MEDIUM DENSITY, RESORT COMMERCIAL and RESIDENTIAL RURAL on the Comprehensive Land Use Plan Map.
7. NEIGHBORHOOD COMMERCIAL

The convenient availability of goods and services to residential neighborhoods is an integral part of our economic system. The Birch Bay neighborhoods also receive a number of visitors desiring convenience goods and services. It is the intent of this policy to provide for these needs. The Planned Unit Development (PUD) provision is an option that may be used in the development of designated commercial areas. Additional policies on PUDs are located in Section VI.B.11 of this document; and regulations are located in the Title 20 Zoning Ordinance.

7.01 It is the policy of Whatcom County to provide for commercial activities convenient to and appropriate for residential neighborhoods by designating certain portions of the Birch Bay-Blaine Subarea NEIGHBORHOOD COMMERCIAL. Typical commercial activities include convenience retail stores, automobile service stations, professional offices, and eating and drinking establishments and shall be regulated as to size and design in accordance with the applicable zone district.

7.02 The areas designated as NEIGHBORHOOD COMMERCIAL shall be indicated as such on the Comprehensive Land Use Plan Map, with legal descriptions in the Appendix.

7.03 Whatcom County shall implement the NEIGHBORHOOD COMMERCIAL land use designation by application of the NEIGHBORHOOD COMMERCIAL zone district based upon the Locational Criteria.

7.04 It is the policy of Whatcom County to encourage effective land use patterns and adequate provision of services for GENERAL COMMERCIAL areas.

7.04.1 It is the policy of Whatcom County that NEIGHBORHOOD COMMERCIAL areas shall be provided with the same level of public services as the surrounding residential area. Stormwater facilities for all designated NEIGHBORHOOD COMMERCIAL areas shall be consistent with the county stormwater management plan when adopted; provided that in the interim, on-site collection and retention systems may be required.

7.04.2 Maximum use of designated NEIGHBORHOOD COMMERCIAL areas shall be commensurate with available fire flow, public health considerations and zone district requirements.

7.04.3 Development should occur in a concentrated and compact form, and should avoid lineal development patterns.

7.04.4 Ingress and egress points to state and county roads shall be minimized by consolidating on-site circulation networks and by developing shared access points to county roads.

7.04.5 On-site circulation shall be designed to accommodate private vehicles, delivery vehicles, emergency vehicles, bicycles and pedestrians; and potential vehicular/bicycle/pedestrian conflicts shall be avoided by making provision for bicycle and pedestrian ways between commercial uses.
7.04.6 A screened and/or landscaped buffer shall be established along the periphery of the NEIGHBORHOOD COMMERCIAL district to minimize noise, glare and other intrusions into adjoining residential and rural areas.

7.05 For the two NEIGHBORHOOD COMMERCIAL districts north and west of Birch Bay, in accordance with the 1977 Birch Bay Comprehensive Plan, specific site design criteria to encourage economic vitality for the entire Birch Bay area through establishing a positive visual identity and an adequate circulation system are as follows:

7.05.1 The site plan shall encourage the use of pedestrian and/or bicycle ways through providing bicycle trails, pedestrian pathways and street crossings for use by the general public that link and extend pathways connecting to public recreational or view areas. Trail or sidewalk environment shall be enhanced by use of appropriate materials, landscaping, lighting, graphics, street furniture, and design.

7.05.2 Landscaping along Harbor View Road and Birch Point Road shall present a unified resort image through street trees and street setback planting areas consisting of: ground cover giving immediate coverage of at least fifty percent with an eighty-five percent coverage within two years; shrubs at least twenty-one inches in height above finished grade; and trees of appropriate species as specified in the 1977 Birch Bay Comprehensive Plan planted in clumps to average one per twenty (20) feet of road frontage, with evergreen trees a minimum height of six feet above finished grade and deciduous trees at least one and one-half inches in diameter measured four feet above ground level.

7.05.3 The site, building, signage and landscape design shall incorporate elements that create a common community identity with the traditional small cottage resort character of the area, and shall use as one of these elements the "beach cobble motif" as specified in the 1977 Birch Bay Comprehensive Plan. Signage shall be consistent with any signage motif plan adopted by the businesses along Birch Bay Drive.

7.05.4 Roof-mounted mechanical equipment shall not be used when feasible alternative placement exists, and each development shall screen roof-mounted mechanical equipment so as not to be visible by surrounding uses or from public road rights-of-way. Storage areas, garbage areas, and parking areas shall be screened from public roads and from uses of a substantially different character.
8. GENERAL COMMERCIAL

The GENERAL COMMERCIAL designation is intended to provide a broad range of retail goods and services that will benefit a large trade area. The designation also intends to facilitate safe and efficient circulation systems, provide methods to attain compatibility with surrounding noncommercial uses, and promote site design that will efficiently use available commercial land. The Planned Unit Development (PUD) provision is an option that may be used in the development of designated commercial areas. Additional policies on PUDs are located in Section VI.B.11 of this document; and regulations are located in the Title 20 Zoning Ordinance.

8.01 It is the policy of Whatcom County to acknowledge existing patterns of commercial uses and to provide for additional future development by designating certain areas as concentrated centers for commercial activities. In designated areas, a broad range of goods and services should be available including sales and servicing of vehicles, mobile homes and boats; eating and drinking establishments; professional offices; service and retail establishments; commercial indoor and outdoor recreation; commercial wholesaling; and public uses that are necessary for the function of the designation.

8.02 The areas designated as GENERAL COMMERCIAL shall be indicated as such on the Comprehensive Land use plan Map, with legal descriptions in the Appendix.

8.03 Whatcom County shall implement the GENERAL COMMERCIAL land use designation by application of the GENERAL COMMERCIAL zone district.

8.04 It is the policy of Whatcom County to encourage effective land use patterns and adequate provision of services for GENERAL COMMERCIAL areas.

8.04.1 The GENERAL COMMERCIAL area at the corner of Birch Bay Lynden Road and Blaine Road shall be served with public sewer and water from Water District 8, sheriff protection and volunteer fire protection. On an interim basis limited use of each parcel shall be allowed commensurate with the existing level of services including on-site wastewater disposal systems, water associations, sheriff and volunteer fire protection.

8.04.2 Stormwater facilities for all designated GENERAL COMMERCIAL areas shall be consistent with the county stormwater management plan when adopted; provided that in the interim, on-site collection and retention systems may be required.

8.04.3 Maximum use of designated GENERAL COMMERCIAL areas shall be commensurate with available fire flow, public health considerations and zone district requirements.

8.04.4 Ingress and egress points to state and county roads shall be minimized by consolidating on-site circulation networks and by developing shared access points to county roads.
8.04.5 On-site circulation shall be designed to accommodate private vehicles, delivery vehicles, bicycles and pedestrians; and potential vehicular/bicycle/pedestrian conflicts shall be avoided by making provision for bicycle and pedestrian ways between commercial uses. These shall be designed to eventually link to central Birch Bay.

8.04.6 A screened and/or landscaped buffer shall be established along the periphery of the GENERAL COMMERCIAL district to minimize noise, glare and other intrusions into adjoining residential and rural areas.

8.05 The General Commercial area along Birch Bay Lynden Road as one of the major entrances to Birch Bay shall present the community resort identity as described in the 1977 Birch Bay Comprehensive Plan.

8.05.1 The overall site plan including landscaping, parking, lighting, signage, access, on-site circulation, building location and scale and utility placement shall create a common community identity with the traditional small cottage resort character of the area, and shall use as one element the "beach cobble motif" as specified in the 1977 Birch Bay Comprehensive Plan. Signage shall be consistent with any signage motif plan adopted by the businesses along Birch Bay Drive.

8.05.2 Roof-mounted mechanical equipment shall not be used when feasible alternative placement exists, and each development shall screen roof-mounted mechanical equipment so as not to be visible by surrounding uses or from public road rights-of-way. Storage areas, garbage areas, and parking areas shall be screened from public roads and from uses of a substantially different character.

8.05.3 Landscaping along roads shall present a unified Birch Bay resort image through street trees and street setback planting areas consisting of: ground cover giving immediate coverage of at least fifty percent with an eighty-five percent coverage within two years; shrubs at least twenty-one inches in height above finished grade; and trees of appropriate species as specified in the 1977 Birch Bay Comprehensive Plan planted in clumps to average one per twenty (20) feet of road frontage, with evergreen trees a minimum height of six feet above finished grade and deciduous trees at least one and one-half inches in diameter measured four feet above ground level.

8.05.4 The site plan shall encourage the use of pedestrian and/or bicycle ways through providing bicycle trails, pedestrian pathways and street crossings for use by the general public that link and extend pathways connecting to public recreational or view areas. Trail or sidewalk environment shall be enhanced by use of appropriate materials, landscaping, lighting, graphics, street furniture, and design.
9. **RESORT COMMERCIAL**

The primary purpose of the RESORT COMMERCIAL policy is to promote a blend of compatible tourist, resort, recreational, seasonal residential, and year round residential uses in areas that are attractive to such uses. In addition, the policy intends to encourage this mixture in areas where an adequate range of urban services (sewer, storm water drainage, schools, parks, water, fire and sheriff protection) is available to support urban level densities. When such services are available, development should occur in neighborhood units which have appropriate levels of densities, uses, and circulation networks.

9.01 It is the policy of Whatcom County to promote an orderly pattern of recreational development that mixes residential and commercial uses at a variety of densities by designating certain portions of the Birch Bay-Blaine Subarea as RESORT COMMERCIAL.

9.02 The areas designated as RESORT COMMERCIAL shall be indicated as such on the Comprehensive Land Use Plan Map and described in the Appendix.

9.03 Whatcom County shall implement the RESORT COMMERCIAL land use designation by application of the RESORT COMMERCIAL zone district.

9.04 It is the policy of Whatcom County to encourage efficient land use patterns that will promote the economic viability of resort areas and to cooperate with municipalities, special districts, and other governmental agencies in provision of a full range of urban services in RESORT COMMERCIAL areas.

9.04.1 Public sewer and water shall be provided by Water District 8. No development shall occur without both public water and sewer service.

9.04.2 Stormwater drainage facilities shall be in compliance with the regional stormwater management plan when adopted. On-site stormwater collection and retention shall be required during development pursuant to the Whatcom County Development Standards.

9.04.3 Urban residential subdivisions and other urban uses on the periphery of large lot land use forms shall be designed to buffer less intensively utilized parcels with adequate landscaping and screening to prevent visual and physical encroachment by vehicles, pedestrians, animals and nuisances.

9.04.4 Ingress and egress points to state and county roads shall be minimized by consolidating on-site circulation networks. On-site circulation shall be designed to accommodate private vehicles, delivery vehicles, emergency vehicles, bicycles and pedestrians; and potential vehicular/pedestrian conflicts shall be minimized.

9.04.5 Development shall be encouraged in a concentrated and compact form, and lineal development patterns shall be discouraged. Site design in responding to environmental opportunities and constraints, shall arrange building placement that will maximize
open space, minimize utility extensions, maximize energy efficiency, and where possible shall protect scenic views.

9.04.6 Planned Unit Development (PUD) shall be allowed in RESORT COMMERCIAL areas. A description of land subdivision options is contained in Section VI.B.10 of this plan, and the specific requirements for a PUD are in Title 20, Chapter 05. For the purposes of density bonuses in Chapter 20.85, "significant public access on shorelines" shall consist of tidelands with a width of at least forty (40) feet, or a minimum of five (5) feet in width for each acre for which the density increase is obtained, whichever is greater. Width shall be measured parallel to the ordinary high water mark, and depth shall extend from the right-of-way or development line shoreward setback to the extreme low water mark. This tideland area shall have access to a public right-of-way, if the access is an easement over private property it shall be at least ten (10) feet wide. Equivalent alternatives may be considered.

9.05 In accordance with the 1977 Birch Bay Comprehensive Plan, specific site design criteria to encourage economic vitality through a positive visual resort identity and an adequate resort circulation system are as follows:

9.05.1 The site plan shall encourage the use of pedestrian and/or bicycle ways through providing bicycle trails, pedestrian pathways and street crossings for use by the general public that link and extend pathways connecting to public recreational or view areas. Trail or sidewalk environment shall be enhanced by use of appropriate materials, landscaping, lighting, graphics, street furniture, and design.

9.05.2 The site plan, building design, signage and landscape plan shall enhance the attractiveness and efficiency of the resort environment, within the development and in relation to other existing or proposed developments, by: making scenic views available where possible; making pedestrian and bicycle paths to the beach visible from upland parcels and from existing roads, and when the alignment of future roads is identified, from those planned rights-of-way to the maximum extent possible; and by locating portals, service loading areas, automobile access points, street furniture, exterior public activity locations, parking areas and similar features in a manner that maximizes the attractiveness of the development from the public right-of-way.

9.05.3 Roof-mounted mechanical equipment shall not be used when feasible alternative placement exists, and each development shall screen roof-mounted mechanical equipment so as not to be visible from surrounding uses or from public road rights-of-way. Storage areas, garbage areas, and parking areas shall be screened from public roads and from uses of a substantially different character. Where the area to be screened is located adjacent to a public right-of-way where beach or tidelands can be seen, screening fences or vegetation shall not be over four (4) feet in height.
except for trees that have the lower branches removed to allow views.

9.05.4 Landscaping along roads within the district shall present a unified resort image through street trees and street setback planting areas consisting of: ground cover giving immediate coverage of at least fifty percent with an eighty-five percent coverage within two years; shrubs at least twenty-one inches in height above finished grade; and trees of appropriate species as specified in the 1977 Birch Bay Comprehensive Plan planted in clumps to average one per twenty (20) feet of road frontage, with evergreen trees a minimum height of six feet above finished grade and deciduous trees at least one and one-half inches in diameter measured four feet above ground level.

9.05.5 The overall site plan including landscaping, parking, lighting, signage, access, on-site circulation, building location and scale and utility placement shall create a common community identity with the traditional small cottage resort character of the area, and shall use as one element the "beach cobble motif" as specified in the 1977 Birch Bay Comprehensive Plan. Signage shall be consistent with any signage motif plan adopted by the Birch Bay Chamber of Commerce.

9.05.6 A Scenic Road Overlay Zone for roads in the immediate vicinity of water resources under the jurisdiction of the Shoreline Management Program (SMP) shall be developed based upon the 1977 Birch Bay Comprehensive Plan, the SMP review published as part of the Birch Bay - Blaine Subarea planning effort, and the update underway of the SMP and its public access provisions. This overlay zone shall consider building design, site planning, signage, landscaping, setbacks, transfer of development rights, public access, road improvements, and other appropriate elements.
10. GATEWAY INDUSTRIAL

The GATEWAY INDUSTRIAL designation is intended to provide concentrated areas, located in proximity to major transportation corridors or international border crossings, that will present a favorable image of Whatcom County to the international business traveler. In addition, in areas immediately adjacent to full freeway interchanges uses that serve the traveling public are provided. The designation intends to facilitate safe and efficient circulation systems, provide methods to attain compatibility among mixed uses, and promote site design that is visually compatible with rural areas.

10.01 To use limited areas having industrial access and international traveler visibility in a manner that promotes the long range economic viability of Whatcom County. Uses should be directly related to the international access opportunities, or in certain areas serve the traveling public.

10.02 The areas designated as GATEWAY INDUSTRIAL shall be indicated as such on the Comprehensive Land Use Plan Map, with legal descriptions in the Appendix.

10.03 The GATEWAY INDUSTRIAL designation is implemented with the Gateway Industrial zone district. The boundaries of the district are established in accordance with the locational criteria.

10.04 It is the policy of Whatcom County that these GATEWAY INDUSTRIAL areas shall have public sewer and public water services, on-site stormwater collection and retention facilities as needed, sheriff protection and sufficient fire protection before development occurs. Limited development may be permitted in accordance with the zone text without the full range of public services.

10.05 It is the policy of Whatcom County to enhance and maintain its natural and economic resources through GATEWAY INDUSTRIAL land use patterns that avoid linear strip development, while providing for safe and efficient vehicular movement, by requiring that individual sites are designed in a clustered or concentrated form of development instead of lining the road frontage. In addition, site design standards are contained within the zone text to aid in the compatibility of mixed uses and the visual appropriateness to the surrounding rural area.

10.06 It is the policy of Whatcom County to prohibit the conversion of adjoining RURAL lands to GATEWAY INDUSTRIAL until the existing district is fully developed. At that time, extension northward between Interstate 5 and Portal Way should be evaluated by the Planning Department based upon the criteria found in Section VI.4.05.
11. LAND DEVELOPMENT OPTIONS, GUIDELINES AND REQUIREMENTS

The intent of this section is to provide options for land development that are environmentally efficient and that minimize public and private utility and transportation expenditures. This section provides general information and requirements that affect the majority of land use designations within the Birch Bay-Blaine Subarea. Guidelines and requirements that are unique are provided in the applicable zoning ordinance text.

11.01 Areas that are designated RESORT COMMERCIAL, URBAN RESERVE, URBAN RESERVE MEDIUM DENSITY, RESIDENTIAL RURAL, RURAL, and AGRICULTURE have the option of creating new residential parcels using the conventional subdivision method. Parcel sizes in conventional subdivisions are uniform and are specifically established in each implementing zone text.

11.02 Areas that are designated RESORT COMMERCIAL, URBAN RESERVE, URBAN RESERVE MEDIUM DENSITY, RESIDENTIAL RURAL, and RURAL have the option of creating new residential parcels using the cluster subdivision method. The purpose is to provide economic flexibility to the individual property owner, promote economic lot design, conserve nonrenewable and renewable natural resources, minimize disturbance to environmentally fragile areas, promote compatibility with surrounding nonresidential land uses, and provide options beyond the planning period for land use decisions. Cluster subdivision is defined as an alternative method of creating building parcels that are spatially efficient and economical, and that will retain options for future uses and densities by treating land as a commodity and resource. The following policies establish subdivision guidelines and implementation considerations.

11.02.1 Minimum parcel size shall be established consistent with the provisions of specific implementing zones or Health Department requirements, whichever is greater.

11.02.2 Subdivision design shall be discouraged from forming lineal residential patterns adjacent to roads by minimizing ingress and egress points, and by consolidating access for several parcels.

11.02.3 When possible, it is preferred that residential structures be sited at the perimeter of fields, at the perimeter of woodlots, in woodlots or be partially concealed by topographic features.

11.02.4 When possible, structures on open landscapes should be sited and designed to minimize view disruptions from adjacent properties and public roadways.

11.02.5 When a cluster subdivision is situated adjacent to a less intensive use including large parcel residential, agriculture or forestry, the subdivision shall be buffered at the site periphery to prevent the encroachment of vehicles, pedes-
trians, animals and nuisances onto less intensively used parcels.

11.02.6 Vehicular and pedestrian networks should be oriented to the interior of clustered subdivisions.

11.02.7 To maintain area character and settlement patterns, and to achieve visual compatibility and land carrying capacity similar with the surrounding area, the Subdivision Administrator and Hearing Examiner may request that the potential number of building sites for a particular parcel be clustered into two or more residential concentrations.

11.03 Areas that are designated URBAN RESERVE, URBAN RESERVE MEDIUM DENSITY, RESIDENTIAL RURAL, RURAL, NEIGHBORHOOD COMMERCIAL, GENERAL COMMERCIAL, RESORT COMMERCIAL and GATEWAY INDUSTRIAL have the option of using the Planned Unit Development provision of the Title 20 Zoning Ordinance. Planned Unit Development is defined as an official control that allows greater flexibility in density, bulk regulations, building types and land use mixture than is generally permitted in the specific implementing zone text. The option is intended to encourage creative site planning, permanent open space, variety in living, working and recreational settings, conservation of environmentally fragile areas, and mixed use developments.

11.04 When located adjacent to existing agricultural or forestry operations, either within the same land use designation or outside thereof, conventional and cluster residential subdivisions shall be required to have a "hold harmless" agreement attached to the face of the plat; the intent of which is to facilitate the unhampered continuation of legal and customary operations associated with agriculture and forestry.
C. COMMUNITY FACILITIES AND RESOURCES POLICIES

The implementation of land use designations is closely interwoven with the provision of community facilities such as utilities, roads, recreational areas, and emergency services. Land use designations also are affected by and affect the environmental and economic resources of an area. Policies were developed to address or resolve particular issues dealing with these interrelationships. The basic aims of these policies are the maintenance of attractiveness for residential population growth, the economic use of natural resources including the improvement of surface water quality necessary for fisheries, the preservation of important resources, and the encouragement of economic development.

In the Birch Bay-Blaine Subarea the environmental resources are extensive and, in some cases, irreplaceable. Environmental resources include a varied marine shore with shallow warm bay, wildlife habitat and fish spawning grounds, groundwater and creeks, and soils and geology that contribute economic resources. Economic resources primarily consist of recreation based on the natural attributes of the area, Canadian retail trade, fisheries and aquaculture, agriculture, woodlots, and mining.

The community facilities that are necessary in this subarea to maintain and enhance its resources are basically in place. Upgrading is needed particularly transportation facilities, and there are issues associated with recreational use and provision of water and sewer service. These are addressed in the following sections on community services, transportation, and recreation. The format of the policy is:

.01 Purpose
.02 Coordination
.03 Standards
.04 Implementation
Community Utilities and Services

1.01 **Purpose** It is the purpose of Whatcom County to ensure a beneficial balance between the demand for and supply of community utilities and services and that jurisdictional responsibility and service levels are consistent and predictable for the planned land uses. Community facilities and services typically include sewer and water systems, transportation networks, school and park systems, stormwater drainage systems, and fire and police protective services.

1.02 **Coordination** It is the policy of Whatcom County to encourage cooperation among municipalities, special districts, water associations, and other appropriate groups in the planning and provision of public services.

1.02.1 Whatcom County shall cooperate and coordinate with the City of Blaine, Whatcom County Water Districts No. 6 and 8, Whatcom County Fire Protection Districts No. 13, and No. 7, Blaine and Ferndale School Districts, and the State of Washington in planning subarea service systems, particularly for areas designated as URBAN RESERVE.

1.02.2 Whatcom County shall recognize Puget Power and Light and Cascade Natural Gas as the primary energy purveyors in the subarea; however, the use of alternative energy systems such as active and passive solar heating and water heating, small scale hydroelectric power, and wind power plants for residential, commercial, quasi-public and public land uses shall be encouraged through the favorable consideration of necessary site design variances whenever appropriate.

1.02.3 Whatcom County shall ensure that the necessary staff and equipment are available in the Whatcom County Sheriff’s Department to provide adequate protective services for the Birch Bay-Blaine Subarea population.

1.03 **Standards** It is the policy of Whatcom County to use availability and level of service standards for community facilities and utilities to maintain and enhance its natural and economic resources, land use patterns, and the safety and well-being of citizens.

1.03.1 Whatcom County shall encourage the placement and extension of sewer and water lines in areas contiguous to existing development so as to discourage the occurrence of "leapfrog" development.

1.03.2 Whatcom County shall discourage development in areas that are inaccessible to ambulances, sheriff’s vehicles and fire fighting equipment until private roads are developed that meet emergency vehicle access requirements. Development in areas inaccessible to fire district equipment shall be discouraged unless adequate on-site water and fire suppression systems are available for fire fighting.
1.04 Implementation It is the policy of Whatcom County to use the following criteria for the implementation of adequate economically feasible services in designated land use areas.

1.04.1 RESORT COMMERCIAL: Land areas designated RESORT COMMERCIAL are intended for urban type densities and shall be provided with a full range of urban services including publicly provided sewer and water, fire and sheriff protection, transportation and stormwater drainage systems. On-site stormwater detention is required during development and in accordance with the regional stormwater management plan when adopted. Upon completion of the stormwater management plan facilities and land areas used for retention may be converted to permitted uses and densities. Whatcom County recognizes specific service purveyors for the delivery of urban services in the Birch Bay RESORT COMMERCIAL areas as follows:

Sewer and Water: Water District 8.
Law Enforcement: Whatcom County Sheriff’s Department
Fire Protection: Whatcom County Fire Protection District No. 13 and 7
Transportation: Whatcom County and Washington Dept. of Transportation
Recreation: Whatcom County Parks Department, Blaine-Birch Bay Park and Recreation District, Washington Parks Dept.

Stormwater Management: Whatcom County

1.04.2 URBAN RESERVE and URBAN RESERVE MEDIUM DENSITY: Land areas designated URBAN RESERVE are intended for urban type densities and shall be provided with a full range of urban services including publicly provided sewer and water, fire and sheriff protection, transportation and stormwater drainage systems. On-site stormwater detention is required during development and in accordance with the regional stormwater management plan when adopted. Upon completion of the stormwater management plan facilities, land area currently used for retention may be converted to permitted uses and densities. Whatcom County recognizes specific service purveyors for the delivery of urban services in the Blaine, Drayton Harbor, and Birch Bay URBAN RESERVE areas as follows:

Sewer and Water: City of Blaine and Water District 6 and 8.
Law Enforcement: Whatcom County Sheriff’s Department
Fire Protection: Whatcom County Fire Protection District No. 13 and 7
Transportation: Whatcom County

Recreation: Whatcom County Parks Department, Blaine-Birch Bay Park and Recreation District, Washington Parks Dept.

Stormwater Management: The City of Blaine and Whatcom County

1.04.3 RESIDENTIAL RURAL: Land areas designated RESIDENTIAL RURAL shall have a partial range of urban services including either publicly provided sewer and/or water. On-site stormwater detention is required consistent with 1.04.1 above. In recognition of the existing density services shall include: on-site domestic waste water disposal systems and water associations; volunteer fire protection from a Whatcom County Fire Protection District and the Department of Natural Resources; law enforcement from the Whatcom County Sheriff’s Department; transportation provided by local access roads maintained by Whatcom County and private roads; and recreation provided by the Whatcom County Parks Department and Blaine-Birch Bay Park and Recreation District in cooperation with the State of Washington.

1.04.4 RURAL: Services shall include: on-site domestic waste water disposal systems and individual well or water associations; volunteer fire protection from a Whatcom County Fire Protection District and the Department of Natural Resources; law enforcement from the Whatcom County Sheriff’s Department; transportation provided by local access roads maintained by Whatcom County and private roads; and recreation provided by the Whatcom County Parks Department and Blaine-Birch Bay Park and Recreation District in cooperation with the State of Washington.

1.04.5 QUASI-PUBLIC AND PUBLIC: Services shall include public sewer and water where available from Districts No. 6 and 8, the City of Blaine, or on-site wells and wastewater systems; storm drainage consistent with the regional stormwater management plan when adopted; volunteer fire protection from a Whatcom County Fire Protection District; law enforcement from the Whatcom County Sheriff’s Department; and transportation provided by collector or arterial roads.

1.04.6 NEIGHBORHOOD COMMERCIAL: Services shall include public sewer and water where available from Water District 8, or on-site wells and wastewater systems where the neighborhood is not served by District 8; storm drainage consistent with the regional stormwater management plan when adopted; volunteer fire protection from a Whatcom County Fire Protection District; law enforcement from the Whatcom County Sheriff’s Department; and transportation provided by collector roads.

1.04.7 GENERAL COMMERCIAL: Services shall include public sewer and water where available from Water District 8, or on-site wells and wastewater systems where the neighborhood is not served by
District B; storm drainage consistent with the regional stormwater management plan when adopted; volunteer fire protection from a Whatcom County Fire Protection District; law enforcement from the Whatcom County Sheriff’s Department; and transportation provided by collector roads.

1.04.8 GATEWAY INDUSTRIAL: Services shall include public sewer and water from Water District B, or on-site wells and wastewater systems for certain uses as defined in the GATEWAY INDUSTRIAL zone text; storm drainage consistent with the regional stormwater management plan when adopted; volunteer fire protection from a Whatcom County Fire Protection District; law enforcement from the Whatcom County Sheriff’s Department; and transportation provided by all-weather arterial and collector roads.

1.04.9 All sewer and water service shall be provided in accordance with Whatcom County Health Department standards.

1.04.10 All stormwater drainage facilities shall be provided in accordance with the regional stormwater management plan when adopted and the Whatcom County Development Standards.

1.04.11 All transportation service shall be provided in accordance with the policies in the following transportation section, as well as all applicable state and federal standards and the Whatcom County Development Standards.

1.04.12 All recreational services shall be provided in accordance with the standards of the Whatcom County Parks Department, Washington State Parks Department, and in cooperation with the policies of the Parks and Recreation System.
2. Transportation System

2.01 Purpose It is the policy of Whatcom County to ensure that land use patterns and transportation planning mutually support the safe and efficient movement of people and goods; are consistent in encouraging a predictable pattern of urban and rural development; and together conserve and enhance existing public investments and resources.

2.01.1 Whatcom County shall use the development approval process of subdivision, zoning, and building permits to establish community circulation patterns including vehicular, pedestrian, and bicycle ways, and to secure rights-of-way and construction of all classifications of roads, pedestrian trails, and bicycle paths.

2.01.2 Whatcom County shall use the development approval process to ensure that all residential development includes safe vehicular access for citizens and emergency vehicles.

2.01.3 Whatcom County recognizes the significant investments made in the existing transportation system, and shall reflect the following resources in any land use classification or zoning amendments:

a. All weather road access sufficient for industrial traffic provided by Interstate 5, Portal Way, and portions of Blaine Road;

b. The traffic loop of Grandview, Jackson, and Blaine Roads that the state has acknowledged as the circular route to Birch Bay State Park;

c. The Burlington Northern Main Line and the Cherry Point Spur Line that provide industrial rail access to the subarea; and

d. Interstate 5 as a major international corridor providing opportunities to display Whatcom County's advantages for business, agriculture, and residence.

2.02 Coordination It is the policy of Whatcom County to cooperate with federal, state, and municipal agencies in providing for a coordinated transportation system.

2.02.1 Whatcom County shall work with the City of Blaine and with developers to ensure that the transportation system in the county that links the two sections of Blaine is safe and adequate.

2.02.2 Whatcom County shall promote and encourage the provision of public transit as demand increases in the Birch Bay-Blaine Subarea, where warranted by potential ridership for transit, by incorporation when changes in the circulation system are made through the Transportation Improvement Program. The public transit authority shall be sent copies of all major subdivisions and all PUD proposals for their information and review regarding provision of public transportation.
2.03 Standards  It is the policy of Whatcom County to maintain and enhance its natural and economic resources, land use patterns, and the safety and well-being of its citizens through the application of the following standards to its transportation system.

2.03.1 Whatcom County shall approve new road construction projects or improvements to existing roads consistent with the regional stormwater management plan when adopted. Should the private or public sector begin such projects before a plan is effective, the county shall implement appropriate measures to assure total containment of excess stormwater runoff for each development proposal. Upon completion of the stormwater management plan, land area currently used for retention may be converted to permitted uses and densities consistent with the applicable zone district.

2.03.2 Whatcom County shall make every effort to preserve mature trees and unique wildlife habitats and other elements of the natural environment during the design and construction of road improvement projects. Where disruption of the natural environment is unavoidable, special techniques such as rounded slopes, erosion control, reseeding and revegetation shall be employed to return roadsides to their natural state.

2.03.3 Bikeways and/or pedestrian walkways shall be included as an integral part of the transportation system. Bikeways and/or pedestrian ways shall be provided in all new developments of over seven units in the RESORT COMMERCIAL and URBAN RESERVE designations to link residential areas, shopping areas, recreational areas, and educational facilities. Whenever practical, bikeways proposed in new developments shall connect with the planned bikeways in the Whatcom County Trails Plan or in the Parks and Recreation plan in this document.

2.03.4 Whatcom County shall encourage the use of noise buffers and visual screens between future residential areas and high volume transportation routes such as Birch Bay-Lynden and Blaine Roads.

2.03.5 Whatcom County shall encourage development design that minimizes the amount of impervious surfaces including streets, driveways, sidewalks, etc., whenever possible. In addition, Whatcom County encourages the use of "natural" engineering design methods such as the use of open, shallow, grassed street swales instead of curbs and gutters.

2.04 Implementation  It is the policy of Whatcom County to implement a safe and economic transportation system as indicated on the transportation plan map and below, and, when necessary, amending the Roadway Classification Map.

2.04.1 Whatcom County shall conduct a transportation study to determine the need for and the approximate location of new collector and access roads and the appropriate configuration for bicycle and pedestrian paths in the Birch Bay-Blaine Subarea. After completion of the study, Whatcom County shall program the
construction of these routes in Whatcom County’s Six Year Transportation Improvement Program. The following projects shall be included in the study:

a. an upland route paralleling and/or connecting Birch Bay Drive and Blaine Road;

b. extension of Lincoln Road and appropriate linkages to the City of Blaine;

c. interstate freeway interchanges and connecting routes to them;

d. based upon current conditions, improvements necessary for existing intersections, roads, and bicycle/pedestrian ways; and

e. projections based upon zoning densities allowed of the staging of new road and path construction.

2.04.2 Through the land development approval process, Whatcom County shall improve the operational efficiency of the intersections along Birch Bay Drive, Harbor View, Blaine Road, and Drayton Harbor. The intent of this policy is to reduce the number of automobile accidents occurring at intersections by improving access and reducing uncontrolled turning movements. Appropriate design criteria shall be applied consistent with the functional classification of the above mentioned roads and other applicable design criteria as provided in the Whatcom County Development Standards.

2.04.3 Through the development approval process, Whatcom County shall identify the short and long range traffic impacts to subarea roads by computing the estimated number of vehicle trips generated by a project and comparing those computations against the planned level of service for each road segment (according to the Whatcom County Engineering Department design standards and specifications) impacted by the project including intersections. If it is determined that a proposed development will cause traffic impacts that will result in a level of service below that planned for all affected road classifications, Whatcom County shall require the developer to mitigate this by making the necessary improvements to maintain the pre-planned level of service or making an equivalent cash contribution to the Whatcom County Road Fund.

2.04.4 Whatcom County shall work with private land owners, citizen groups, developers, and other agencies to implement the Birch Bay Promenade as presented in the 1977 Birch Bay Comprehensive Plan, including improvements at the intersection with Harbor View Road.

2.04.5 Whatcom County shall allow private provision of all weather road access to meet one of the requirements for industrial rezoning.
3. Parks and Recreation

3.01 Purpose It is the policy of Whatcom County to ensure that land use patterns and parks and recreation planning mutually support each other; are consistent with the adequate provision of recreational opportunities for residents and with the encouragement of tourism; and together conserve and enhance existing public investments and resources.

3.01.1 Whatcom County shall use the development approval process of subdivision, zoning, and open space applications to establish community recreational paths, and whenever in conformance to this plan to obtain easements for public use or ownership of land for parks and recreational opportunities.

3.01.2 Whatcom County shall use the development approval process to ensure that all development makes provision for recreational opportunities for residents.

3.02 Cooperation It is the policy of Whatcom County to cooperate with federal, state, and municipal agencies in providing for a coordinated parks and recreation system.

3.02.1 Whatcom County shall coordinate and cooperate with the City of Blaine in the planning of new park and recreation facilities in the Birch Bay - Blaine Subarea, specifically in the provision of bicycle touring routes and shoreline access.

3.02.2 Whatcom County shall promote and encourage the provision of public parks as demand increases in the Birch Bay-Blaine Subarea, where warranted by potential population levels, by incorporation into the Whatcom County Parks improvement program. The County Parks Department shall be sent copies of all major subdivisions and all PUD proposals for their information and review regarding provision of public recreation opportunities.

3.03 Standards It is the policy of Whatcom County to maintain and enhance its natural and economic resources and the safety and well-being of its citizens through the application of the following standards to its parks and recreation system.

3.03.1 Whatcom County shall approve new park construction projects or improvements to existing parks consistent with the subarea park plans.

3.03.2 Bikeways and pedestrian walkways shall be included as integral parts of the park and recreation system, and shall be implemented through public and private road construction or improvement programs. Bikeways and pedestrian ways shall be provided in new developments to link residential areas, shopping areas, recreational areas and educational facilities. Whenever practical, bikeways proposed in new developments shall connect with the planned bikeways adopted herein.
screens between future residential areas and high use recreational areas, and shall ensure adequate access to high use areas that avoids impacts on residential areas.

3.03.4 Whatcom County shall encourage the use of surfacing options such as porous asphalt pavement, precast interlocking blocks and rolled brick or cinder chips that reduce total surface runoff, slow concentration and capture particulates in all park and recreation areas.

3.04 Implementation It is the policy of Whatcom County to implement an adequate and economically beneficial parks and recreation system as designated on the Birch Bay-Blaine Subarea Parks and Recreation Plan Map and by amending it as necessary.

3.04.1 Whatcom County shall identify the need for and the approximate location of new principal sites and connecting recreational paths in the Birch Bay-Blaine Subarea and shall program the construction of these sites and routes in Whatcom County's Parks Capital Improvement Program and Transportation Improvement Program. The following projects have been identified:

a. Birch Bay Promenade pedestrian and bicycle paths, and two beach activity nodes identified in the 1977 plan: the intersection of Harbor View Road and Birch Bay Drive, and the intersection of Alderson Road and Birch Bay Drive.

b. Birch Bay tidelands access.

c. Dakota and California Creek inland parks.

d. Adequate bicycle path width and signage for the Whatcom County Trails System shown on the Plan Map.

3.04.2 Through the land development approval process, Whatcom County shall improve public access to shorelines and tidelands using such mechanisms as transfer of development rights, density bonuses, and open space property tax status.

3.04.3 Through the development approval process, Whatcom County shall identify the short and long range recreational impacts to subarea parks by computing the estimated number of dwelling units generated by a project and comparing those computations against the park and recreational facility use standards and design standards. Whatcom County shall request the developer to mitigate impacts of additional population.
4. Environmental Resources

4.01 Purpose It is the policy of Whatcom County to manage its natural resources by recognizing and conserving irreplaceable resources, providing suitable protection for environmentally fragile areas, enhancing environmental quality, and planning and zoning in accord with environmental hazards.

4.02 Coordination It is the policy of Whatcom County to encourage cooperation among federal and state agencies, municipalities, environmental groups, and private landowners to enhance its environmental resources.

4.02.1 Whatcom County shall continue to use the public benefit rating system for evaluation of applications for tax relief on open space land use pursuant to RCW 84.34 whereby granting of open space tax status shall be dependent upon determination that the public benefit of retaining a parcel in open space outweighs the loss or deferral of revenue to the County.

4.02.2 Whatcom County shall encourage property owners to use the current use tax assessment provisions of RCW 84.34 to retain the following areas in open space: steep or unstable slopes, stream corridors, wetlands, shoreline areas and unique or important wildlife habitats.

4.02.3 Whatcom County shall work with property owners, citizen groups, the City of Blaine, the State of Washington, and other agencies in protecting the marine shoreforms of the subarea.

4.03 Standards It is the policy of Whatcom County to enhance and maintain its environmental resources according to the following standards:

4.03.1 Whatcom County shall promote the use of 100-year floodplains associated with stream corridors as open space. Residential development shall be encouraged to be sited at sufficient distance from all streams to minimize potential loss or damage to property that may occur as the result of debris dam failure or increased duration and volume of stream flow. Whatcom County shall encourage minimal use of stream corridors, drainage swales, and alluvial areas for building sites.

4.03.2 Whatcom County shall promote groundwater of a quality suitable for domestic consumption by encouraging low density and intensity uses in locations with soils of poor quality for septic systems.

4.03.3 Whatcom County shall recognize wetlands such as swamps, bogs, marshes and ponds as natural catchment basins for stormwater runoff. Run-off during development shall be controlled as specified in the Whatcom County Development Standards.

4.03.4 Whatcom County shall encourage utilization of steep slopes (greater than 15%) or unstable slopes for open space, very low density development or forestry. If used for development pur-
poses, structures shall comply with the provisions of the Uniform Building Code and subdivision of land shall be subject to site safety confirmation by a qualified geotechnical engineer or a qualified geologist. Where slopes are in excess of 10%, cluster development shall be encouraged to minimize slope disturbance.

4.03.5 Whatcom County shall encourage very low residential densities in areas of known mineral resource occurrence with the intent of retaining future access and utilization options. Surface extraction shall be dependent upon compatibility with surrounding land uses and shall be accompanied by a reclamation plan which is consistent with state regulations contained in RCW 78.44. Subsurface mining operations shall conform with applicable federal regulations.

4.03.6 Whatcom County shall foster through the development approval process and public works continued fish and wildlife habitat integrity in the Birch Bay-Blaine Subarea. Applicable habitats include the eagle nests and roosting sites, heron rookeries, herring spawning grounds, salmon spawning streams, cutthroat trout spawning streams and lakes; deer migration routes; and the Pacific waterfowl flyway.

4.03.7 Whatcom County shall encourage air pollution abatement with the intent of maintaining and/or enhancing air quality, consistent with the Federal Clean Air Act, and accomplished through the coordination of local land use proposal review with the Northwest Air Pollution Authority and other environmental agencies.

4.03.8 Whatcom County shall implement the necessary rules, regulations and ordinances which are required by state law to minimize noise impacts.

4.03.9 Whatcom County shall review all shoreline development proposals for adherence to the requirements of the Whatcom County Shoreline Management Program.

4.04 Implementation It is the policy of Whatcom County to implement the enhancement of its environmental resources through the following actions.

4.04.1 Whatcom County shall seek funding for additional monitoring and enforcement of septic system performance in the subarea.

4.04.2 Whatcom County shall assist and encourage the monitoring of water quality in the Dakota and California Creek drainage basins and associated streams, and in Drayton Harbor and Birch Bay, and shall address any decrease in water quality by additional controls on chemical herbicides used on county roads, farm practices, and development density.

4.04.3 Whatcom County shall maintain and enhance the public usefulness of the Birch Bay-Blaine Subarea shoreline in accordance with the Shoreline Management Program by:
a. improving Birch Bay Drive to the promenade design standard;

b. encouraging alternative setback regulations where shared driveways, clustered buildings and other variations from required setbacks will provide less obstructed scenic vistas for the public; and

c. using the development review process to preserve recreational access to the Birch Bay shoreline through requiring any land development to indicate how it will avoid significant adverse impacts on or displacement of recreational uses that have no comparable alternate sites locally.
5. Economic Development

5.01 Purpose It is the policy of Whatcom County to promote economic development in the Birch Bay-Blaine Subarea by:

5.01.1 Recognizing and protecting the natural resources remaining in the area—fish, timber, sand and gravel, and scenic beauty;

5.01.2 Providing for new economic development relating to the natural resources: aquaculture, fisheries, and agriculture;

5.01.3 Encouraging increased opportunities for industrial uses in the area through the creation of the Gateway Industrial zone; and

5.01.4 Recognizing tourism as the most significant potential generator of jobs, profits, and taxes in the subarea.

5.02 Coordination It is the policy of Whatcom County to encourage cooperation among state agencies, municipalities, economic development groups, and private landowners to enhance its economic potential.

5.02.1 Whatcom County shall promote cooperation with the City of Blaine and Water District #8 to coordinate land use and capital programming decisions in order to preserve natural economic resources and maximize economic development potential;

5.02.2 Whatcom County shall encourage private forest and woodlot property owners to conserve the county forest resource base by utilizing the current use tax assessment provisions of RCW 84.28, RCW 84.33, and RCW 84.34.

5.02.3 Whatcom County shall encourage private agricultural operators to conserve the county prime farmland soils resource by utilizing the current use tax assessment provisions of RCW 84.28, RCW 84.33, and RCW 84.34, and by working with agricultural organizations to implement best management practices.

5.03 Standards It is the policy of Whatcom County to use the following standards to enhance and maintain its economic potential.

5.03.1 Existing uses that are not allowed in a zone district specified when the Birch Bay-Blaine Subarea Comprehensive Plan is adopted shall be recognized for their economic investment and allowed to continue and expand as legal nonconforming uses.

5.03.2 Present land use codes and future comprehensive plan and zoning amendments should be examined for their enhancement of the economy of the subarea and region and be implemented so as to:

a. foster and promote the general welfare in the long run as well as the immediate future;

b. create and maintain a balanced and diversified economy sustained by a healthy environment;

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c. strengthen and stabilize the tax base; and

d. fulfill the social, economic, and other requirements of present and future generations of Whatcom County citizens.

5.03.3 In reviewing development proposals, the regulations shall be administered and enforced with particular concern for:

a. the water quality in the area, especially in Drayton Harbor, and California, Dakota and Terrell Creeks where aquaculture and salmon spawning provide significant economic potential;

b. the visual appearance of the subarea, maintaining the rural character where appropriate and enhancing the urbanized area with proper site screening, internal landscaping, view corridors and public access where appropriate, and area wide sign control; and

c. the expeditious approval of uses that will provide jobs and enhance the tax base.

5.03.4 Land use designations, regulations, and incentives shall be provided that will encourage visitors to the area. These include the preservation of the area's scenic beauty and historic character, as well as improved access to beaches and recreation facilities.

5.04 Implementation It is the policy of Whatcom County to recognize the economic potential of capital improvement decisions and other non-land use programs, and to coordinate these efforts in a concerted approach to cost effective development of the area.

5.04.1 An Action Plan shall be developed for the subarea which combines all the implementing measures other than land use designation and zoning for the area, and prioritizes the actions required for accomplishing the goals identified in this plan, particularly those categories relating to economic development which tend to cut across all issues.

5.04.2 Direct economic activities shall be incorporated in the annual Overall Economic Development Program

5.04.3 Actions identified for enhancement of the subarea shall be incorporated in the appropriate capital improvement programs.
VII. COMPREHENSIVE PLAN AMENDMENTS

The Birch Bay-Blaine Subarea Plan is a policy document that is used to guide the land use decisions affecting both the private and public sectors of the subarea. For the plan to function as an effective decision making document, it must be flexible enough to weather changes in public attitudes, developmental technologies, economic forces and legislative policy. The plan envisions two general types of plan amendments. The first type is a review conducted every seven years. This review should re-examine the entire plan, including a re-evaluation of goals, updates of land related elements, and the reaffirmation of land use policies and proposals. This review is the responsibility of the Whatcom County Planning Commission, the Planning Department staff and the people of the subarea.

The second type of amendment is that proposed and initiated by the private sector. The land uses illustrated on the Land Use Plan Map are the result of the application of the plan’s goals and policies. However, it is reasonable to assume that the private sector may introduce land use proposals that conflict with the plan map or policies of the plan itself. In such instances, the private sector may propose an amendment to the plan. Private petitions for amendment of the Comprehensive Plan addressed to either the Planning Commission or the County Council shall be processed in accordance with statutory procedure for adoption or amendment of comprehensive plans. In applying for a particular amendment to the plan or plan map, the private sector shall conform to the following criteria:

1. The amendment request shall conform with the goals of the subarea plan;

2. The amendment request shall be compatible with the existing and planned surrounding land uses;

3. The amendment request shall not result in unmitigated detrimental impacts to existing transportation systems;

4. The amendment request shall not place uncompensated burdens upon existing or planned service capabilities; and

5. The amendment request shall demonstrate a land usage need which is currently or within the context of this comprehensive plan not met.
IX. APPENDIX: LEGAL DESCRIPTIONS OF BOUNDARIES
BIRCH BAY-BLAINE SUBAREA

References to specific plats in the following legal descriptions are as of November 15, 1987

URBAN RESERVE (UR 4 du/acre)

AREA 1:

A tract of land beginning at the SE corner of SEC 2, TWP39N, R1W, W.M.; thence West along the center line of Grandview Rd. to the center line of Koehn Rd.; thence South along the center line of Koehn Rd. to the center line of the Brown Rd. right-of-way; thence East along the center line of the Brown Rd. right-of-way to the NE corner of the W1/2 of the W1/2 of Government Lot 4, SEC 11, TWF39N, R1W, W.M.; thence Southerly along the East line of the W1/2 of the W1/2 of said lot to the mean high water mark of Georgia Strait; thence Northerly along the mean high water mark of Georgia Strait to the Northwesterly corner of Lot 2, Division 1, Birchmont Long Plat; thence Southeasterly along Northeastly line of Lot 2 to a point on the E/W center line of SEC 2; thence easterly to the E1/4 corner of said section; thence due South to the point of beginning.

Situate in Whatcom County Washington

AREA 2:

A tract of land beginning at the center line of Birch Bay Dr. on the Eastern line of SEC 23, TWP40N, R1W, W.M.; thence South to the mean high water mark of Birch Bay; thence Westerly and Northerly along the mean high water mark of Birch Bay and Georgia Strait to the the United States/Canadian border; thence East along the United States/Canadian border to the Eastern line of the W1/2 of the E1/2 of SEC 32, TWF41N, R1E, W.M.; thence due South to the SE corner of the SE1/4 of the NW1/4 of the NW1/4 of SEC 18, TWF40N, R1E, W.M.; thence West to the SW corner of said 1/4 corner; thence South to the S1/4 corner of SEC 18; thence West to the NE corner of SEC 18, TWF40N, R1E, W.M.; thence South to the intersection of Lincoln and Blaine Rds.; thence East to the NE corner of the NW1/4 of the NW1/4 of SEC 20, TWF40N, R1E, W.M.; thence South to the NE corner of the SW1/4 of the NW1/4 of SEC 29, TWF40N, R1E, W.M.; thence East to the NE corner of the SW1/4 of the NE1/4 of said section; thence due South to the SE corner of the NW1/4 of the NE1/4 of SEC 32; thence West to the intersection of the center lines of Alderson and Blaine Rds.; thence North to the NW corner of the SW1/4 of the NW1/4 of SEC 32; thence due East to a point 528' East of the center line of Blaine Rd.; thence North along said line 660', more or less, to the South line of the NW1/4 of the NW1/4 of the NW1/4, SEC 29; thence East to SW corner of the NE1/4 of the NW1/4 of said section; thence North to the NE corner of the SW1/4 of the NW1/4 of the NE1/4 of SEC 20; thence due West to the center line of Blaine Rd.; thence North to the SE corner of the NE1/4 of the NE1/4 of SEC 19, TWF40N, R1E, W.M.; thence due West to the SE corner of the NW1/4 of the SW1/4 of SEC 19; thence North 150'; thence due West to the center line of Harborview Rd.; thence
due South 150' to the SE corner of the NE1/4 of the SE1/4 of SEC 24, TWP40N, R1E, W.M.; thence due West to the SW corner of said 1/4 1/4, SEC 24; thence North to the NW corner of said 1/4 1/4; thence Westerly along the center line of Anderson Rd. to the center line of Shintaffer Rd.; thence South along the center line of Shintaffer Rd. to a point 170', more or less, North of the center line of Birch Bay Dr.; thence Westerly along the Northern line of Lots A-12, Kingsland Long Plat; thence Westerly to the NE corner of Lot 20, Birch Bay West End Estates Long Plat; thence Northwesterly along Northern property lines of said Plat to the NE corner of Government Lot 4, SEC 23, TWP40N, R1W, W.M.; thence due West 60'; thence due South to the center line of Birch Point Dr.; thence East along the center line of Birch Point Dr. to the point of beginning. Exclusive of the City of Blaine and the two areas designated Neighborhood Commercial.

Situate in Whatcom County Washington

URBAN RESERVE (UR 6 du/acre)

AREA 1:

A tract of land beginning at the NE corner of SEC 1, TWP39N, R1W, W.M.; thence South to the E1/4 corner of said section; thence West along the E/W center line of said section to the Northeasterly corner of Lot 2, Division 1, Birchmont Long Plat; thence Northerly along said Lot line to the mean high water mark of Birch Bay; thence in a Northeasterly direction along the mean high water mark of Birch Bay to the NW corner of the SW1/4 of SEC 31, TWP40N, R1E, W.M.; thence East along the Northern line of said 1/4 to the center line of Terrell Creek; thence Northerly along the center line of Terrell Creek to the Westerly extension of the center line of Wilson Dr.; thence Easterly along said center line and its Easterly extension to the Westerly line of the SE1/4 of the NW1/4 of SEC 31; thence North to the NW corner of said 1/4 1/4 section and the center line of Alderson Rd.; thence East along the center line of Alderson Rd. to the NE corner of said 1/4 1/4; thence North to the NW corner of the NE1/4 of said section; thence West to the SW corner of the SE1/4 of the SW1/4 of SEC 30, TWP40N, R1E, W.M.; thence North to a point 40' South of the Southerly margin of First Ln.; thence due West on a line parallel with First Ln. to the mean high water mark of Birch Bay; thence Northerly along the mean high water mark of Birch Bay to intersect with the extended center line of Evergreen Ln.; thence due East along said center line to a point 200' West of the Western line of the SW1/4 of SEC 30; thence due North 90'; thence due East 200'; thence due North to the NW corner of the SE1/4 of the SW1/4 of SEC 30; thence due East to the NE corner of said 1/4 corner; thence due North to the NW corner of the SW1/4 of the NW1/4 of the SE1/4 of SEC 30; thence due East 100' to the Easterly property line of Sea Links Golf Course Tract; thence Northerly and Northwesterly along the East property line of said tract to the NW corner of the SW1/4 of the NE 1/4 of SEC 30; thence North to the NW corner of the NE1/4 of said section and the center line of Birch Bay-Lynden Rd.; thence West along the center line of Birch Bay-Lynden Rd. to the SW corner of the SE1/4 of the SW1/4 of SEC 19, TWP40N, R1E, W.M.; thence North to the NW corner of said 1/4 1/4; thence East to the NE corner of the SW1/4 of the SE1/4 of SEC 19; thence South to the NE corner of the S1/2 of the SW1/4 of the SE1/4 of said section; thence due West 110', more or less; thence due South to the center line of Birch Bay-Lynden Rd.; thence East along the center line of Birch Bay-Lynden Rd. to the Northerly extension of the East line of Holiday Park Long Plat, Division 1; thence South along the East line of the Holiday Park Long Plat, Division 1, and its Southerly extension, to the Northern line of the S1/2 of the N/12 of SEC 30; thence East to the NE corner of the SE1/4 of the NE1/4 of said section and to the center line of Blaine Rd.;
thence South along the center line of Blaine Rd. to the E1/4 corner of SEC 31; thence West to the NE corner of the NW1/4 of the SE1/4 of said section; thence South to the SE corner of said 1/4 1/4; thence due West to the SW corner of said 1/4 1/4; thence due South to the center line of Bay Rd.; thence West along said center line to the point of beginning.

Situate in Whatcom County Washington

AREA 2:

A tract of land beginning at the NE corner of the SE1/4 of the SE1/4 of SEC 24, TWP40N, R1W, W.M.; thence due East to the center line of Harborview Rd.; thence South along said center line to the point of intersection with the Northwesterly property line, extended, of Lot 1, Block 1, Morgan's Cottonwood Long Plat; thence in a Southwesterly direction along the NW property line of Lot 1 of said Plat to its NW corner; thence Southwesterly to the SE corner of Lot 4, Block 2, of said Plat; thence Southwesterly along the South property line to the SW corner of said lot; thence in a Northwesterly direction along the Southwesterly property lines of Lots 4-15, Block 2, of said Plat, and crossing Cottonwood Dr. to the SE corner of Lot 1, Block 3, of said Plat; thence continuing in a Northwesterly direction along property lines to the SE corner of Lot 6, Block 1, of said Plat; thence in a Southwesterly direction along the Northwesterly lot lines of Lot 6, Block 1, and Lot 2, Block 2, as extended to the Easterly line of Government Lot 3; thence South along said line to the mean high water mark of Birch Bay; thence Northerly along the mean high water mark of Birch Bay to the Easterly line of Government Lot 2, SEC 23, TWP40N, R1W, W.M.; thence Northerly to the center line of Birch Point Rd.; thence Westerly along said center line 60', thence North to the Northern line of Government Lot 2; thence East to the E1/4 corner of SEC 23; thence in a Southeasterly direction, on a line 200', more or less, North of and parallel to the center line of Birch Bay Dr., to the center line of Deer Trail Rd.; thence Southerly to a point 150', more or less, North of the center line of Birch Bay Dr.; thence Easterly along a line parallel to and 150', more or less, North of Birch Bay Dr. to the NE corner of Lot 20, Birch Bay West End Estates Long Plat; thence Easterly to the Northwesterly corner of Lot 12, Kingsland Long Plat; thence continuing Southeasterly to the NE corner of Lot 9 of said Plat; thence South to the NW corner of Lot 7, Kingsland Long Plat, Division 1; thence in a Southeasterly line to the NE corner of Lot 8 of said Long Plat; thence Easterly to a point on the center line of Shintaffer Rd., 190', more or less, North of intersection of the center lines of Birch Bay Dr. and Shintaffer Rds.; thence North on said center line to intersect with center line of Anderson Rd.; thence Easterly along center line of Anderson Rd. to the NE corner of the NW1/4 of the SE1/4 of SEC 24; thence due South to the point of beginning.

Situate in Whatcom County Washington

RESIDENTIAL RURAL (Res Rural 2 du/acre)

AREA 1:

A tract of land beginning at the NE corner of SEC 35, TWP40N, R1E, W.M.; thence South along said section line to a point 220', more or less, North of the E1/4 corner of said section; thence due West to a point 287.8' West of East section line and parallel to E/W center line of said section; thence due North to a point 2060' South and 287.8' West of the East line of said section; thence Westerly to the East line of ????? and center line of Bruce Rd. projected North; thence South along said line to a point 540' South of the NE corner of the NW1/4 of the

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SE1/4 of said section; thence due West to the Western line of the E1/2 of the
NW1/4 of the SE1/4 of SEC 35; thence North along said line to the Southern
boundary of the Pettit Short Plat; thence West along Southern boundary of said
Plat to the Western line of the SE1/4 of SEC 35; thence North along said line to
the NW corner of the SW1/4 of the NE1/4 of said section; thence West to a point
330' West of said corner; thence due North to the Northern boundary of said
section and center line of Arnie Rd.; thence due East along said center line to
the point of beginning. Exclusive of the area of Neighborhood Commercial.

Situate in Whatcom County Washington

RURAL (Rural 5 acres)

AREA 1:

A tract of land beginning at the SE corner of SEC 1, TWP39N, R1W, W.M.; thence
West along the center line of Grandview Rd. to the SW corner of said section;
then North along said section line to the North line of the S1/2 of said
section; thence East along said line to the center line of Jackson Rd.; thence
South along said center line to the point of beginning.

Situate in Whatcom County Washington

AREA 2:

A tract of land beginning at the intersection of the center lines Loomis Trail
Rd. and Portal Way, SEC 1G, TWP40N, R1E, W.M.; thence West along the center line
of Loomis Trail Rd. to the SE corner of the SW1/4 of the SE1/4 of SEC 17,
TWP40N, R1E, W.M.; thence due South to the center line of California Creek;
then Northwesterly along the center line of California Creek to the center line
of Blaine Rd.; thence North along the Western line of SEC 17 to the NW corner of
SEC 17; thence due East to the Western line of the E1/2 of SEC 8, TWP40N, R1E,
W.M.; thence North along this line to the center line of Portal Way; thence
Southeasterly along said center line to the point of beginning.

Situate in Whatcom County Washington

AREA 3:

A tract of land beginning at the E1/4 corner of SEC 12, TWP40N, R1E, W.M.; thence
South along the center line of Delta Line Rd. to the E1/4 corner of SEC 25,
TWP40N, R1E, W.M.; thence West along the center line of Creasy Rd. to the center
line of Custer School Rd.; thence Southerly along said center line to the center
line of I-5; thence Northwesterly along said center line to the Northern line of
the S1/2 of the NW1/4 of the NW1/4 of SEC 26, TWP40N, R1E, W.M.; thence East to
the SW corner of the NW1/4 of the NE1/4 of the NW1/4 of said section; thence
North to the NW corner of the SE1/4 of the SW1/4 of SEC 23, TWP 40N, R1E, W.M.;
thence due West to the center line of I-5; thence Northwesterly along the center
line of I-5 to the Southern line of the N1/2 of the SE1/4 of SEC 8, TWP40N, R1E,
W.M.; thence due East to the NW corner of the SE1/4 of the SE1/4 of said
section; thence due North to the center line of Dakota Creek; thence Easterly
along the center line of Dakota Creek to the line between SEC 8 and SEC 9,
TWP40N, R1E, W.N; thence Northerly to the W1/4 corner of SEC 9 and the center
line intersection of Harvey and Hoier Rds.; thence Easterly and Northeasterly
along the center line of Hoier Rd. to the center line of Statvolt Rd.; thence
Southeasterly and Easterly along the center line of Haynie Rd. to the point of
of beginning.

Situate in Whatcom County Washington

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RURAL (Rural 10 acres)

AREA 1:
A tract of land beginning at the E1/4 corner of SEC 12, TWP40N, R1E, W.M.; thence Westerly along the center line of Haynie Rd. to the center line of Statvolt Rd.; thence continuing Westerly along the center line of Hoier Rd. to the center line of Harvey Rd.; thence due South to the center line of Dakota Creek; thence Westerly along the center line of Dakota Creek to the Western line of the E1/2 of the E1/2 of SEC 8, TWP40 North, R1E, W.M.; thence North along this line to the SE corner of the SW1/4 of the NW1/4 of the SE1/4 of the SW1/4 of SEC 32, TWP41N, R1E, W.M.; thence due West to the SW corner of the NW1/4 of the SE1/4 of said section; thence due North along this line to the United States/Canadian Border; thence due East to the NE corner of SEC 36, TWP41N, R1E, W.M.; thence due South to the center line of H Street Rd.; thence East along said center line to the NE corner of SEC 1, TWP40N, R1E, W.M.; thence due South to the point of beginning.

Situate in Whatcom County Washington

AREA 2:
A tract of land beginning at the NE corner of the SW1/4 of the SE 1/4 of SEC 8, TWP40N, R1E, W.M.; thence East along the 1/4 1/4 section line to its intersection with the center line of I-5; thence Southeasterly along said center line to the Easterly line of the W1/2 of the W1/2 of SEC 1G, TWP40N, R1E, W.M.; thence South along said line to the center line of Portal Way; thence Northwesterly along said center line to the West line of the SE1/4 of SEC 8; thence North along said line to the point of beginning.

Situate in Whatcom County Washington

AREA 3:
A tract of land beginning at the S1/4 corner of SEC 31, TWP40N, R1E, W.M.; thence North to the NW corner of the SW1/4 of the SE1/4 of said section; thence East to the NE corner of said 1/4 1/4 section; thence North to the NW corner of the NE1/4 of the SE1/4 of said section; thence North along section line to the NW corner of the SW1/4 of the NW1/4 of SEC 32, TWP40N, R1E, W.M.; thence East to the SW corner of the NE1/4 of the NE1/4 of said section; thence North along section line to the SW corner of the NE1/4 of the NE1/4 of SEC 29, TWP40N, R1E, W.M.; thence West to the NW corner of the SE1/4 of the NW1/4 of said section; thence North to the SE corner of the SW1/4 of SEC 17, TWP40N, R1E, W.M.; thence West to the intersection of the center lines of Blaine and Lincoln Rds.; thence North along the center line of Blaine Rd. to the center line of California Creek; thence Southeasterly along the center line of California Creek to the Western line of the E1/2 of the E1/2 of SEC 2G, TWP40N, R1E, W.M.; thence North along said line to the center line of Loomis Trail Rd.; thence East along said center line to the center line of Portal Way; thence Southeasterly along said center line to a point 1500’ Southeasterly of the North line of SEC 27, TWP40N, R1E, W.M., as measured along the center line of Portal Way; thence Northeasterly on a line perpendicular to the center line of Portal Way to the intersection with the center line of I-5; thence Southeasterly along said line to its intersection with the center line of Custer School Rd.; thence Southerly along said center line to the SE corner of SEC 2G, TWP40N, R1E, W.M.; thence West along the Southerly line of said section to the East line of the W1/2 of the E1/2 of the NE1/4 of the NW1/4 of SEC 35, TWP40N, R1E, W.M.; thence South to the SE corner of the W1/2 of the E1/2 of the NW1/4 of said

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section; thence East to the NE corner of the SE1/4 of the NW1/4 of said section; thence South along the Eastern line of the W1/2 of said section to the SW corner of Pettit Short Plat; thence due East to the East line of the W1/2 of the NW1/4 of the SE1/4 of said section; thence South along said line 330', more or less; thence due East to the West line of the E1/2 of the E1/2 of SEC 35 and the center line of Bruce Rd.; thence due North to the SW corner of the City of Custer Long Plat; thence East along the Southern boundary of said Plat to a point 290' West of the East line of SEC 35; thence due South 360'; thence East to section line between SEC 35 and 36; thence North along the Eastern boundary of SEC 35 to the NW corner of SEC 36, TWP40N, RLE, W.M. and the center line of Custer School Rd.; thence Northerly along said center line to the center line of I-5; thence Southeasterly along said center line to the Southern line of SEC 36; thence due West along said line and the center line of Bay Rd. to the point of beginning. 

Situate in Whatcom County Washington

AGRICULTURE

AREA 1:

A tract of land beginning at the SE corner of SEC 36, TWP40N, RLE, W.M.; thence due West to the center line of I-5; thence Northwesterly along said center line to the center line of Custer School Rd.; thence Northerly along the center line of Custer School Rd. to the center line of Creasey Rd.; thence due East to the E1/4 corner of SEC 25, TWP40N, RLE, W.M.; thence due South along the Eastern line of SEC 25 and 36 to the point of beginning.

Situate in Whatcom County Washington

NEIGHBORHOOD COMMERCIAL

AREA 1:

A tract of land beginning at the intersection of the center line of Portal Way with the Eastern line of SEC 35, TWP40N, RLE, W.M.; thence Northwesterly along said center line to a point of intersection with the center line of Warwick Ave.; thence East long said center line to intersect with the East line of SEC 35; thence South along said line to the point of beginning.

Situate in Whatcom County Washington

AREA 2:

A tract of land beginning at the line of intersect of the center line of Harborview Rd. and the South property line extended West of Harborview Estates Long Plat, SEC 19 TWP40N, RLE, W.M.; thence due East along the Southern line of said Plat to the East line of the W1/2 of the NW1/4 of the NW1/4 of said section; thence due South 490', more or less; thence due West to the center line of Harborview Rd.; thence North along said center line to the point of beginning.

Situate in Whatcom County Washington

AREA 3:

A tract of land beginning at the E1/4 corner of SEC 23, TWP40N, R1W, W.M.; thence North 07° 07' 37" West, 60'; thence due South 105', more or less, to the center line of Birch Point Rd.; thence due West along the center line of Birch Point Rd. (Co.Rd. 402) to intersection with center line of a 40' Rd. conveyed to
Whatcom Co. by Deed, recorded March 10, 1910, in Volume 110 of Deeds, page 586, under Auditor’s File Number 138579 (Co. Rd. 402); thence Northeasterly and Easterly along the center line of said road, extended to a point 700', more or less, West of, and 70', more or less, North of the El/4 corner of SEC 23; thence due North 40', more or less; thence South 87 07'37" East, parallel to the E/W center line of said section, 508'; thence North 17 14'27" East, 208'; thence North 71 14'27" East, 120'; thence South 71 45'33" East, 30'; thence South 02 34'27" West, along East line of SEC 23, 350' to the point of beginning.

Situate in Whatcom County Washington

GENERAL COMMERCIAL

AREA 1:

A tract of land beginning at the NW corner of the SE1/4 of the SE1/4 of SEC 19, TWP40N, R1E, W.M.; thence due East to the center line of Blaine Rd.; thence due South along the center line of Blaine Rd., to the SW corner of the NW1/4 of the SW1/4 of the SE1/4 of SEC 20, TWP40N, R1E, W.M.; thence East to the SE corner of said 1/4 1/4 1/4; thence South to the SE corner of the NW1/4 of the NW1/4 of SEC 29, TWP40N, R1E, W.M.; thence due West 110', more or less; thence due South to the center line of the NW1/4 of the NW1/4 of SEC 29; thence due West to the Easterly property line of Holiday Park Long Plat; thence North along said property line to the center line of Birch Bay-Lynden Rd.; thence West along said center line to a point 1208.08' East of the S1/4 corner of SEC 19; thence North 660', more or less; thence East to the NW Corner of the S1/2 of the SE1/4 of the SW1/4 of said section; thence due North to the point of beginning.

Situate in Whatcom County Washington

RESORT COMMERCIAL

AREA 1:

A tract of land beginning at the NW corner of the SE1/4 of the NW1/4 of SEC 31, TWP40N, R1E, W.M.; thence due South 520', more or less; thence due West to the center line of Terrell Creek; thence Southerly along said center line to the center line of Broadway Rd.; thence due West along said center line extended to the mean high water mark of Birch Bay; thence Northerly along the mean high water mark to a point 10' South of the Southern line of First Ln., extended; thence East, on a line parallel to the Southern line of First Ln. and 40' South, to the East line of the W1/2 of the SE1/4 of SEC 30; thence South to the NW corner of the NE1/4 of the NW1/4 of said section; thence East to the NE corner of said 1/4 1/4; thence South to the SE corner of said 1/4 1/4 and the center line of Alderson Rd.; thence West along said center line to the point of beginning.

Situate in Whatcom County Washington

AREA 2:

A tract of land beginning at the NE corner of the NW1/4 of SEC 30, TWP40N, R1E, W.M.; thence South to the SE corner of the NE1/4 of the NW1/4, said section; thence in a Southeasterly and Southerly direction along the Eastern property line of Sea Links Golf Course Tract to the SE corner of Sea Links Golf Course Tract; thence due West 100', more or less, to the NE corner of the S1/2 of the NE1/4 of the SW1/4 of SEC 30; thence South to SE corner of the NE1/4 of the SW1/4 of said section; thence due West to the SW corner of said 1/4 1/4; thence due South

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210', more or less; thence due West 200', more or less; thence due South 90' to the center line of Evergreen Ln.; thence due West to the mean high water mark of Birch Bay; thence Northwesterly along the mean high water mark to the West line of Government Lot 4; thence North along this line to a point of intersect with the Northwesterly property lines extended SW of Lot 6, Block 1, and Lot 2, Block 2, Cottonwood Beach Long Plat, SEC 24, TWP 40N, R1W, W.M.; thence Northeasterly along said line to the Northwesterly corner of Lot 6, Block 1, Cottonwood Beach Long Plat; thence Southeasterly along the property line between Cottonwood Beach Long Plat and Morgan's Cottonwood Beach Long Plat to the Southeasterly corner of Lot 4, Block 2, of Morgan's Cottonwood Beach Long Plat, SEC 24; thence Northeasterly along said property line of Lot 4, Block 2, to the Morgan Dr. right-of-way; thence Northeasterly across Morgan Dr. right-of-way to a point of intersect with the Northwesterly property corner, Lot 1, Block 1, Morgan's Cottonwood Beach Long Plat; thence Northeasterly along the Northwesterly property line of said lot as extended to the center line of Harborview Rd.; thence North along center line of Harborview Rd. to a point of intersect with a line extending West, the said line being the Northerly line of the Southerly 705.90' of the Northerly 13905.27' of Government Lots 3 and 4, SEC 19, TWP 40N, R1E, W.M.; thence Easterly along said line to the East line of Government Lot 3; thence due South to the SE corner of the SW1/4 of the SW1/4 of SEC 19 and the center line of Birch Bay-Lynden Rd.; thence East along said center line to the point of beginning.

Situate in Whatcom County Washington

GATEWAY INDUSTRIAL

AREA 1:

A tract of land beginning at the NE corner of the SW1/4 of the SW1/4 of SEC 23, TWP 40N, R1E, W.M.; thence due South to the SE corner of the N1/2 of the NW1/4 of the NW1/4 of SEC 26, TWP 40N, R1E, W.M.; thence due West to the center line of I-5; thence Northwesterly along said center line to a point which intersects with a line drawn perpendicular to the center line of the Portal Way right-of-way, and projected from a point 1500' SE along said center line from the North line of SEC 27, TWP 40N, R1E, W.M.; thence Southwesterly along the above referred perpendicular line to the center line of the Portal Way right-of-way; thence Northwesterly along said center line to intersect with the West line of the E1/2 of the SW1/4 of SEC 16, TWP 40N, R1E, W.M.; thence North along said line and continuing North along the West line of the E1/2 of the NW1/4 of said section to intersect with the center line of I-5; thence Southwesterly along said center line to intersect with the North line of the S1/2 of the SE1/4 of SEC 22, TWP 40N, R1E, W.M.; thence East along said line to the point of beginning.

Situate in Whatcom County Washington

IX-0
WHATCOM COUNTY
PLANNING COMMISSION

Repeal the 1987 Birch Bay-Blaine Subarea Plan and
Amend Provisions in the Whatcom County Comprehensive Plan
relating to Subarea Plans

FINDINGS OF FACT AND REASONS FOR ACTION

1. The subject proposal includes:
   a. Amending Whatcom County Comprehensive Plan provisions relating to
      subarea plans.

2. A determination of non-significance (DNS) was issued under the State
   Environmental Policy Act (SEPA) on April 5, 2013.

3. Notice of the Planning Commission hearing was posted on the County website
   on April 9, 2013.

4. Notice of the Planning Commission hearing and that the proposal had been
   posted on the County website was sent to the City of Blaine and citizen, media
   and other groups on the County’s e-mail list on April 10, 2013.

5. Notice of the subject amendments was submitted to the Washington State
   Department of Commerce on April 18, 2013.

6. Notice of the Planning Commission hearing for the subject amendments was
   published in the Bellingham Herald on April 26, 2013.

7. The Planning Commission held a public hearing on the subject amendments
   on May 9, 2013.

8. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive
   plan amendments the County must find all of the following:
      a. 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.
b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.

c. 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:

i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

ii. The anticipated effect on 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.

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

d. The amendment does not include or facilitate spot zoning.

e. Urban growth area amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.

**Growth Management Act**

9. The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080 ("Comprehensive plans – Optional elements").

10. However, the GMA requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

11. The Birch Bay-Blaine Subarea Plan was adopted in 1987, prior to enactment of the GMA in 1990. The Whatcom County Comprehensive Plan was adopted in 1997 and subsequently amended from time to time. The Subarea Plan is inconsistent with the Whatcom County Comprehensive Plan. Specifically, the Subarea Plan does not address urban growth areas (UGAs), contains different land use designations, is inconsistent with the Comprehensive Plan’s rural element, and has a different planning period.
County-Wide Planning Policies

12. The County-Wide Planning Policies do not require the County to retain old subarea plans.

Interlocal Agreements

13. Blaine is the only city within the Birch Bay-Blaine Subarea.

14. An interlocal agreement between the City of Blaine and Whatcom County concerning Planning, Annexation and Development within the Blaine UGA was signed in May 2012. This interlocal agreement does not require the County to retain the subarea plan.

Further Studies/Changed Conditions

15. The Birch Bay-Blaine Subarea Plan was adopted in 1987.

16. The GMA, adopted in 1990, included a requirement to designate UGAs. The 1987 Birch Bay-Blaine Subarea Plan does not address UGAs.

17. The GMA was amended in 1997 to include criteria for limited areas of more intensive rural development (LAMIRDs). The 1987 Birch Bay-Blaine Subarea Plan does not address LAMIRDs.

18. The Whatcom County Comprehensive Plan was originally adopted in 1997, and subsequently amended. The 1987 Birch Bay-Blaine Subarea Plan is not consistent with the County Comprehensive Plan.


20. The Birch Bay Community Plan was adopted in 2004.

21. The City of Blaine Comprehensive Plan was adopted in 2006 and subsequently amended.

22. Changed conditions including enactment of the GMA, adoption of newer plans and the passage of time warrant repealing the 1987 Birch Bay-Blaine Subarea Plan.

Public Interest

23. Repealing the 1987 Birch Bay-Blaine Subarea Plan will serve the public interest by removing a plan that is inconsistent with the Whatcom County Comprehensive Plan.
24. Repeal of the Plan eliminates redundancy and ambiguity.

**Spot Zoning**

25. The subject proposal does not involve rezoning property.

**CONCLUSION**

The subject proposal is consistent with the approval criteria of WCC 2.160.080.

**RECOMMENDATION**

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends the following:

1. Approval of Exhibit A, amendments to Whatcom County Comprehensive Plan Chapter 2 (Land Use).

2. Repealing Exhibit B, the Birch Bay-Blaine Subarea Plan (1987).

**WHATCOM COUNTY PLANNING COMMISSION**

Michelle Luke, Chair

Sami Ryan, Secretary

Date May 21, 2013

Commissioners present at the May 9, 2013 meeting when the vote was taken: Ken Bell, Ben Elenbaas, Michelle Luke, David Onkels, Jeff Rainey, Mary Beth Teigrob, and Gerald Vekved.

Vote: Ayes: 7, Nays: 0, Abstain: 0, Absent: 2. Motion carried to adopt the above amendments.
NOTE:

Exhibits A and B are attached to the proposed Ordinance that will be considered by the County Council in order to avoid redundancy.
Regular Meeting

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

Roll Call
Present: Michelle Luke, Ben Elenbaas, Jerry Vekved, David Onkels, Jeff Rainey, Mary Beth Teigrob, Ken Bell
Absent: Gary Honcoop, Rod Erickson

Staff Present: Mark Personius, Matt Aamot, Becky Boxx

Department Update

Mark Personius gave the following updates:
- A Short Course on Local Planning will be presented by the City of Bellingham on May 21st.
- There will be a Water Supply Symposium May 30th & 31st sponsored by the WRIA I board.
- The Compliance order schedule: The Planning Commission/Staff proposals were submitted to the Council for introduction on May 7th. There will be a public hearing May 21st, followed by Council meetings on June 4th and 18th.
- The Commission’s next meeting will be a public hearing on capital improvement projects.
- PDS has been conducting interviews for a new Planner. A decision should be made next week.

Open Session for Public Comment

There was no public comment.

Commissioner Comments

There were no Commissioner comments.

Public Hearings

File # PLN2013-00005: Repealing the Birch Bay-Blaine Subarea Plan, which was adopted in 1987. The proposal would also amend related provisions in the Whatcom County Comprehensive Plan.

Matt Aamot gave a power point presentation which highlighted the following: The GMA says counties can adopt subarea plans but they must be consistent with the County Comprehensive Plan.

The Birch Bay-Blaine Subarea Plan was first adopted in 1977. At that time the plan had a land use map which had resort and higher density designations in the core of bay, within what is now the Urban Growth Area (UGA). The predominate designation in the outlying areas was suburban. The plan also included a promenade area along the shoreline. A new subarea plan was adopted in 1987. This plan covered a larger area than the 1977 plan.
and preserved the promenade area. In 2004 the Birch Bay Community Plan was created
and included the UGA boundary and had the promenade and berm included. There are a
number of inconsistencies between the 1987 subarea plan and the Comprehensive Plan,
which includes population projections, the planning horizon and different land use
designations. Staff finds that the subarea plan served its purpose, it is outdated,
inconsistent with GMA and inconsistent with the Comprehensive Plan so they
recommended it be repealed.

The hearing was opened to the public. There was no public testimony. The hearing was
closed to the public.

Commissioner Onkels moved recommend repeal of the plan. Commissioner
Teigrob seconded. After discussion the Commission felt the motion should be
worded differently so they voted down the motion.

Commissioner Bell suggested adding a new finding to state: Repeal of the Plan eliminates
redundancy and ambiguity. The Commission agreed to add the finding.

Commissioner Onkels moved to recommend approval of Exhibit A which amends
the Whatcom County Comprehensive Plan, approval of Exhibit B which repeals
the Plan and the findings as amended. Commissioner Teigrob seconded. Roll Call
Vote: Ayes – Bell, Elenbaas, Luke, Onkels, Rainey, Teigrob, Vekved; Nays – 0;
Abstain – 0; Absent – Erickson, Honcoop. The motion carried.

File # PLN2013-00006: Repealing the Chuckanut-Lake Samish Subarea Plan, which was
adopted in 1986. The proposal would also amend related provisions in the Whatcom
County Comprehensive Plan.

Matt Aamot gave a power point presentation which highlighted the following: The
Chuckanut-Lake Samish Subarea Plan was adopted in 1986. It includes the Yew Street,
Lake Samish and Chuckanut areas. It summarizes citizen input that was received in the
1980s. The Yew Street residents were in favor of rural residential land use patterns. For
the Lake Samish area residents were concerned about traffic, water quality, and water
source. In the Chuckanut area the residents were concerned with residential development
being compatible with scenic qualities and beach access. Staff findings indicate the plan
served its purpose, it is outdated, inconsistent with GMA and inconsistent with the
Comprehensive Plan so they recommended it be repealed.

The hearing was opened to the public. There was no public testimony. The hearing was
closed to the public.

Commissioner Teigrob moved to recommend approval of Exhibit A which amends
the Whatcom County Comprehensive Plan, approval of Exhibit B which repeals
the Plan and the findings as amended. Commissioner Onkels seconded. Roll Call
Vote: Ayes – Bell, Elenbaas, Luke, Onkels, Rainey, Teigrob, Vekved; Nays – 0;
Abstain – 0; Absent – Erickson, Honcoop. The motion carried.
File # PLN2013-00007: Repealing the Lynden-Nooksack Valley Subarea Plan, which was adopted in 1986. The proposal would also amend related provisions in the Whatcom County Comprehensive Plan.

Matt Aamot gave a power point presentation which highlighted the following: The plan was adopted in 1986. The subarea covers a large area which contains large areas of agriculture. Staff compared the agricultural policies in the subarea plan to the Comprehensive Plan agricultural policies and concluded there may be some things that could be transferred over to the Comprehensive Plan in the 2016 update. The Agricultural Advisory Committee may review these policies over the next few years. There are four small cities in the subarea; Lynden, Everson, Nooksack and Sumas. PDS is working with officials from these cities regarding the 2016 update. Staff findings indicate the plan served its purpose, it is outdated, inconsistent with GMA and inconsistent with the Comprehensive Plan so they recommended it be repealed.

The hearing was opened to the public. There was no public testimony. The hearing was closed to the public.

Commissioner Onkels moved to recommend approval of Exhibit A which amends the Whatcom County Comprehensive Plan, approval of Exhibit B which repeals the Plan and the findings as amended. Commissioner Teigrob seconded. Roll Call Vote: Ayes – Bell, Elenbaas, Luke, Onkels, Rainey, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent – Erickson, Honcoo. The motion carried.

The meeting was adjourned at 7:25 p.m.

Minutes prepared by B. Boxx.

WHATCOM COUNTY PLANNING COMMISSION ATTEST:

Michelle Luke, Chair

J.E. "Sam" Ryan, Secretary
April 17, 2013

To: The Whatcom County Planning Commission

From: Kathy Berg, Birch Bay

RE: Repeal of the Birch Bay-Blaine Subarea Plan (File # PLN2013-00005)

After conversation about the reasons behind the repeal with Mark Personius and Matt Aamot, Doralee and I agree with the proposed action.

It is interesting to note that the following transportation issue on Birch Bay Drive from 1987 is finally being addressed by the proposed Birch Bay Drive and Pedestrian Facility Project.

From page 13 of the 1987 Blaine-Birch Bay Subarea Plan

"Due to the recreational nature of the Birch Bay area, traffic volumes vary widely with the seasons. Average summer traffic volumes can be as high as 60 percent above the annual average during the summer and 35 percent below the annual average during the winter. Most of the roads in the Subarea currently have adequate capacity to accommodate existing traffic volumes at acceptable service levels, even on the peak weekend day of the year. Notable exceptions are Birch Bay Drive between Harbor View and Jackson Roads, and Blaine Road north from Drayton Harbor Road. Provisions for pedestrians and bicycles are lacking along Birch Bay Drive and of the other roads in the area.”

Repeal the Chuckanut-Lake Samish Subarea Plan and amend provisions in the Whatcom County Comprehensive Plan relating to subarea plans.

Other background information is on file at the Council office.

Repeal the Chuckanut-Lake Samish Subarea Plan and amend provisions in the Whatcom County Comprehensive Plan relating to subarea plans. The Chuckanut-Lake Samish Subarea Plan was adopted in 1986, prior to enactment of the Growth Management Act GMA in 1990.

NOTE: Final approval of these amendments would occur as part of concurrent review of comprehensive plan amendments in early 2014.
May 23, 2013

To: Jack Louws, The Honorable Whatcom County Executive
   The Honorable Whatcom County Council

From: Matt Aamot, Senior Planner

Through: Mark Personius, Long Range Planning Division Manager

RE: Repeal the Chuckanut-Lake Samish Subarea Plan and Related Amendments

The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080. However, the GMA also requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: "A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan."

Most of the comprehensive land use plan designations in the 1986 Chuckanut-Lake Samish Subarea Plan are not the same as the designations utilized in the current Whatcom County Comprehensive Plan. Additionally, the requirement to designate urban growth areas was not enacted until after the Subarea Plan was adopted. The Subarea Plan has an "Urban Reserve" designation, but it does not match the current UGA designation. The GMA’s rural element requirements did not exist when the Subarea Plan was adopted. Finally, the Subarea Plan utilized a 15-year planning period (which ended in 2001). Therefore, we recommend repealing the Subarea Plan and amending provisions in the Whatcom County Comprehensive Plan relating to subarea plans.

Planning & Development Services is requesting Council consideration of these amendments on July 9. However, the proposed Comprehensive Plan amendments are subject to concurrent review. Therefore, the Council would not render a final decision on the proposal until early 2014.

Thank you for your consideration of this matter.
ORDINANCE NO. ____________

REPEALING THE 1986 CHUCKANUT-LAKE SAMISH SUBAREA PLAN
AND AMENDING PROVISIONS IN THE WHATCOM COUNTY
COMPREHENSIVE PLAN RELATING TO SUBAREA PLANS

WHEREAS, The Whatcom County Council initiated the subject amendments for review in 2013; and

WHEREAS, The Whatcom County Planning Commission held a public hearing on May 9, 2013; and

WHEREAS, The Whatcom County Planning Commission recommended the comprehensive plan amendments on May 9, 2013; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The subject proposal includes:
   a. Amending Whatcom County Comprehensive Plan provisions relating to subarea plans.
   b. Repealing the Chuckanut-Lake Samish Subarea Plan (1986).

2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on April 5, 2013.

3. Notice of the Planning Commission hearing was posted on the County website on April 9, 2013.

4. Notice of the Planning Commission hearing and that the proposal had been posted on the County website was sent to the City of Bellingham and citizen, media and other groups on the County’s e-mail list on April 10, 2013.

5. Notice of the subject amendments was submitted to the Washington State Department of Commerce on April 18, 2013.
6. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on April 26, 2013.

7. The Planning Commission held a public hearing on the subject amendments on May 9, 2013.

8. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive plan amendments the County must find all of the following:

   a. 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.

   b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.

   c. 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:

      i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

      ii. The anticipated effect on 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.

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

   d. The amendment does not include or facilitate spot zoning.

   e. Urban growth area amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.

Growth Management Act

9. The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080 ("Comprehensive plans – Optional elements").
10. However, the GMA requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

11. The Chuckanut-Lake Samish Subarea Plan was adopted in 1986, prior to enactment of the GMA in 1990. The Whatcom County Comprehensive Plan was adopted in 1997 and subsequently amended from time to time. The Subarea Plan is inconsistent with the Whatcom County Comprehensive Plan. Specifically, the Subarea Plan does not address urban growth areas (UGAs), contains different land use designations, is inconsistent with the Comprehensive Plan’s rural element, and has a different planning period.

**County-Wide Planning Policies**

12. The County-Wide Planning Policies do not require the County to retain old subarea plans.

**Interlocal Agreements**

13. A portion of the Bellingham UGA is included in the Chuckanut-Lake Samish Subarea.

14. An interlocal agreement between the City of Bellingham and Whatcom County concerning Planning, Annexation and Development within the Bellingham UGA was signed in April 2012. This interlocal agreement does not require the County to retain this subarea plan.

**Further Studies/Changed Conditions**

15. The Chuckanut-Lake Samish Subarea Plan was adopted in 1986.

16. The GMA, adopted in 1990, included a requirement to designate UGAs. The 1986 Chuckanut-Lake Samish Subarea Plan does not address UGAs.

17. The GMA was amended in 1997 to include criteria for limited areas of more intensive rural development (LAMIRDs). The 1986 Chuckanut-Lake Samish Subarea Plan does not address LAMIRDs.

18. The Whatcom County Comprehensive Plan was originally adopted in 1997, and subsequently amended. The 1986 Chuckanut-Lake Samish Subarea Plan is not consistent with the County Comprehensive Plan.


20. The Urban Fringe Plan was adopted in 1997 and subsequently amended.
21. The City of Bellingham Comprehensive Plan was adopted in 2006 and subsequently amended.

22. Changed conditions including enactment of the GMA, adoption of newer plans and the passage of time warrant repealing the 1986 Chuckanut-Lake Samish Subarea Plan.

Public Interest

23. Repealing the 1986 Chuckanut-Lake Samish Subarea Plan will serve the public interest by removing a plan that is inconsistent with the Whatcom County Comprehensive Plan.

Spot Zoning

24. The subject proposal does not involve rezoning property.

CONCLUSIONS

The subject proposal is consistent with the approval criteria of WCC 2.160.080.
NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Whatcom County Comprehensive Plan Chapter 2 (Land Use) is hereby amended as shown on Exhibit A.

Section 2. The Chuckanut-Lake Samish Subarea Plan (1986) is hereby repealed as shown on Exhibit B.

Section 3. 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: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

_____________________________ ______________________________
Dana Brown-Davis, Council Clerk Chairperson

APPROVED as to form: ( ) Approved ( ) Denied

_____________________________
Civil Deputy Prosecutor Jack Louws, Executive

Date: _______________________

5
Exhibit A

Amend Chapter 2 of the Whatcom County Comprehensive Plan as follows:

Policy 2L-2: Retain and periodically review/update the adopted Subarea Plans (Lummi Island, Cherry Point-Ferndale, Lake Whatcom, Urban Fringe, Lynden-Nooksack Valley, Chuckanut Lake-Samish, Birch Bay-Blaine, Foothills, Point Roberts, South Fork Valley, and Eliza Island). Subarea Plans represent a long history of plan development in Whatcom County and provided the foundation for the county's first Growth Management comprehensive plan adopted in 1997.

NOTE: The text of Policy 2L-2 above is also being amended in association with the proposed repeal of the Birch Bay-Blaine Subarea Plan (file # 2013-00005) and the proposed repeal of the Lynden-Nooksack Valley Subarea Plan (file # 2013-00007). The changes to Policy 2L-2 proposed in the subject amendment are intended to be harmonious and compatible with the changes to Policy 2L-2 proposed in these other two amendments.
Exhibit B

(Repealing the Subarea Plan)
CHUCKANUT
LAKE SAMISH
SUBAREA

a component of the

Whatcom County
Comprehensive Land Use Plan

- Pt. Roberts Subarea
- Lummi Island Subarea
- Cherry Pt. - Ferndale Subarea
- Lake Whatcom Subarea
- Urban Fringe Subarea
- Lynden - Nooksack Valley Subarea
- Birch Bay - Blaine Subarea
- Chuckanut - Lake Samish Subarea
- South Fork Valley Subarea
- Foothills Subarea
CHUCKANUT-LAKE SAMISH SUBARBA

COMPREHENSIVE PLAN

May, 1986

Whatcom County Executive

Shirley Van Zanten

Whatcom County Council

Don Hansey, Chairman                    R.W. "Bob" Muenscher
Thomas Burton                           William Roehl
Jim Hawley                              Daniel Warner
C.J. "Corky" Johnson

Whatcom County Planning Commission

Peggy Hinton, Chairman                  David Simpson
Emil deWilde                            Faruk Taysi
James Freeman                           Alvin Van Dalen
Louise Greer                            John Vanderhage
Al Hickinbotham

Whatcom County Planning Staff

William G. Trimm, Director
Sandra Palm, Planner III
Diane E. Harper, Planner II
Carl F. Batchelor, Planner I
Elizabeth K. Olsen, Cartographer
Sharon Hayes, Administrative Aide
Carrie Unick, Word Processor

Whatcom County Planning Department
401 Grand Avenue
Bellingham, WA 98225
THE CHUCKANUT-LAKE SAMISH SUBAREA COMPREHENSIVE PLAN
A COMPONENT OF THE WHATCOM COUNTY COMPREHENSIVE PLAN

Adopted this 4th day of February, 1986
by the Whatcom County Planning Commission.

Peggy Hinton, Chairman

William Trimm, Secretary

Certified this 1st day of May, 1986
by the Whatcom County Council.

Donald G. Hansey

Approved this 2nd day of May, 1986
by the Whatcom County Executive.

Shirley Van Zanten

Attest:
By: Carol Eberna
Clerk of the Council

Reviewed this ____ day of ____________, 1986
by the Boundary Review Board.

Stewart Buttrick, Chairperson

Endorsed this ____ day of ____________, 1986
by the City of Bellingham.

Tim Douglas, Mayor
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I. COMPREHENSIVE LAND USE PLANNING

A. STATUTORY AUTHORITY

Statutory authority for county comprehensive land use planning is established in the Washington State Planning Enabling Act, in which it is stated that "each planning agency shall prepare a comprehensive plan for the orderly physical development of the county or any portion thereof..." (RCW 36.70.320). The Chuckanut-Lake Samish Subarea Comprehensive Plan has been developed in response to statutory authority, as well as in recognition of the widely accepted principle that future Whatcom County land use decisions should be made in a coordinated and responsible manner by both the public and private sectors.

B. DEFINITION AND APPLICATION

The Whatcom County Comprehensive Plan is defined as an official public document to be utilized by both the public and private sectors as a policy guideline for making orderly and desirable decisions concerning the future use of land in the County. The plan has been formulated by the Whatcom County Planning Commission and is comprehensive, general and long-range in nature. The plan is comprehensive in that it encompasses major geographic areas of the county and the functional elements that bear on physical development; general, in that it summarizes major policies and proposals and is not, by statute, a detailed regulation; and long-range, in that it not only addresses current issues, but also anticipated problems and possibilities of the future.

The purpose of this document is to foster a responsible process of land use decision-making. The goals, policies and land use plan map contained herein serve to amend the 1970 Whatcom County Comprehensive Plan for the geographic area contained in the Chuckanut-Lake Samish Subarea. The 1970 plan served as a basic plan for the 1970's, but as times change, people's attitudes, technologies and economies also change. Consequently, the primary decision-making document of local government must be revised to address current and anticipated issues of the future.

In consideration of the changes that have occurred since the existing plan was adopted, the Planning Commission resolved in December, 1978 to revise and update the 1970 Comprehensive Plan. The Commission is also aware that changes will continue through the 1980's and has realized that the policies contained herein will be subject to modification and revision over a period of time. As is discussed in the following section, this subarea plan will be revised on a five-year basis.

C. SUBAREA PLANNING CONCEPT

Because of the county's diverse physical and cultural make-up, the Planning Commission elected to revise the plan on an individual geographic area basis. Thus, the Commission divided the western one-third of the county into ten logical geographic areas where the planning process could be
applied in a uniform and consistent manner. Denoted as "subareas", these geographic areas were delineated to address various land use related issues that appeared to be unique to particular areas of the county.

The criteria utilized by the Commission to delineate the subarea boundaries include natural and physical features; political subdivisions, such as special purpose districts (sewer, water, fire, school, etc.); existing land use patterns; and the presence of a city or town (where applicable) to act as a nucleus for the area. Thus, subareas are planning units determined through the application of criteria and considered as a practical means of revising the comprehensive plan in a consistent orderly fashion.

D. WHATCOM COUNTY PLANNING PROCESS

The Whatcom County comprehensive planning process is defined as a continual program of evaluating goals, conducting various land-related studies, and then utilizing such goals and studies to fashion a balanced and practical set of land use policies and proposals for the future use of land in the County. Stated differently, the planning process serves as a blueprint for the logical development of the comprehensive plan, as well as the formulation of effective implementation tools.

The process describes, through a logical sequence, the various land use related factors that must be considered to effect the formulation of responsible and meaningful land use policies and proposals. These factors concern the following: the definition of county-wide goals; the inventory and analysis of land use, community facilities and utilities, transportation facilities and environmental resource characteristics; the forecasting of population levels and the county's economic vitality; the analysis of issues, both technical and citizen related; the development of policies to resolve and/or address the relevant issues; and the transformation of policies into the plan map and attendant implementation tools.

The planning process is continual. The implementation of the comprehensive plan through the application and use of various regulatory tools must be continually monitored. The effectiveness of the planning process in Whatcom County relies heavily upon the county's ability to keep the major components of the plan current through periodic review and adoption of any necessary amendments.

E. PLAN FORMAT

The Comprehensive Plan for the Chuckanut-Lake Samish Subarea includes the necessary information for the appropriate formulation of land use decisions by both the public and private sectors of Whatcom County. The components of the plan include the following:

1. Comprehensive Land Use Planning: To assist both the public and private sectors with respect to the development, adoption, and amendment of the comprehensive plan policies and map.
II. **Goal Statements:** To provide the overall direction for land use planning in Whatcom County.

III. **Population Forecasts:** To correlate anticipated demand for land uses with the supply of land.

IV. **Subarea Description:** To generally define subarea characteristics and establish issue topics, as determined by area residents, the Planning Commission and the planning staff.

V. **Rationale and Localational Criteria:** To establish the necessity of the land use designations and the spatial determinants to be utilized in applying the land use designations.

VI. **Policies:** To provide the primary decision making tools required to address the land use, community facility and utility, transportation/circulation, and environmental issues of the subarea.

VII. **Comprehensive Land Use Plan Map:** To reflect the spatial distribution of the policy statements together with the policies is perhaps the most widely utilized component of the comprehensive plan.

VIII. **Amendment Criteria:** To assist both the public and private sectors with respect to revisions of the comprehensive plan policies and map.

IX. **Adoption Certificate and Ordinance:** To acknowledge acceptance of the plan by the Whatcom County Planning Commission and Council, City of Bellingham, and the Boundary Review Board.
Whatcom County Planning Process

GOALS

CONTINUOUS UPDATE

IMPLEMENTATION
Zoning Ordinance
Subdivision Regs.
Shoreline Mgt.
City agreements
Floodplain Regs.

WHATCOM COUNTY
COUNCIL

PROPOSED SUBAREA
COMPREHENSIVE PLAN

INVENTORY AND ANALYSIS
BY SUBAREA
Land Use
residential
commercial
industrial
Transportation
Comm. Services
Population
Parks-Recreation
Physical Features
Shoreline Mgt.

DETERMINATION OF ISSUES

SUBAREA CITIZEN PARTICIPATION:
Phase 1

FORMULATION OF PRELIMINARY
SUBAREA POLICIES AND PLAN
MAP BY PLANNING COMMISSION

SUBAREA CITIZEN PARTICIPATION:
Phase 2

REFINEMENT OF PRELIMINARY
SUBAREA POLICIES AND PLAN
MAP BY PLANNING COMMISSION

PRELIMINARY SUBAREA
COMPREHENSIVE PLAN

PUBLIC HEARING
II. GOAL STATEMENTS

The following goals provide the general direction for making land use decisions in the subarea and Whatcom County as a whole. They were developed and adopted by the Planning Commission and County Council in July 1979.

A. REGIONAL DESIGN GOALS

1. Future urban development should occur within or immediately adjacent to existing urban areas in order to eliminate sprawl and strip development, assure the provision of an adequate range of urban services, conserve agricultural and forestry lands, optimize investments in public services and conserve energy resources.

2. Future development in rural areas should be low density, complement existing rural character, contribute to the conservation of agricultural and forest land and not result in demands for urban-level services.

B. GROWTH MANAGEMENT GOALS

1. To promote a conscientious program designed to plan, guide and influence the appropriate location, timing, intensity, type and servicing of diverse land use patterns.

2. To determine the required amounts of land anticipated to be utilized within the planning period (15 years) while retaining options for future land use decisions beyond the planning period.

3. To encourage a predictable pattern of urban and rural development which utilizes previously committed land areas and existing facility investments before committing new areas for development.

4. To ensure that a beneficial balance exists between the supply and demand for public services. To encourage the cooperation among municipalities, special districts, and associations in the planning and provision of public services. To discourage the proliferation of unnecessary special purpose districts.

5. To develop a concise, equitable and practical set of land use regulations intended to implement the goals, policies and proposals of the County Comprehensive Plan in a timely and orderly fashion.

C. LAND USE GOALS

1. To conserve the agricultural and forest lands of Whatcom County for the continued production of food, forage and timber crops while promoting the expansion and stability of the county’s agricultural and forestry economies.
2. Urban residential development should be planned in areas that can be economically and efficiently served with existing or planned services, optimize energy use, function as integral neighborhood units and can environmentally support intensive land uses.

3. Adequate community and neighborhood commercial facilities should be encouraged in appropriate locations while avoiding incompatible land uses and the proliferation of unnecessary new commercial areas.

4. To encourage a balanced and diversified economy in order to assure desirable local employment opportunities and to strengthen and stabilize the tax base. To accommodate anticipated economic development in an environmentally responsible manner with due consideration for public cost, energy availability, land use compatibility and transportation accessibility.

5. To promote the availability of economical and attractive housing for all income, age and ethnic groups, while also enhancing the integrity and identity of existing communities.

6. To promote a functional, coordinated and multi-mode transportation system which provides for the safe and efficient movement of people and goods, avoids undesirable environmental impacts, and optimizes public investments and the conservation of energy resources.

7. Adequate facilities and services which provide diverse education, recreation, cultural and social opportunities should be encouraged.

D. CULTURAL AND NATURAL RESOURCES

1. To identify and manage environmentally sensitive areas in such a manner as to prevent destruction of the resource base and reduce potential losses to property and human life.

2. To continue the identification of cultural and natural resources and formulate viable methods to preserve and conserve such resources in recognition of their irreplaceable character.

3. To promote a park and recreation system which is integrated with existing and planned land use patterns and is diverse, abundant and assures maximum public access and usage.

E. CITIZEN INVOLVEMENT AND INTERGOVERNMENTAL COORDINATION

1. To assure opportunity for citizens to be involved in the formulation of land use goals, policies and proposals and to provide a structure for citizen participation in the planning program of federal, state, regional and local agencies.
2. To participate in intergovernmental coordination with federal, state, provincial, regional and local agencies, to develop a coordinated approach to problems which transcend local government bodies and to create an environment for the exchange of information and technical assistance.
III. POPULATION FORECASTS

Introduction

The purpose of population forecasting, as it relates to land planning, is to accommodate the long-term spatial requirements of various land uses such as residential, commercial, recreational and public. Population forecasting may also be of assistance in decision making for land use related matters, such as determining the appropriate scale and location of public works facilities and land development activities. Population forecasts are subject to revision which may be accomplished in the five-year comprehensive plan update process.

The population information contained herein is a summary of the forecasts prepared by several agencies. Because of the technical difficulties involved with current and projected population assessment on a subarea basis, the information has been presented by total county, unincorporated county and incorporated community. Furthermore, this information has been used in a qualitative manner or as a general guideline, rather than as a specific numerical forecast. To relate this information to the Chuckanut-Lake Samish Subarea Comprehensive Plan, the following assumptions are established:

1. The majority of population growth will occur in the URBAN RESERVE and RESIDENTIAL-RURAL areas.
2. The remainder of population growth will occur in RURAL areas.
3. The rate of population growth will be at unincorporated Whatcom County rates (Table H).

Tables A, B and C respectively relate to total Whatcom County, unincorporated Whatcom County and City of Bellingham population trends and forecasts. Figures 1, 2 and 3 present this information in a graphical format. The remainder of the information summarizes the various assumptions and variables which may affect the included population forecasts.

Assumptions Relating to Population Forecasts

All population forecasts are based on assumptions which affect the numerical results, and population forecasting agencies do not make the same assumptions. The following items are intended to present an overview of assumptions as they relate to Whatcom County populations:

1. In-migration will continue to contribute substantially to population increases at the Washington State and Whatcom County levels.
2. The trend of decreasing family size and population per household will continue.
3. Labor market potential and location will affect population distribution, gross natural increase and in-migration levels.
4. The purpose of the population forecast affects assumption utilization, which in turn affect the results.

Variables Affecting Population Forecasts

Agencies which prepare population forecasts often make revisions due to changes in the variables affecting their assumptions. The following variables are intended as an overview for potential Whatcom County population forecast revisions and may not affect all the agencies whose forecasts are contained herein:

1. Changes in Whatcom County birth, death and in-migration rates.
2. Changes in the level of industrial development and the related labor market potential of Whatcom County.
3. Changes in the Canadian economy and the related level of Canadian spending in Whatcom County.
4. Changes in the demand for the products of local resources such as agriculture, forestry, fishing and mining by local state, national, and international markets.
FIGURE 1
TOTAL WHATCOM COUNTY

TABLE A
TOTAL WHATCOM COUNTY POPULATION TRENDS AND FORECASTS: 1970-2000
(INCORPORATED AND UNINCORPORATED)

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ANNUAL GROWTH RATES

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<tr>
<td>1990-2000</td>
<td>2.06%(^7)</td>
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*Refer to page 10d for footnotes.

10a
FIGURE 2

UNINCORPORATED WHATCOM COUNTY

TABLE B

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<td>56,083</td>
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<td>3.04%&lt;sup&gt;5&lt;/sup&gt;</td>
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*Refer to page 10d for footnotes.

10b
FIGURE 3

BELLINGHAM POPULATION

![Graph showing population trends from 1970 to 2000 with data points for WCCOG, MEAN, and CBI.]

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TABLE C


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<td>50,691</td>
<td>56,890</td>
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ANNUAL GROWTH RATES

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<tbody>
<tr>
<td>1970-1980</td>
<td>1.52%⁵</td>
</tr>
<tr>
<td>1980-1990</td>
<td>2.05%⁶</td>
</tr>
<tr>
<td>1990-2000</td>
<td>1.83%⁷</td>
</tr>
</tbody>
</table>

*Refer to page 10 for footnotes. 10c
Footnotes


2 Whatcom County Council of Governments; Population Forecasts; June, 1980.


5 Annual growth rates are based upon the official 1970 and 1980 U.S. Census figures.

6 Annual growth rates are based upon the official 1980 U.S. Census figure and the 1990 mean calculation figure.

7 Annual growth rates are based upon the 1990 and 2000 mean calculation figures.

8 In-migration is equal to total population less natural increase, in which natural increase is equal to total births less total deaths.

9 The Whatcom County Council of Government's population forecast exhibits a high correlation with the Canadian Impact Study and is thus presumed to accommodate Canadian spending.
IV. SUBAREA DESCRIPTION

A. INTRODUCTION

The Chuckanut–Lake Samish Subarea is generally bounded on the north by the City of Bellingham, on the south by Skagit County, on the east by the crest of Lookout Mountain which forms the boundary between the Lake Samish and Lake Whatcom watersheds, and on the west by the City of Bellingham and Chuckanut coastline.

Subarea boundaries were delineated by the Planning Commission in 1979 prior to beginning the comprehensive plan update process. Delineation of the Chuckanut–Lake Samish Subarea was based on political boundaries and a commonality of natural and cultural elements. It contains approximately 17,900 acres of land and comprises about four percent (4%) of the land area of the western one-third (1/3) of Whatcom County. Approximately 950 dwelling units exist within the subarea, giving it an estimated two percent (2%) of the total population of Whatcom County, or about four and one-half percent (4 1/2%) of the population of unincorporated Whatcom County.

The Subarea was divided for purposes of analysis into three geographic areas that generally reflect the boundaries of neighborhood interest: the Chuckanut Drive corridor, the Yew Street corridor and the Lake Samish watershed. The map on the following page shows the location of the entire subarea and indicates the three analysis areas.

B. FINDINGS

In November 1984, the Whatcom County Planning Department completed the Background Document for the Chuckanut–Lake Samish Subarea. A portion of the study area contains descriptions of existing conditions concerning land use, the physical environment, transportation system, and community facilities and utilities. In addition, the report identified specific issues for the analysis areas: Yew Street, Lake Samish and Chuckanut. The issues identified by the Planning Department staff, Planning Commission and citizens have been evaluated and addressed through the development of specific comprehensive plan policy statements. This statement of findings provides a summary of the background information upon which the issues discussed herein are based. For additional detail, the Chuckanut Lake Samish Subarea Background Document can be consulted.
CHUCKANUT
LAKE SAMISH SUBAREA

ANALYSIS AREAS

Legend

Analysis Area Boundary
Land Use Description

Land uses in the subarea are primarily those associated with a forested or rural area. Much of the subarea is inaccessible due to steep slopes and rugged terrain. Forest land is the dominant use comprising 12,643 acres or approximately 71% of all land uses. Of this total, approximately 8,345 acres are in forestry current use tax status which generally indicates a commitment to continued forestry use. Commercial forestry operations are situated on the north, south and west sides of Lake Samish and in scattered locations on Chuckanut and Lookout mountains. Woodlot operations are also scattered throughout the subarea. Public and quasi-public uses comprise 2,024 acres or 11% of the subarea and consist primarily of Larrabee State Park and smaller county parks.

Urban and rural residential land uses comprise 1,040 acres or 5.8% of the subarea. Residential uses are concentrated along Chuckanut Drive, Yew Street, Old Samish Highway and around Lake Samish. Vacant land consists of 1,131 acres representing 6.3% of all land uses and is scattered throughout the subarea. Water areas, dominated by Lake Samish, consist of 852 acres or 4.8% of the subarea. Remaining land uses constitute less than 1% of all land uses and are comprised of: agriculture; communications, utilities and transportation (generally related to fire stations and rights-of-ways); and industrial and small commercial uses. These uses are scattered throughout the subarea.

Environmental Conditions

The environmental setting can best be described through the following physical categories: topography, geology, geologically related resources, surface water, soils, flora and fauna. The subarea generally is steeply sloped. Sizeable areas of slopes from 1-15% are found in the northern portion of the subarea between the Bellingham city limits and Galbraith Road, and in the area south and west of Lake Samish. The predominant geologic structure of the subarea is the Chuckanut Formation. A large semi-circular deposit of phyllite occurs south of Lake Samish. Undifferentiated Glacial Drift Deposits occur west of Yew Street and along Chuckanut Creek, and two small Alluvial Deposits are situated on the north shore of Lake Samish. Geologic resources include groundwater, coal, gravel, quartz, clay and sandstone. Coal reserves exist east of Lake Samish near Old Samish Highway, Samish Way and Galbraith Lane. Crushed rock is being extracted near the west end of Lake Samish.

Surface water is represented by Chuckanut Bay, Lake Samish and its Friday Creek outlet, the small lakes of Chuckanut Mountain, as well as Chuckanut Creek and the smaller streams situated on Chuckanut and Lookout mountains. The lakes and streams of the subarea provide drainage, recreational and wildlife habitat opportunities. Groundwater supplies in the subarea are very limited, and long-term water supply should be a consideration in all future development planning. Both groundwater and surface water areas have experienced chemical and bacterial contamination, and measures to alleviate further contamination should be considered.
Most subarea soils are severely limited for urban uses but are highly suitable for forestry purposes. Small areas of soils with rapid permeability are found in residential areas along Lake Samish, Chuckanut Drive and southern Yew Street and may provide inadequate filtration for septic effluent. Flora consists primarily of mixed coniferous-deciduous forest but includes some disturbed lands and aquatic vegetation. The subarea contains various species of fish, birds and mammals. Marine waters along the Chuckanut coastline contain a variety of marine life and are part of the "Pacific Flyway" route for migratory waterfowl. In addition, several subarea streams and lakes serve as habitats for spawning salmon.

Transportation

Subarea transportation consists of a railway and roadways classified as Interstate, state route and county road. The portion of Interstate 5 in this subarea is the primary access link between Whatcom County and the rest of the state and Canada. Chuckanut Drive, a state highway, provides secondary access by linking major communities north and south of the subarea and is classified as a minor arterial serving local traffic. In addition, Chuckanut Drive has been designated a State Scenic and Recreation Highway. Other county roads that carry local north-south traffic to nearby communities are Yew Street, Old Samish Highway and a portion of North Lake Samish Drive. Primary roads which carry east-west local traffic include Samish Way, Old Samish Highway and the portion of North Lake Samish Drive between I-5 and East Lake Samish Drive.

Primary circulation routes in the subarea generally function at a level of service that allows stable traffic flows. These routes include Chuckanut Drive, roads in the north Lake Samish area, and North Lake Samish Drive between East Lake Samish Drive and I-5. Each of these roads currently experiences traffic flow problems at certain heavy road use times due to the configuration of the roads.

The subarea is serviced by a section of the Burlington-Northern Railroad, which parallels the Chuckanut coastline for 4.5 miles. A total of eight freight trains pass through the subarea daily. At present, there is no passenger service on the line, but revival of the Pacific International is being considered to serve the 1986 World Exposition in Vancouver, B.C.

Community Facilities and Utilities

Utilities include the provision of water and wastewater disposal systems. The City of Bellingham currently operates the largest water system in the subarea and is the primary water purveyor in the Yew Street and Chuckanut areas. Other known purveyors in the subarea are the Autumn Lane Mobile Home Park, Calmore Cove Club, Lake Samish Mobile Home Terrace, Lutherwood and Indian Village Campground water associations. Land use activities which are not provided with water from one of the above purveyors are supplied by their own wells or by drawing water from Lake Samish. The City of Bellingham provides sewer service to the area immediately north of Lake Padden and to the unincorporated area at the northern end of Yew Street. The unsuitable soils in the Yew Street area make sewerage facilities essential for
large scale developments. Water District No. 12 provides sewage service in the Lake Samish area. The District maintains sewer lines along all urbanized portions of the lake's shoreline. The remaining land uses in the subarea are dependent on private septic systems.

Community facilities in the subarea include education, public safety and fire protection. School age children attend schools in the Bellingham School District. Future increases in school age populations are projected to be within the capacities of affected Bellingham schools.

Law enforcement in the subarea is provided by the Whatcom County Sheriff's Department and Washington State Patrol. Limited additional support is provided by the City of Bellingham Police Department, the State Parks Department and the Whatcom County Parks Department. The Sheriff's Department has the primary responsibility for law enforcement in the subarea except for traffic enforcement on the state route Chuckanut Drive and on Interstate 5. The Department consists of approximately 22 patrol deputies, 4 detectives and 15 other commissioned officers with arrest powers. Three patrol vehicles are deployed throughout the county 24 hours a day and an average of 440 calls per year are presently received by the Sheriff's Department. The subarea is considered to be a low crime area by the Sheriff's Department.

Fire protection is provided by three Whatcom County Fire Protection Districts: No. 6 on Chuckanut; No. 9 south of Lake Samish; and No. 10 on Yew Street. Each district has mutual aid agreements with other fire protection districts and the City of Bellingham. In addition, Districts No. 6 and No. 9 have mutual aid agreements with Skagit County Fire Districts. All three districts have poor fire protection ratings due to the lack of an adequate water distribution system. Future expansion of urban development will require improvement of water distribution systems.

C. CITIZEN PARTICIPATION AND SUBAREA ISSUES

The major issues of the Chuckanut Lake Samish Subarea are associated with water availability and quality, wastewater system adequacy, geologic constraints, and the economic resource represented by the attractiveness of the area for residential development and public uses. The subarea background planning study and proposed land use designations were discussed with citizens at three public meetings in the subarea. In addition, comments were obtained from special districts, City of Bellingham and nonresident land owners. The following is a summary of citizen issues for the three analysis areas: Yew Street, Lake Samish and Chuckanut.

In the Yew Street analysis area, the issue of major concern to residents is the potential extension of public utilities and its cost and impact on development patterns. Although poor soils and water availability make the extension of water and sewer services by the City of Bellingham attractive, the existing rural character of most of the area is its primary amenity. Most area residents strongly favor the current rural residential land use pattern and are quite averse to annexation by the City of Bellingham. The current land use is primarily rural, but there are several existing subdivisions at urban densities.
Of particular concern to residents of the Lake Samish analysis area are the existing level of recreational use, traffic problems due to road configuration, and an acceptable quality and quantity of a long-term water supply. All of these issues contribute to concern about the amount and density of future development. Provision of an alternative source of water is of concern because Lake Samish potentially could be unusable with very little warning due to accidental chemical spills from the Interstate. A related concern of how to provide for an alternative water source without spurring excessive development that would exacerbate other problems is a key issue to current residents. Other issues include the appropriate development or treatment of the major entrance corridor into Whatcom County and Lake Samish water quality which is very vulnerable to deterioration caused by the Interstate and by development.

The Chuckanut Bay analysis area consists of the most accessible areas containing great natural beauty in Whatcom County. The major issue is the way that private development may be combined harmoniously with the extraordinary scenic resource of Chuckanut Mountain and coastal vistas and with the public’s desire for physical access to scenic beaches and mountain viewpoints. Other issues involve the upgrading of the current water service by the City of Bellingham, traffic problems created by multiple use and roadway configuration, and the geological constraints on development.
V. LAND USE DESIGNATIONS

A. INTRODUCTION

The land use designations as illustrated on the Comprehensive Land Use Plan Map, together with the policies, represent the most appropriate uses of land in the subarea for the planning period. These land use designations have been developed as a means of addressing or resolving particular land use needs. To be consistent in the application of the designations, as well as to avoid confusion about how the land use boundaries were established, the following rationale and locational criteria for each land use designation are set forth.

B. RATIONALE AND LOCATIONAL CRITERIA

1. Urban Reserve

Rationale

It is a well established trend in the western United States for urban areas to respond to growth pressures by outward expansion of their boundaries. As long as this trend continues, there will be a continuing demand for land, the most fundamental of all urban resources. Although outward expansion is an accepted city planning practice, problems have typically arisen when potential urban lands have been committed to long-term "nonurban" uses. Primarily caused by the lack of coordinated public policy among governmental jurisdictions, this situation has resulted in uncoordinated and costly service systems, inefficient transportation networks and unmanageable land use patterns.

As a means of alleviating the problems associated with outward expansion, the Comprehensive Plan establishes the URBAN RESERVE land use designation. The rationale underlying the designation is to reserve certain land areas for future urban purposes and to encourage interim uses that are complementary to and compatible with future urban uses, densities, and services. When urban services are eventually provided to these areas, land use densities shall increase and result in an orderly, economic and expeditious transition from rural to urban land use patterns.

The application of the URBAN RESERVE designation is intended to accomplish the following objectives:

(a) To reduce urbanization and encroachment pressures on lands that are most suitable for other uses.

(b) To stabilize land speculation and the artificial inflation of land values in the "urban fringe" by designating an adequate amount of land for urban growth and uses during the planning period.

(c) To provide land owners with a reasonable expectation of future municipal and county land use policies.
(d) To reduce inequitable taxing structures on nonurban land located near urbanizing areas.

(e) To conserve energy resources by reducing unnecessary travel between living, shopping and work places.

(f) To encourage the conservation of natural resources and environmentally sensitive areas, both within and outside of the area designated as URBAN RESERVE.

The URBAN RESERVE designation is applied to those areas adjacent to municipal boundaries that are appropriate for urban land use patterns whenever a full range of urban services (sewer, water, storm drainage, transportation improvements, and police and fire protection) can be efficiently provided. It may also be applied to those satellite areas where urban densities and services have been previously planned and the available level of water and sewer service and existing land use character warrant it. The City of Bellingham has formally concurred in the provision of an urban level of services to the areas; however, any proposed land annexation would have to be approved by the landowners, by the Boundary Review Board pursuant to RCW 36.93.170, and in accordance with the city's annexation policies as described in Ordinance No. 9461.

Locational Criteria

The criteria to be utilized for the application of the URBAN RESERVE designation include the following:

(1) Land areas adjacent to the City of Bellingham, or satellite areas, that are of sufficient size to adequately accommodate the projected demands for residential, commercial, transportation and public uses for a ten- to fifteen-year period.

(2) Land areas where a range of urban services such as sewer, water, storm drainage, transportation improvements, fire and sheriff protection, and parks and recreation presently exist or can be economically and efficiently provided in the near future.

(3) Areas that contain an adequate supply of vacant urbanizable land to avoid the artificial inflation of land values.

(4) The boundaries of the URBAN RESERVE designation should:

   a. be well defined, logical, provide a physical "sense of community", and be capable of being expanded to accommodate additional urban growth as the need arises; and

   b. acknowledge the existing character of land use densities and the existing or potential level of utility servicing.
Zoning Density Criteria

The URBAN RESERVE comprehensive plan designation shall be implemented with two Urban Reserve zone district densities: three dwelling units per acre and four dwelling units per acre. These densities are based upon existing provision of an urban level of services including public sewer, public water, storm drainage, transportation, fire and police protection. Until such time that public sewer and water are provided, and stormwater drainage facilities are provided where specified by the comprehensive plan policies, the density shall be one dwelling unit per five acres. The density shall automatically become either three or four dwelling units per acre according to the zone district when these services are provided. The following criteria define the application of each of these densities.

(1) The density of three dwelling units per acre shall be applied where:
   a. adjacent city land uses and neighborhood densities are less than or equal to three dwelling units per acre;
   b. the existing and planned transportation system or sewer and water service levels prohibits increased density;
   c. areas within a watershed used in providing water for domestic purposes.

(2) The density of four dwelling units per acre shall be applied where:
   a. adjacent city land use densities are greater than or equal to four dwelling units per acre;
   b. the existing and planned transportation system and sewer and water service level allow for increased density.

2. Residential Rural

Rationale

Not all citizens prefer to live in concentrated urban areas, instead some prefer a setting of lower density. Lower density usually implies that urban utility services (public provision of both sewer and water) are not planned, sheriff and fire protection are provided to a lesser degree than in urban areas, roadways have not been scheduled for capital improvements to county standards, and the residential landscape is visually different than in urban areas. Residents of such areas usually rely on urban areas for amenities such as shopping, employment and entertainment. Because of the nonurban nature of RESIDENTIAL RURAL areas, transportation facilities are limited to a secondary arterial or lower classification, and road improvements are limited to maintenance only. Thus, the purpose of the RESIDENTIAL RURAL designation is to
provide land areas in close proximity to urban areas where nonurban living patterns may develop with minimal public services.

Locational Criteria

The criteria to be used for the application of the RESIDENTIAL RURAL designation include the following:

(1) Land currently served or planned to be served with a partial range of urban level services, i.e. publicly provided sewer or water, fire and sheriff protection, and storm drainage where appropriate;

(2) Land areas where low density residential development currently exists and where such densities are planned to continue in the future; and

(3) Lands containing soils that are generally not suitable for agriculture, forestry or mineral extraction.

(4) The boundaries of Residential Rural areas should be well defined by physical or man-made features.

3. Rural

Rationale

The present land use pattern in portions of the subarea is characterized by part to full-time farming or forestry and low density residential activity. This type of landscape can be considered as "rural", i.e. an area containing a combination of pastureland, forest and dispersed very low density residential settlement patterns.

Dispersed settlement patterns are a function of physical conditions such as soils, water or topography that impose constraints to higher densities of development. They also can be a function of the absence of past and future public commitments for the provision of sewer, water and roadway improvements. Very low density residential areas offer alternative residential living styles allowing for preferences for increased privacy, aesthetic advantages of particular sites, or small scale agriculture and forestry, compared to that of the urban or moderately dense residential setting.

These areas may contain nonrenewable natural resources, such as soils which contribute to agricultural or forestry productivity, sand and gravel deposits suitable for extraction, or natural scenic resources that form the visual identity of an area. Existing parcel sizes are large and would be able to accommodate land uses such as agricultural, forestry or low to moderate density residential areas in future planning periods.

The RURAL designation is important in the Subarea Plan because it provides flexibility concerning very low density residential, forestry and agricultural land uses while retaining a range of private and public land use options for the future.
Locational Criteria

In order to define those locales where the RURAL designation would be most appropriate, the following criteria are applied.

(1) Those areas that possess a very low residential density and are compatible with existing land use plans.

(2) Those areas where a buffer is needed between higher density population and land use practices associated with commercial agriculture and forestry.

(3) Those areas where features of the physical environment, such as lack of adequate ground water, slow permeability rates, seasonal ponding or steep topography require very low densities in order to mitigate the impacts of these physical constraints. Also, those areas where there exists the possibility of utilization of a natural resource, i.e., soils, sand/gravel, coal or timber.

(4) Those areas where there are no planned capital improvements to community facilities, utilities or transportation systems.

Zoning Density Criteria

The RURAL comprehensive plan designation shall be implemented with three Rural zone district densities: one dwelling unit per two acres; one dwelling unit per five acres; and one dwelling unit per ten acres. The following criteria define the application of each of these densities.

(1) The density of one dwelling unit per two acres shall be applied where:

   a. existing density is less than or equal to one dwelling unit per five acres and average parcel size is greater than or equal to two acres;

   b. physical limitations such as lack of adequate groundwater, slow permeability rates, seasonal ponding or steep slopes prohibit increased densities;

   c. existing public services do not justify greater densities and there are no planned capital improvements to existing public services.

   d. maximum buildout at the prescribed density level will be compatible with the surrounding land use character.

(2) The density of one dwelling unit per five acres shall be applied where:

   a. existing density is less than or equal to one dwelling unit per ten acres and average parcel size is greater than or equal to five acres;
b. b, c and d of Section 1 above are applicable.

(3) The density of one dwelling unit per ten acres shall be applied where:

a. existing density is less than or equal to one dwelling unit per twenty acres and average parcel size is greater than or equal to ten acres;

b. the possibility of the utilization of natural resources, i.e., sand/gravel, coal, timber requires low densities to facilitate their extraction.

c. agriculture and silviculture are, or possibly could be, viable economic enterprises.

d. b and c of Section 1 above are applicable.

4. Forestry

Rationale

Forestry and related industries historically have been significant factors in the local economy, a role which has expanded to affect state, national and international economies. Not only is forestry economically important, forest management provides a significant renewable resource base to Whatcom County. In addition, forested areas often contain nonrenewable mineral and nonmineral resources, serve as wildlife habitats, and contribute to watershed management. Since population increases may create pressure to irrevocably convert forest land, it is important that Whatcom County provide for the long term productivity of forest and related resources by safeguarding prime forest areas from conversion to nonforest uses. The purpose of the FORESTRY designation is to preserve the viability of Whatcom County's renewable and nonrenewable resource base.

Locational Criteria

Areas which are suitable for the FORESTRY designation may be identified through analysis of the following factors:

(1) Land use patterns indicate a predominance of large parcel sizes ranging from 20 to 640 acres.

(2) Parcels are usually owned for the purpose of growing and harvesting timber by major timber industries, logging companies, the State of Washington, or private individuals engaged in woodlot operations.

(3) The majority of parcels are classified in forestry current use tax assessment consistent with the provisions of Washington State law.
(4) There is a minimal amount of public roads and other services that generally precede and augment residential development.

(5) Certain physical constraints to residential development may also exist such as slopes in excess of 15%, soils that are not suitable for septic tanks or conventional building foundations, unstable geologic units, or important wildlife habitats.

(6) Nonrenewable natural resources such as minerals, coal, gravel or soils whose use is compatible with forestry management may also be present.

5. Public

Rationale

This designation recognizes those parcels and facilities currently under or planned for public ownership. The intent of this designation is to assure continuation and potential expansion of public services at levels consistent with population requirements, while providing sufficient acreage to be compatible with surrounding land uses.

Locational Criteria

To identify areas which are suitable for the PUBLIC designation, the following criteria are employed:

(1) Parcels are currently owned or are being considered for ownership by public agencies such as the Federal Government, State of Washington, Whatcom County, cities, special purpose districts such as school, fire and water district and independent jurisdictions such as the Port of Bellingham; and

(2) The function of parcel ownership is to provide public services such as recreation, education, utilities, communications, transportation (not including roadways), solid waste disposal and health care.

6. Quasi-Public

Rationale

The QUASI-PUBLIC land use designation distinguishes those areas where public institutional uses exist that are under private control and where the institutional land use is different, both in function and attendant on-site and off-site impacts, from surrounding land uses. The purpose of the QUASI-PUBLIC designation is to assure continuation of institutional functions without being affected by or affecting surrounding land uses.
Locational Criteria

Areas which should be designated as QUASI-PUBLIC shall conform to the following criteria:

(1) Parcels are owned by institutions such as churches, universities, colleges, schools or private foundations; and

(2) The purpose of parcel ownership is to provide education, religious training, meeting centers, day use recreational activities, summer camps, preservation of a natural or historical resource, or a combination thereof.

7. Neighborhood Commercial

Rationale

The delivery of goods and services to people is an integral part of our economic system. The type of commercial activity is dependent on the composition of the market to be served and represents several different land use patterns. These land use patterns are designated as neighborhood, general, tourist or resort commercial. To meet the market needs of the Chuckanut-Lake Samish Subarea, two commercial designations are used: NEIGHBORHOOD COMMERCIAL and TOURIST COMMERCIAL.

Locational Criteria

Areas suitable for the NEIGHBORHOOD COMMERCIAL designation shall conform to the following criteria.

(1) Parcels are served by collector streets or minor or secondary arterials.

(2) Parcels have the same level of sewer and water service as that provided to the surrounding neighborhood.

(3) The designation is in a location central to the neighborhood area the commercial activity would serve.

(4) The designation is applied to a minimum area of five acres configured in a consolidated arrangement.

(5) The designation is applied to property located where ownership patterns and land parcelization would be conducive to future development.

(6) The designation should be located where a public need for a neighborhood shopping area exists.
8. **Tourist Commercial**

**Rationale**

The rationale underlying the TOURIST COMMERCIAL designation is to serve the traveling public with a limited range of goods and services directly related to their transportation needs. TOURIST COMMERCIAL areas are intended to serve vehicular, rail, truck and air transportation systems. TOURIST COMMERCIAL areas should be located near major transportation corridors and be designed to assure safe and convenient access.

**Locational Criteria**

Areas that are suitable for application of the TOURIST COMMERCIAL plan designation conform to the following criteria.

1. Parcels are served by principal or minor arterials, or major collectors.

2. Parcels will be provided with urban services including public sewer and water, stormwater drainage, sheriff and fire protection; except that existing areas that have concentrations of tourist commercial uses may be recognized based on adequate levels of wastewater disposal, water and fire flow.

3. The designation is located in close proximity to major transportation corridors including air, rail or road terminals, or border crossings.

4. The designation contains approximately ten acres, is configured to provide safe and convenient access, and will not adversely impact adjacent noncommercial activities.

5. The designation is located where a public need exists for TOURIST COMMERCIAL types of uses.
VI. POLICIES

A. INTRODUCTION

The policies, together with the comprehensive land use plan map, designate the locations of the various land uses that are the most economic and suitable for this planning period. The policies also indicate how Whatcom County can assure orderly and economic implementation of the land use designations through actions taken regarding community services and community resources. The policies specify the course of action that Whatcom County shall follow in meeting the Whatcom County Goal Statements listed in Section II.

B. LAND USE DESIGNATION POLICIES

The Chuckanut-Lake Samish Subarea is a relatively small subarea that is primarily suitable for forestry, residential, and recreational uses as indicated by past land use development patterns. Whatcom County has developed sixteen land use designations to allow for the necessary flexibility and specificity in applying land use standards, and seven of the land use designations are applied within this subarea.

PUBLIC and QUASI-PUBLIC land use designation boundaries were determined by current ownership and use as described in the respective Locational Criteria. Likewise, FORESTRY land use designation boundaries were determined by ownership, use and suitability as described in the Locational Criteria. The changes in these boundaries from the previous comprehensive plan designation (1970) are minor.

Residential land use designations were determined according to existing ownership and density patterns, suitability for residential uses, and availability of services as described in the URBAN RESERVE, RESIDENTIAL RURAL and RURAL Locational Criteria. In addition, the changes in residential land use designations from the previous comprehensive plan reflect the Regional Design Goals and Land Use Goals in Section II and consider the following planning principles.

The economic impacts of proposed changes. The subarea has three population clusters: Chuckanut Bay, Lake Samish shore and the Yew Street-Samish Way corridor. Each cluster is based upon an amenity that is important to the continued economic attractiveness of the neighborhood. Changes in residential density were made to protect the extraordinary scenic value of Chuckanut Bay, the water quality of Lake Samish and the rural character of the Yew Street-Samish Way corridor. In addition, densities were kept as high as possible to protect investments made on the basis of prior land use designations.

The coordination of growth patterns with adjoining municipalities. Projected population growth of the City of Bellingham and land use designations within its borders were considered when examining land use designations for adjoining areas. In recognition of the existing and potential level of services in the Yew Street area, 425 acres of land are designated as URBAN RESERVE to accommodate population growth. The remainder of the Yew Street area is designated at the same density level as the adjoining land within the city.
Allowance for an ample amount of population growth. The unincorporated Whatcom County population growth projection in Section III indicates an approximate increase of 50% during this planning period of 15 years. Due to aesthetic and recreational amenities available in this subarea, a somewhat greater than average increase might occur. The plan allows a sufficient number of residential dwelling units to accommodate a 690% increase due to the consistent application of the Locational Criteria and the consideration of the preceding two objectives.

Before full development of the residential zones occurs, improvements must be made to water, wastewater and transportation systems. The residential land use designations including URBAN RESERVE, RESIDENTIAL RURAL, and RURAL were applied by balancing the high densities of the prior Comprehensive Plan and the potential carrying capacity of water sources, wastewater service options and feasible transportation system service levels. In this subarea, RURAL areas primarily reflect environmental constraints rather than multiple use capability. RURAL areas also reflect the need for buffering between denser residential patterns and typical commercial forestry practices. The RURAL zone of one dwelling unit per ten acres is applied where there are extremely steep slopes, geologically unsuitable for development. The other RURAL densities were applied based upon geologic conditions, steepness of slopes, and existing parcel size.

The final land use designations in this subarea are NEIGHBORHOOD COMMERCIAL and TOURIST COMMERCIAL. Small areas allowing for commercial uses are situated at the north Lake Samish exit from I-5 and are intended to accommodate the convenience buying needs of lake area residents and visitors. Because of this subarea's topography and/or level of services, no large scale commercial, industrial or agricultural land use is projected.

The following sections provide policies for each land use designation. The format for these policies is:

.01 Purpose, Uses, and Densities
.02 Land Use Designation Boundaries
.03 Zoning District Boundaries
.04 Community Facilities and Resources
.05 Other

The intent of the policies for each land use designation is contained in a brief introductory discussion in each section.
1. **Urban Reserve**

The primary purpose of the URBAN RESERVE policy is to promote an orderly transition from rural land uses and densities to urban uses and densities, while moving toward the attainment of the Regional Design Goal with respect to future urban development. In addition, the policy intends to encourage the responsible growth of urban areas by assuring that an adequate range of urban services (sewer, storm water drainage, schools, parks, water, fire and sheriff protection) are available to support urban level densities. When such services are available, development should occur in neighborhood units which have appropriate levels of densities, uses, and circulation networks.

To facilitate future urban growth, the URBAN RESERVE policy is intended to discourage the establishment of interim uses and subdivision patterns which may foreclose significant future alternatives pertaining to urban densities and the efficient provision of services. Moreover, this policy is intended to maintain, prior to the approval of an accepted site specific plan for the implementation of services, the low density character of the area and to allow reasonable uses of property by permitting compatible residential, recreational, commercial, forestry and agricultural land uses.

1.01 It is the policy of Whatcom County to promote an orderly transition from rural land uses and densities to urban uses and densities by designating certain portions of the Chuckanut–Lake Samish Subarea as URBAN RESERVE.

1.01.1 The predominant land use pattern within the URBAN RESERVE areas shall be residential and related forms, including neighborhood commercial, neighborhood parks and other public uses. The URBAN RESERVE policy discourages the establishment of interim uses and subdivision patterns that can foreclose significant alternatives pertaining to future urban densities and the efficient provision of services. Therefore, this policy maintains the low density character of the area while permitting compatible residential, recreational, commercial and forestry land uses until an urban level of water, and sewer and stormwater facilities are available.

1.01.2 To implement this policy the two residential zone districts densities of three or four dwelling units per acre shall not go into effect until such time that a full range of urban services is provided as specified in Section 1.04 below. In areas where such services do not yet exist, the applicable density shall be one dwelling unit per five acres of land.

1.02 The following areas shall be designated as URBAN RESERVE and indicated as such on the Comprehensive Land Use Plan Map.

1.02.1 The northern Yew Street area bounded by the City of Bellingham on the west and north, Democrat Street on the south and property lines approximately 800 feet east of Yew Street on the east.

1.02.2 The southern Yew Street area bounded by the City of Bellingham on the west and south, including parcels west of the boundary between Section 4 & 5 and 8 & 9, larger than 20 acres north to the Harris Road easement, and parcels east of Yew Street to the eastern edge.
of the mobile home park that is near the northwest corner of the intersection of Yew Street and Samish Way.

1.03 Whatcom County shall implement the URBAN RESERVE land use designation by application of the URBAN RESIDENTIAL Zone District, which has two densities after urban services have been provided. The density is either three dwelling units per acre or four dwelling units per acre and is applied based upon the URBAN RESERVE Locational Criteria.

1.03.1 In the northern Yew Street area bounded as indicated in 1.02.1, above, the density shall be four dwelling units per acre.

1.03.2 In the southern Yew Street area bounded as indicated in 1.02.2, above, the density shall be three dwelling units per acre.

1.04 It is the policy of Whatcom County to encourage efficient land use patterns and the cooperation among municipalities, special districts, associations, and other governmental agencies in provision of a full range of urban services in the URBAN RESERVE areas.

1.04.1 In both URBAN RESERVE areas, public sewer and water shall be provided by the City of Bellingham. Until such time that public sewer and water is provided, the area designated for a density of one dwelling unit per five acres shall be supplied by wells and private septic drainfields.

1.04.2 In both URBAN RESERVE areas stormwater drainage facilities shall be subject to the regional stormwater management plan now being developed. On-site stormwater collection and retention shall be required during development and in accordance with the regional stormwater management plan when adopted by the county.

1.04.3 Where urbanization occurs on the periphery of large lot land use forms, urban residential subdivisions and other urban uses shall be designed to buffer less intensively utilized parcels with adequate landscaping, screening or fencing to prevent encroachment by vehicles, pedestrians, animals and nuisances.

1.04.4 Where practical, subdivisions and other urban uses adjoining other zone districts shall be designed so that vehicular and pedestrian networks are channelled to the internal area of the site and intersections with county roads are as few as possible.

1.04.5 Cluster subdivision and Planned Unit Development shall be allowed in URBAN RESERVE areas and encouraged for large parcels. These alternative methods of land subdivision are described more fully in Section C.4.

1.05 It is the policy of Whatcom County to cooperate with municipalities within the county to effectively manage growth. If the City of Bellingham amends its residential density zone designations in the areas north, south, and west of the city/county boundary in the Yew Street area, or when the Byron Consolidation roadway is scheduled for completion, Whatcom County shall
reexamine the land use designations in the Yew Street area for possible expansion of the URBAN RESERVE areas.

1.05.1 To further a joint exchange of information Whatcom County shall send copies of applications for major land use, transportation and service entity activities proposed within the subarea to the City of Bellingham within fifteen (15) days of application receipt by the county.

1.05.2 The City of Bellingham is requested to send copies of future proposals concerning the expansion of the City's Water Service Zone boundaries, Sewer Service Zone boundaries, and comprehensive plan and zone amendments to the Whatcom County Planning Department so that the County may respond appropriately.
2. Residential Rural

The intent of the RESIDENTIAL RURAL land use designation is to maintain the existing low density character of an area. Densities should range from one dwelling unit per acre to three dwelling units per acre, depending upon the range of county approved services, existing lot sizes, prior density and location. If there is adequate transportation capacities, publicly provided sewer or water, and lot sizes of greater than one acre exist or are planned, the density of residential development shall be one dwelling unit per acre. Where a partial range of services exist or are planned and the average lot size is less than or equal to 18,000 square feet, the density of residential development shall be two dwelling units per acre. Three dwelling units per acre is applied only where the prior density was equal to or greater than three dwelling units per acre and the area is inappropriate for the Urban Reserve designation. As a means of efficiently utilizing land, maintaining the present low density residential character and retaining options regarding increased densities and services in the future, it is the intent of the RESIDENTIAL RURAL designation to provide for the option of “clustering” in the design of new subdivision proposals.

2.01 It is the policy of Whatcom County to maintain the character of existing low density residential areas by designating certain portions of the Chuckanut-Lake Samish Subarea as RESIDENTIAL RURAL.

2.01.1 Within the areas designated as RESIDENTIAL RURAL typical uses shall include single-family attached and detached dwellings, public parks and recreation facilities, home occupations, and neighborhood grocery stores.

2.01.2 To implement this policy residential densities of either one dwelling unit per acre or two dwelling units per acre shall be provided.

2.02 The following areas shall be designated as RESIDENTIAL RURAL and indicated as such on the Comprehensive Land Use Plan Map.

2.02.1 The Chuckanut Shore area which is bounded by Larrabee Park on the south, the City of Bellingham on the north, the Interurban Trail or property lines on the east that lie within the water service boundaries 300 feet east of Chuckanut Drive and Chuckanut Bay on the west.

2.02.2 The shoreline area along the east arm of Lake Samish and the south shore of the west arm that is generally within the Water District No. 12 ULID boundary, and the area adjacent to Nulle Road east of the interstate. Any parcels presently within a Rural zone included in the future within a Water District No. 12 ULID shall be considered for change to Residential Rural.

2.02.3 The Yew Street area bounded by the City of Bellingham on the west, Democrat Street on the north, and property lines and Harris Street easement on the south and the area between the boundary between Sections 4 & 5 and 8 & 9 on the west and the property lines generally bordering a 700' elevation on the east.
2.02.4 The Byron Consolidation corridor area forms an east/west strip along the south side of Bellingham city limits, approximately 1,400 feet wide, and runs from approximately 900 feet east of Yew Street to the Lake Whatcom Subarea boundary.

2.02.5 The area southeast of Larrabee State Park, and north of Skagit County known as Clayton Beach.

2.03 Whatcom County shall implement the RESIDENTIAL RURAL land use designation by application of the RESIDENTIAL RURAL Zone District. The residential density is either one dwelling unit per acre, two dwelling units per acre, or three dwelling units per acre and is applied based upon the Residential Rural Locational Criteria.

2.03.1 The density of two dwelling units per acre shall apply to the following areas: The Chuckanut Shore area west of Chuckanut Drive and north of Larrabee Park excluding the area known as Governor’s Point; the Lake Samish Shore area, within Water District No. 12 sewer service area, along the north, east, south and southeast shores; the area along the Whatcom Connector described in 2.02.4 above; the central area along Yew Street; and the area southeast of Larrabee Park known as Clayton Beach.

2.03.2 The density of three dwelling units per acre shall apply to the area known as Governor’s Point due to the potential for water provided by the City of Bellingham and sewer provided by the City or new Sewer District, the prior zoning density of three dwelling units per acre, and the lack of applicability of an urban reserve designation to an undeveloped area not adjacent to city boundaries.

2.04 It is the policy of Whatcom County to encourage efficient land use patterns and the cooperation among municipalities, special districts, associations, and other governmental agencies in provision of a partial range of urban services in RURAL RESIDENTIAL areas.

2.04.1 Either public water and/or public sewer shall be provided. Stormwater detention shall be required during development and in accordance with the stormwater management plan when adopted and stormwater drainage facilities consistent with the plan after its adoption.

2.04.2 When a subdivision is situated adjacent to less intensive land use designations, the subdivision shall be buffered at the site periphery to prevent the encroachment of vehicles, pedestrians, animals and nuisances onto other less intensively utilized areas.

2.04.3 Subdivisions shall be designed so as to minimize intersections along existing county roads and to discourage lineal residential patterns adjacent to county roads.

2.04.4 In order to preserve the character of the Chuckanut Bay, Lake Samish and Yew Street neighborhoods, subdivisions shall be designed to minimize disruption of views and maintain existing
vegetative cover to the extent economically and physically feasible.

2.04.5 In recognition of the exceptional natural and economic resources present in the Chuckanut shore and mountain terrain, the use of cluster subdivision or planned unit development shall be encouraged for areas allowing large developments, such as Governor's Point and Clayton Beach. It also is allowed for parcels of any size that have specific environmental and cultural features that could be enhanced by its use, such as the Teddy Bear Cove area. Cluster subdivision and Planned Unit Development are alternative ways of subdividing land that make more economic use of land area and provide open space. They are described more fully in Section C.4.
3. Rural

The RURAL policy is intended to acknowledge physical and cultural factors which currently are and during the planning period will continue to be limitations to higher densities. Physical factors relate to soil percolation rates, depth to groundwater level, steep topography and the presence of aquifers. Cultural factors pertain to the absence of public services and circulation networks. Moreover, this policy intends to conserve environmentally fragile areas and retain future access options with respect to nonrenewable natural resources (sand, gravel, coal and minerals, and soils which contribute to agricultural and forest productivity). It is also intended to encourage multiple land use potential and retain the "rural" character of an area. RURAL policy also provides the option of "clustering" in the design of new rural subdivisions in order to retain productive land uses and future options for development.

3.01 It is the policy of Whatcom County to provide for very low density residential areas where multiple uses are suitable, or where community facility or resource constraints preclude higher densities, by designating certain portions of the Chuckanut-Lake Samish Subarea as RURAL.

3.01.1 Within the areas designated as RURAL typical uses shall include low density residential, occasional pasture, agriculture, woodlots and home occupations.

3.01.2 To implement this policy residential densities of one dwelling unit per two acres, one dwelling unit per five acres, and one dwelling unit per ten acres shall be provided.

3.02 The following areas shall be designated as RURAL and indicated as such on the Comprehensive Land Use Plan Map.

3.02.1 The Chuckanut Mountain area bounded by the City of Bellingham on the north, the property lines approximately 300 feet east of Chuckanut Drive or the Interurban Trail on the west, Larrabee State Park on the south, and the Larrabee State Park boundary line and its projection northward on the east.

3.02.2 The Samish Way and Samish Highway Corridor area beginning at North Lake Samish Road and extending north and west along Samish Way and Interstate-5 until Interstate-5 reaches the City of Bellingham and the area extending north to Fillmore Street between properties 700' in elevation and forestry lands east of Yew Street.

3.02.3 The west facing foothills of Lookout Mountain south of Bellingham.

3.02.4 The Lake Samish Watershed area, including tracts surrounding Lake Samish and generally bounded by timber lands and by either Residential Rural zone districts or Lake Samish shoreline and not included within Water District No. 12 ULID service area.

3.03 Whatcom County shall implement the RURAL land use designation by application of the RURAL Zone District. The residential density is one dwelling unit per two acres, one dwelling unit per five acres, or one dwelling unit per ten acres and is applied according to the Locational Criteria.
3.03.1 The density of one dwelling unit per ten acres shall be applied to the Lake Samish Watershed area along the western and northern shores of the west arm of Lake Samish as discussed in the Introduction to this section.

3.03.2 The density of one dwelling unit per five acres shall be applied to the Chuckanut Mountain area north of and west of Larrabee State Park; the eastern Yew Street area; the Samish Highway area; the Samish Way Corridor area; the areas south and west of the RESIDENTIAL RURAL area around the eastern arm of Lake Samish; and the area east of Interstate 5 and north of the Skagit County boundary around "F" line road.

3.03.3 The density of one dwelling unit per two acres shall be applied to an area bounded on the west by the Interurban Trail, on the north by Hiline Road, and on the east and south by Larrabee Park; and the area along the Skagit County border that is near southern Summerland Road.

3.04 It is the policy of Whatcom County to encourage effective land use patterns and adequate provision of services for RURAL densities.

3.04.1 RURAL areas shall be served by private water and septic drainfields. Where water is obtained from off-site sources, written agreement must be made with all affected property owners and presented as part of subdivision or building permit review.

3.04.2 In recognition of the exceptional natural and economic resources present in the Chuckanut shore and mountain terrain, the use of cluster subdivision or planned unit development shall be encouraged for large parcels. Descriptions of these alternative methods for efficient land subdivision are found in Section C.4.

3.04.3 New residential development adjacent to areas designated FORESTRY shall require a covenant or deed restriction agreeing to refrain from any legal action against reasonable and lawful forest practices.

3.04.4 It is the policy of Whatcom County to encourage property owners to conserve forested areas by utilizing the provisions of RCW 84.34.
4. Forestry

The FORESTRY designation intends to move toward attainment of the Whatcom County Goal Statements which address the conservation of forest lands and provide for the continued economic vitality of forest industries. To accomplish such, the FORESTRY designation intends to identify areas which are suitable for the long-term productivity and sustained use of forest resources. To minimize conflict with an encroachment by nonforest uses and to guard against forest land conversion, the policies intend to discourage residential and recreation-residential uses. Moreover, the FORESTRY designation intends to accommodate other compatible and related uses such as nonrenewable resources extraction, wildlife management, watershed management, and dispersed recreation. Finally, the FORESTRY designation intends that uses are conducted in accordance with applicable local, state and federal regulations.

4.01 It is the policy of Whatcom County to conserve forest lands suitable for long term productivity and sustained use of forest resources by designating certain portions of the Chuckanut-Lake Samish Subarea as FORESTRY.

4.01.1 The principal use of FORESTRY areas shall be sustained yield forest management which is conducted in accordance with the Washington State Forest Practice Act (RCW 76.09) and the rules and regulations set forth therein (WAC 222), as administered by the Department of Natural Resources. Forest management includes practices such as timber production, harvesting and reforestation; forest chemical use; logging road construction and maintenance; fire prevention and suppression; the protection of public resources, including water quality, fish and wildlife, and small private timber production such as woodlot operations.

4.01.2 It is the policy of Whatcom County to establish twenty (20) acres as the minimum parcel size for sustained yield forest management, as well as to safeguard forest lands from potential impacts generated by secondary uses and maximum density of one dwelling unit per 20 acres shall be established.

4.02 Chuckanut Mountain and the western slopes of Lookout Mountain shall be designated as FORESTRY and indicated as such on the Comprehensive Land Use Plan Map.

4.03 Whatcom County shall implement the Forestry land use designation by application of the Forestry Zone District in accordance with the Locational Criteria.

4.04 It is the policy of Whatcom County to encourage harmony between forestry and nonforestry land uses by the following policies.

4.04.1 Whatcom County shall discourage community facilities in FORESTRY areas except dispersed and low intensity recreational opportunities, private water and septic drainfields, and private roads. Subdivision for residential purposes shall require a written agreement among all affected property owners concerning any off-site water sources before subdivision or building permits occur.
4.04.2 A maximum density of one dwelling unit per (20) acres shall be established and all residential uses shall be subject to the following conditions. All residential and related structures shall be situated a minimum of one-hundred (100) feet from parcel boundaries. All potential residents shall be clearly informed of the principal use of FORESTRY areas and the intensive forest practices which may reasonably and lawfully occur in the normal course of forest management, and all new subdivision shall be subject to an agreement to not take legal action against legal and reasonable forest practices. Any FOREST parcel where more than one dwelling unit can be provided shall be encouraged to use the cluster subdivision method as described in Section C.4. All buildings shall be setback out of potential flood and debris flow areas.

4.04.3 It is the policy of Whatcom County to require local public review of secondary uses in FORESTRY areas with the intent of determining the following:

a. The use will not cause a permanent and irrevocable commitment of the forest resource to uses not related to forestry.

b. The use will not prohibit or impact the intensive operation of adjoining forest practices.

c. The use will have fire prevention and suppression plans and will not create a fire hazard for adjoining forestry operations.

d. The use is in compliance with all applicable local, state and federal regulations.

e. When proposed to be situated within the Lake Samish Watershed, the use will not significantly impact or degrade surface and subsurface water quality and quantity characteristics.

4.04.4 It is the policy of Whatcom County to encourage cooperation between forest managers and residential users within a watershed in considering and implementing the use of nonchemical controls and other methods whereby impacts on water quality are lessened.

4.04.5 It is the policy of Whatcom County to encourage a strip of vegetated land area to be left along streams of sufficient quality and width to minimize surges in runoff rates and promote stream bank stability.

4.04.6 It is the policy of Whatcom County to encourage a strip of vegetated land area to be left of sufficient width and character to promote the continued positive visual identity provided along the I-5 corridor entrance to the county from the southern county border to the northern end of Lake Padden Park.
4.04.7 Pursuant to the provisions of RCW 79.68, Multiple Use Concept in Management and Administration of State-owned Lands, it is the policy of Whatcom County to encourage continued multiple use management of state owned forest lands.

4.04.8 It is the policy of Whatcom County to encourage private forest and woodlot owners to conserve the county forest resource base by utilizing the current use tax assessment provisions of RCW 84.28, RCW 84.33 and RCW 84.34.

4.05 It is the policy of Whatcom County to encourage the Washington State Department of Natural Resources to continue county notification of all classes of forest practice applications. In addition, the county shall encourage the DNR to conduct public information programs, when jointly determined to be necessary, concerning forest practices which are proposed to occur within the subarea.
5. Public

With reference to parcels which currently are owned or planned for ownership by public agencies, the intent of the following policies is to implement the County Goal Statements relating to public facilities and services and to assure the continued public provision of a variety of services in a manner that is commensurate with population levels and requirements. The policies also are intended to optimize public investments and promote compatibility between public functions and surrounding land uses.

5.01 It is the policy of Whatcom County to ensure the continued public provision of a variety of parks and recreational facilities, educational facilities, and other utilities and services in a manner that is commensurate with population levels and requirements by designating certain portions of the Chuckanut-Lake Samish Subarea as PUBLIC. Typical uses in PUBLIC planned areas include facilities and services related to the provision of recreation, education, utilities, communications, solid waste disposal, health care and water diversion works.

5.02 The following areas shall be designated as PUBLIC and indicated as such on the Comprehensive Land Use Plan Map.

5.02.1 Larrabee State Park, the Interurban Trail, Lake Samish Park, Cedar and Pine Lake Parks, Plantation Rifle Range, the State Boat Launch on Lake Samish, and the undeveloped East Lake Samish Park site.

5.02.2 All wildlife reserves and fish hatcheries; schools; fire stations; health care facilities; district-owned sewer transmission facilities; municipally-owned water diversion corridors; and public communication transmission stations.

5.03 Whatcom County shall implement the PUBLIC land use designation by application of the following zones in accordance with the Locational Criteria.

5.03.1 The Recreation and Open Space Zone District shall be applied to public recreation areas specified in 6.02.1 above.

5.03.2 All other public functions shall be used by right or condition within other Whatcom County zoning districts.

5.04 It is the policy of Whatcom County to encourage effective land use patterns and cooperation among governmental jurisdictions in providing appropriate levels of service to the various public areas.

5.04.1 Services shall include public water and sewer where available and appropriate to the use, and stormwater drainage shall be required according to the regional stormwater management plan when it is adopted.

5.04.2 Whenever practical, multi-purpose use of public lands, facilities, and services is encouraged.
5.04.3 Visual and functional impacts of PUBLIC land uses should be minimized through utilization of aesthetic site design which is compatible with the character of the surrounding area.

5.04.4 In recognition of the potential conflicts between the extensive recreational use of Lake Samish and surrounding residential land uses, further development of the county East Lake Samish park site should be subject to public review consistent with the provisions of the Recreation and Open Space zone district.

5.04.5 Public agencies are encouraged to acquire those parcels which benefit the continued operation of their function. Whenever practical, joint agreements between agencies shall be encouraged to expedite efficient public expenditure.

5.04.6 It is the policy of Whatcom County to augment recreational opportunities by seeking means to secure public access to Teddy Bear Cove and Clayton Beach through public acquisition or dedication; encouraging cooperation among property owners, the Department of Natural Resources, and the Whatcom County Parks Department to obtain trail easements from Larrabee State Park north to the Bellingham border; and obtaining public access to beaches where ever possible.

5.05 Pursuant to the Inter-Local Cooperation Act (RCW 39.34), it is the policy of Whatcom County to encourage public agencies to prepare and adopt long range plans that address future land, facility and service requirements, coordinate public and private activities, and minimize potential future conflict between various public agencies and the private sector regarding plan implementation.

5.05.1 Whatcom County shall cooperate and coordinate with the Whatcom County Parks Department in the integration of existing park plans into a Recreation and Open Space Element which will augment the County Comprehensive Plan.

5.05.2 The County Parks Department shall be encouraged to participate in neighborhood park planning within the areas designated as URBAN RESERVE and RESIDENTIAL RURAL on the Comprehensive Land Use Plan Map.
6. **Quasi-Public**

QUASI-PUBLIC land uses are defined as institutional uses operated for the public but under private control. The Quasi-Public uses that exist in the subarea include religious, educational, recreational and institutional facilities. These uses warrant a separate land use designation due to their distinctive character and variable impacts with surrounding uses. The following policies serve to identify the type of use, location, and zoning of the quasi-public uses and properties within the Subarea.

6.01 It is the policy of Whatcom County to encourage the continuation of institutional uses operated for the public but under private control by designating certain portions of the Chuckanut-Lake Samish Subarea as QUASI-PUBLIC. Typical uses are religious, educational, recreational, and institutional.

6.02 Whatcom County shall apply the Quasi-Public designation to institutional uses and properties including the Lutherwood Bible Camp on the western end of Lake Samish, Indian Village at the southern end of Lake Samish, and the Chuckanut Island Nature Conservancy holding. These areas shall be designated QUASI-PUBLIC on the Comprehensive Land Use Plan Map.

6.03 Because of the relatively small size of the designated Quasi-Public areas, implementation shall be accomplished by application of the adjacent zoning district that is the most consistent with the character of each respective Quasi-Public area. Such uses shall be allowed to continue as uses within the respective zoning district.
7. Neighborhood Commercial

The convenient availability of goods and services to residential neighborhoods is an integral part of our economic system. The Lake Samish neighborhood also receives a number of visitors desiring convenience goods and services. It is the intent of this policy to provide for these needs and to consolidate commercial activity desirable along an interstate highway.

7.01 It is the policy of Whatcom County to provide for commercial activities convenient to and appropriate for residential neighborhoods by designating certain portions of the Chuckanut-Lake Samish Subarea NEIGHBORHOOD COMMERCIAL. Typical commercial activities include convenience retail stores, automobile service stations, professional offices, and eating and drinking establishments and shall be regulated as to size and design in accordance with the applicable zone district.

7.02 The area that is west of I-5 and Samish Way at the north Lake Samish I-5 interchange shall be designated as NEIGHBORHOOD COMMERCIAL and indicated as such on the Comprehensive Land Use Plan Map.

7.03 Whatcom County shall implement the NEIGHBORHOOD COMMERCIAL land use designation by application of the NEIGHBORHOOD COMMERCIAL zone district based upon the Locational Criteria in Section V.B.5.

7.04 It is the policy of Whatcom County that NEIGHBORHOOD COMMERCIAL areas shall be provided with the same level of public services as the surrounding residential or rural area.

7.05 It is the policy of Whatcom County to enhance and maintain its natural and economic resources through NEIGHBORHOOD COMMERCIAL land use patterns that avoid linear strip development, while providing for safe and efficient vehicular movement by requiring site design that promotes a clustered or concentrated form of development.

7.05.1 Ingress and egress points to state and county roads should be minimized by consolidating on-site circulation networks and by developing access points to roads that are classified as collectors or access roads, rather than arterials.

7.05.2 On-site circulation should be designed to accommodate private vehicles, delivery vehicles and pedestrians; and potential vehicular/pedestrian conflicts should be minimized.

7.05.3 Development should occur in a concentrated and compact form, and should avoid lineal development patterns. In addition, site development should occur consistent with adopted county standards for roads, stormwater management and land alteration.

7.05.4 Site design should respond to environmental opportunities and constraints, promote building placement that will maximize open space and minimize utility extensions, and should maximize energy efficiency.
7.05.5 The Planned Unit Development provision is an option that may be used in the development of designated commercial areas. Additional policies are located in the Land Development Options, Guidelines and Requirements Section of this document; and regulations are located in the Title 20 Zoning Ordinance.

7.05.6 Except for the area within building envelopes and necessary for parking, no clearing of land within these zone districts shall occur.
8. Tourist Commercial

The TOURIST COMMERCIAL designation is intended to provide concentrated areas, located in proximity to major transportation corridors or international border crossings, for uses that serve the traveling public. The designation intends to facilitate safe and efficient circulation systems, provide methods to attain compatibility with surrounding noncommercial uses, and promote site design that will efficiently use available commercial land.

8.01 To provide limited areas for uses serving private and commercial vehicles that are traveling between Bellingham and Skagit County. Uses should be directly related to the needs of the traveling public.

8.02 One Tourist Commercial district is located in the subarea immediately northwest of the Samish Way interchange with I-5 on both sides of Samish Way.

8.03 The TOURIST COMMERCIAL designation is implemented with the Tourist Commercial zone district. The boundaries of the districts are established in accordance with the locational criteria.

8.04 It is the policy of Whatcom County that these TOURIST COMMERCIAL areas shall have public sewer and public water services, on-site stormwater collection and retention facilities as needed, sheriff protection and sufficient fire protection before Tourist Commercial uses are built.

8.05 It is the policy of Whatcom County to enhance and maintain its natural and economic resources through TOURIST COMMERCIAL land use patterns that follow these development requirements.

8.05.1 Guidelines for establishing access points and on-site circulation are respectively included in NEIGHBORHOOD COMMERCIAL policies 7.05.1 and 7.05.2.

8.05.2 Guidelines for site development and design are established in NEIGHBORHOOD COMMERCIAL policies 7.05.3, 7.05.4 and 7.05.5.

8.05.3 A screened and/or landscaped buffer shall be established at the periphery of the Tourist Commercial district to promote compatibility with adjoining rural and residential rural uses, and site plans should achieve a complementary aesthetic character that will enhance the I-5 corridor entrance into Whatcom County.

8.06 It is the policy of Whatcom County to minimize the potential conversion of adjoining RURAL lands to Tourist Commercial uses.
C. COMMUNITY FACILITIES AND RESOURCES POLICIES

The implementation of land use designations is closely interwoven with the provision of community facilities such as utilities, roads, recreational areas, and emergency services. Land use designations also are affected by and affect the environmental and economic resources of an area. Policies were developed to address or resolve particular issues dealing with these interrelationships.

In the Chuckanut-Lake Samish Subarea the environmental resources are extensive and irreplaceable in forming part of the visual identity of Whatcom County. Environmental resources include wildlife habitat and fish spawning grounds, groundwater and surface water, and terrain that contributes economic resources. Economic resources primarily consist of the attractiveness of the area for residential development due to the environmental amenities, the availability of timber for forest industry use, and the amenity present for the entire county in the recreational and visual use of Chuckanut Bay, Chuckanut Mountain and Lake Samish.

The community facilities that are necessary in this subarea to maintain and enhance its resources are basically in place. Some upgrading is needed in water and sewer service and transportation facilities, and there are issues associated with recreational use. These are discussed in the following sections on community utilities and transportation and in the preceding dealing with PUBLIC land use areas. The basic aims are the maintenance of attractiveness for residential population growth, and the maintenance and enhancement of the Lake Samish watershed. The following sections provide policies for each community facility or resource. The format of the policy is:

.01 Purpose
.02 Coordination
.03 Standards
.04 Implementation
1. Community Utilities and Services

1.01 It is the purpose of Whatcom County to ensure a beneficial balance between the demand for and supply of community utilities and services and that jurisdictional responsibility and service levels are consistent and predictable for the planned land uses. Community facilities and services typically include sewer and water systems, transportation networks, school and park systems, stormwater drainage systems, and fire and police protective services.

1.02 It is the policy of Whatcom County to encourage cooperation among municipalities, special districts, water associations, and other appropriate groups in the planning and provision of public services.

1.02.1 Whatcom County shall cooperate and coordinate with the City of Bellingham, Whatcom County Water District No. 12, Whatcom County Fire Protection Districts No. 6, No. 9 and No. 10, Bellingham School Districts, and the State of Washington in planning subarea service systems, particularly for areas designated as URBAN RESERVE. Whatcom County recognizes and supports the policies contained within City of Bellingham Ordinance 9461 regarding water and sewer service zones.

1.02.2 Whatcom County shall recognize Puget Power and Light as the primary energy purveyor in the subarea; however, the use of alternative energy systems such as active and passive solar heating and water heating, small scale hydroelectric power, and wind power plants for residential, commercial, quasi-public and public land uses shall be encouraged through the favorable consideration of necessary site design variances whenever appropriate.

1.02.3 Whatcom County shall ensure that the necessary staff and equipment are available in the Whatcom County Sheriff's Department to provide adequate protective services for the Chuckanut-Lake Samish Subarea population.

1.02.4 Consistent with the City of Bellingham annexation and urban service area policies, the city is acknowledged as the primary authority responsible for the provision of sewer and water services within the Chuckanut and Yew Street neighborhoods. Upon amendment of the city's Capital Improvement Plan that would enable the extension of sewer and water services or upon provision of sewer or water services by a special purpose district into areas currently planned for RESIDENTIAL RURAL densities, appropriate land use density should be reconsidered given the adjusted level of service.

1.03 It is the policy of Whatcom County to use availability and level of service standards for community facilities and utilities to maintain and enhance its natural and economic resources, land use patterns, and the safety and well-being of citizens.
1.03.1 Whatcom County shall encourage the placement and extension of sewer and water lines in areas contiguous to existing development so as to discourage the occurrence of "leapfrog" development.

1.03.2 Whatcom County shall discourage development in areas that are inaccessible to ambulances, sheriff's vehicles and fire fighting equipment until private roads are developed that meet emergency vehicle access requirements. Development in areas inaccessible to fire district equipment should be discouraged unless adequate on-site water and fire suppression systems are available for fire fighting.

1.03.3 Whatcom County shall encourage the provision of public water service in the Lake Samish watershed by Water District No. 12. At such time that water service is provided, the county and community should again examine the appropriate land use density.

1.03.4 Due to the potential for residential water quality and quantity problems as permitted dwelling unit densities are attained in the Yew Street area, Whatcom County shall encourage extension of city water and sewer services following the provision of such services within the city area west of the Yew Street area.

1.04 It is the policy of Whatcom County to use the following criteria for the implementation of adequate economically feasible services in designated land use areas.

1.04.1 URBAN RESERVE: Land areas designated URBAN RESERVE are intended for urban type densities and shall be provided with a full range of urban services including publicly provided sewer and water, fire and sheriff protection, transportation and stormwater drainage systems. On-site stormwater detention is required during development and in accordance with the regional stormwater management plan when adopted. Upon completion of the stormwater management plan facilities, land area currently used for retention may be converted to permitted uses and densities. Whatcom County recognizes specific service purveyors for the delivery of urban services in the Yew Street URBAN RESERVE areas as follows:

Sewer and Water: City of Bellingham
Law Enforcement: Whatcom County Sheriff's Department
Fire Protection: Whatcom County Fire Protection District No. 10
Transportation: Whatcom County
Recreation: Whatcom County Parks Department
Stormwater Management: The City of Bellingham and Whatcom County

1.04.2 RESIDENTIAL RURAL: Land areas designated RESIDENTIAL RURAL shall have a partial range of urban services including either publicly

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provided sewer and/or water. On-site stormwater detention is required consistent with 1.04.1 above. Whatcom County recognizes specific service purveyors as follows:

**Sewer and Water:** City of Bellingham; Water District No. 12; or private

**Law Enforcement:** Whatcom County Sheriff’s Department

**Fire Protection:** Whatcom County Fire Protection District No. 6, No. 9 or No. 10

**Transportation:** Whatcom County

**Recreation:** Whatcom County Parks Department

**Stormwater Management:** The City of Bellingham and Whatcom County

1.04.3 **RURAL and FORESTRY:** Services shall include: on-site domestic waste water disposal systems and individual well or water associations; volunteer fire protection from a Whatcom County Fire Protection District and the Department of Natural Resources; law enforcement from the Whatcom County Sheriff’s Department; transportation provided by local access roads maintained by Whatcom County and private roads; and recreation provided by the Whatcom County Parks Department in cooperation with the State of Washington.

1.04.4 **QUASI-PUBLIC AND PUBLIC:** Services shall include public sewer and water where available from District No. 12, the City of Bellingham, or on-site wells and wastewater systems; storm drainage consistent with the regional stormwater management plan when adopted; volunteer fire protection from a Whatcom County Fire Protection District; law enforcement from the Whatcom County Sheriff's Department; and transportation provided by collector arterials maintained by Whatcom County.

1.04.5 All sewer and water service shall be provided in accordance with Whatcom County Health Department standards.

1.04.6 All stormwater drainage facilities shall be provided in accordance with the regional stormwater management plan now being developed and the Whatcom County Development Standards.

1.04.7 All transportation service shall be provided in accordance with the standards in the following transportation section, as well as all applicable state and federal standards and the Whatcom County Development Standards.

1.04.8 All recreational services shall be provided in accordance with the standards of the Whatcom County Parks Department, Washington State Parks Department, and in cooperation with the policies of the PUBLIC land use designation section.
2. Transportation System

2.01 It is the policy of Whatcom County to ensure that land use patterns and transportation planning mutually support the safe and efficient movement of people and goods; are consistent in encouraging a predictable pattern of urban and rural development; and together conserve and enhance existing public investments and resources.

2.01.1 Whatcom County shall use the development approval process of subdivision, zoning, and building permits to establish community circulation patterns and to secure rights-of-way and construction of all functional road classifications.

2.01.2 Whatcom County shall use the development approval process to ensure that all residential development includes safe vehicular access for citizens and emergency vehicles.

2.02 It is the policy of Whatcom County to cooperate with federal, state, and municipal agencies in providing for a coordinated transportation system.

2.02.1 Whatcom County shall coordinate and cooperate with the City of Bellingham in the planning of new arterial routes in the Chuckanut-Lake Samish Subarea, specifically the proposed Whatcom Connector route connecting Samish Way and Lake Louise Road and traversing the Chuckanut-Lake Samish Subarea near the Byron and Consolidation Street alignments.

2.02.2 Whatcom County shall promote and encourage the provision of public transit as demand increases in the Chuckanut-Lake Samish Subarea, where warranted by potential ridership for transit, by incorporation when changes in the circulation system are made through the Transportation Improvement Program. The public transit authority shall be sent copies of all major subdivisions and all PUD proposals for their information and review regarding provision of public transportation.

2.03 It is the policy of Whatcom County to maintain and enhance its natural and economic resources, land use patterns, and the safety and well-being of its citizens through the application of the following standards to its transportation system.

2.03.1 Whatcom County shall approve new road construction projects or improvements to existing roads consistent with the regional stormwater management plan now under development. Should the private or public sector begin such projects before the plan is complete, the county shall implement appropriate measures to assure total containment of excess stormwater runoff for each development proposal. Upon completion of the stormwater management plan, land area currently used for retention may be converted to permitted uses and densities consistent with the applicable zone district.

2.03.2 Whatcom County shall make every effort to preserve mature trees and unique wildlife habitats and other elements of the natural
environment during the design and construction of road improvement projects. Where disruption of the natural environment is unavoidable, special techniques such as rounded slopes, erosion control, reseeding and revegetation shall be employed to return roadsides to their natural state.

2.03.3 Bikeways and pedestrian walkways shall be included as an integral part of the transportation system. Bikeways and pedestrian ways shall be provided in new developments where warranted to link residential areas, shopping areas, recreational areas and educational facilities. Whenever practical, bikeways proposed in new developments shall connect with the planned bikeways in the Whatcom County Trails Plan. The County Parks Department, State Parks Department and Washington State Department of Transportation shall be encouraged to publicize and use signage to promote the use of the Interurban Trail by nonmotorized vehicles and pedestrians on Chuckanut Drive.

2.03.4 Whatcom County shall encourage the use of noise buffers and visual screens between future residential areas and high volume transportation routes such as Yew Street and the proposed Byron-Consolidation connector.

2.03.5 Whatcom County intends to minimize the amount of impervious surfaces including streets, driveways, sidewalks, etc., whenever possible, by using "natural" engineering design methods such as the use of open, shallow, grassed street swales instead of curbs and gutters. In addition, Whatcom County shall encourage the use of surfacing options such as porous asphalt pavement, precast interlocking blocks and rolled brick or cinder chips that reduce total surface runoff, slow concentration and capture particulates.

2.03.6 Whatcom County shall encourage the construction of new roads contiguous to existing development. Such phased road construction is intended to discourage the occurrence of "leap frog" development.

2.04 It is the policy of Whatcom County to use the following criteria for the implementation of a safe and economic transportation system as indicated on the road classification plan designated on the Chuckanut-Lake Samish Subarea Roadway Classification Map and amending the Roadway Classification Map as necessary.

2.04.1 Whatcom County shall identify the need for and the approximate location of new principal and minor arterial routes in the Chuckanut-Lake Samish Subarea and shall program the construction of these routes in Whatcom County's Capital Improvement Program. The following projects have been identified:

a. the Whatcom Connector between Samish Way and Lake Louise Road; and

b. Improvement of Yew Street to collector arterial standards.
c. With the provision of city sewer and water services to the area designated Urban Reserve in the southern half of Yew Street, the city and county should consider alternative east/west links joining Yew Street and Samish Way.

d. With 100% buildout of the density planned, the traffic on Chuckanut Drive would exceed its capacity unless the roadway was improved; therefore, at such time that traffic volumes approach LOS E, approval of any further land subdivisions or building permits shall be contingent upon mitigating transportation measures taken by all affected property owners.

2.04.2 Through the land development approval process, Whatcom County shall improve the operational efficiency of the intersections along North Lake Samish Drive south of the Interstate 5 intersection, along Chuckanut Drive, and along Yew Street. The intent of this policy is to reduce the number of automobile accidents occurring at intersections by improving access and reducing uncontrolled turning movements. Appropriate design criteria shall be applied consistent with the functional classification of the above mentioned roads and other applicable design criteria as provided in the Whatcom County Development Standards.

2.04.3 Through the development approval process, Whatcom County shall identify the short and long range traffic impacts to subarea roads by computing the estimated number of vehicle trips generated by a project and comparing those computations against the planned level of service for each road segment (according to the Whatcom County Engineering Department design standards and specifications) impacted by the project including intersections. If it is determined that a proposed development will cause traffic impacts that will result in a level of service below that planned for all affected road classifications, Whatcom County shall request the developer to make the necessary improvements to maintain the pre-planned level of service or to make an equivalent cash contribution to the Whatcom County Road Fund.

2.04.4 Where appropriate, it is county policy to allow developers of small projects of 15 lots or fewer to build a half width road which will be classified below a collector arterial, provided that all affected property owners agree to participate in completing the road.
3. Environmental Resources

3.01 It is the policy of Whatcom County to manage its natural resources productively by recognizing and conserving irreplaceable resources, providing suitable protection for environmentally fragile areas, and enhancing environmental quality.

3.02 It is the policy of Whatcom County to encourage cooperation among federal and state agencies, municipalities, environmental groups, and private landowners to enhance its environmental resources.

3.02.1 Whatcom County shall develop and adopt a public benefit rating system for evaluation of applications for tax relief on open space land use pursuant to RCW 84.34 whereby granting of open space tax status shall be dependent upon determination that the public benefit of retaining a parcel in open space outweighs the loss or deferral of revenue to the County.

3.02.2 Whatcom County shall develop practical criteria for use in administering the building code option that requires engineering certification for foundations and criteria for identifying excessive lot disturbance in areas of steep or unstable slopes and shall prepare a Steep Slope Development Ordinance.

3.02.3 Whatcom County shall encourage property owners to use the current use tax assessment provisions of RCW 84.34 to retain the following areas in open space: steep or unstable slopes, stream corridors, wetlands and wildlife habitats.

3.03 It is the policy of Whatcom County to enhance and maintain its environmental resources according to the following standards:

3.03.1 Whatcom County shall promote the use of 100-year floodplains associated with stream corridors as open space. Residential development shall be encouraged to be sited at sufficient distance from all streams to minimize potential loss or damage to property that may occur as the result of debris dam failure or increased duration and volume of stream flow. Whatcom County shall encourage minimal use of stream corridors, drainage swales, and alluvial areas for building sites.

3.03.2 Whatcom County shall promote groundwater of a quality suitable for domestic consumption by encouraging low density and intensity uses in locations overlaying and directly adjacent to Lake Samish recharge areas.

3.03.3 Whatcom County shall recognize wetlands such as swamps, bogs, marshes and ponds as natural catchment basins for stormwater run-off. Run-off during development shall be controlled as specified in the Whatcom County Development Standards.

3.03.4 Whatcom County shall encourage utilization of steep slopes (greater than 15%) or unstable slopes for open space, very low density development or forestry. If used for development pur-
poses, structures shall comply with the provisions of the Uniform Building Code and subdivision shall be subject to site safety confirmation by a qualified geotechnical engineer or a qualified geologist. Where slopes are in excess of 10%, cluster development shall be encouraged to minimize slope disturbance.

3.03.5 Whatcom County shall encourage very low residential densities in areas of known mineral resource occurrence with the intent of retaining future access and utilization options. Surface extraction shall be dependent upon compatibility with surrounding land uses and shall be accompanied by a reclamation plan which is consistent with state regulations contained in RCW 78.44. Subsurface mining operations shall conform with applicable federal regulations.

3.03.6 Whatcom County shall foster continued fish and wildlife habitat integrity in the Chuckanut-Lake Samish Subarea. Applicable habitats include the eagle nests situated on Chuckanut Island and the center of southwesterly Governor’s Point shore; Chuckanut-Lake Samish Subarea salmon, Kokanee and cutthroat trout spawning streams and lakes; deer migration routes; and the Pacific waterfowl flyway.

3.03.7 Whatcom County shall encourage air pollution abatement with the intent of maintaining and/or enhancing air quality, consistent with the Federal Clean Air Act, and accomplished through the coordination of local land use proposal review with the Northwest Air Pollution Authority and other environmental agencies.

3.03.8 Whatcom County shall implement the necessary rules, regulations and ordinances which are required by state law to minimize noise impacts.

3.03.9 Whatcom County shall review all shoreline development proposals for adherence to the requirements of the Whatcom County Shoreline Management Program.

3.04 It is the policy of Whatcom County to implement the enhancement of its environmental resources through the following actions.

3.04.1 Whatcom County shall encourage the provision of a long-term water domestic supply in the Lake Samish basin that will replace the use of lake water and private wells in close proximity to the lake.

3.04.2 Whatcom County shall assist and encourage the monitoring of Lake Samish water quality and associated streams, and shall address any decrease in water quality by additional controls such as limitations on chemical herbicide controls on county roads.

3.04.3 Whatcom County shall maintain and enhance the public usefulness of the Chuckanut Bay shoreline in accordance with the Shoreline Management Program as follows:

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a. Cooperating with and encouraging the Washington Department of Transportation to provide additional scenic vista parking opportunities along Chuckanut Drive;

b. Encouraging alternative setback regulations where shared driveways, clustered buildings and other variations from required setbacks will provide less obstructed scenic vistas for the public; and

c. Using the development review process to preserve recreational access to the Chuckanut Bay shoreline through requiring any land development to indicate how it will avoid significant adverse impacts on or displacement of recreational uses that have no comparable alternate sites locally.
CHUCKANUT LAKE SAMISH SUBAREA

ENVIRONMENTAL CONSTRAINTS

LEGEND
- Class 3 Slopes: marginal stability, subject to sliding along fracture or bedding planes
- Bald Eagle Habitat
- Critical Faunal Area—Pacific Herring—winter and spring
- Critical Faunal Area—Birds
- Medium to High Waterfowl Density Wetlands


Whatcom County Planning Department
November 1985
4. Economic Resources

4.01 It is the policy of Whatcom County to manage its economic resources productively by recognizing and conserving prime economic resources, protecting existing investment, and enhancing economic development.

4.02 It is the policy of Whatcom County to encourage cooperation among state agencies, municipalities, economic development groups, and private landowners to enhance its economic resources.

4.02.1 Whatcom County shall cooperate with the City of Bellingham's policies calling for preservation of the visual basins of Bellingham, Chuckanut Bay, Lake Samish and the Interstate 5 corridor entrance from the south that form a unique natural amenity that draws development to Whatcom County.

4.02.2 Whatcom County shall encourage private forest and woodlot property owners to conserve the county forest resource base by utilizing the current use tax assessment provisions of RCW 84.28, RCW 84.33, and RCW 84.34.

4.03 It is the policy of Whatcom County to use the following standards to enhance and maintain its economic resources.

4.03.1 Existing uses that are not allowed in the zone district specified when the Chuckanut-Lake Samish Subarea Comprehensive Plan is adopted shall continue as legal nonconforming uses.

4.03.2 Whatcom County shall ensure that all county land use plans and zoning ordinances are examined for their enhancement of the economy of the area and region and are implemented so as to:

   a. foster and promote the general welfare in the long run as well as the immediate future;

   b. create and maintain a balanced and diversified economy sustained by a healthy environment;

   c. strengthen and stabilize the tax base; and

   d. fulfill the social, economic, and other requirements of present and future generations of Whatcom County citizens.

4.04 Whatcom County shall encourage the wise use of the residential and forestry economic resources in the Chuckanut-Lake Samish area by continuing to reserve agricultural, commercial and industrial land use designations for other subareas.
5. Land Use Development Options

5.01 It is the policy of Whatcom County to provide alternatives to the standard zoning and subdivision regulations that encourage innovative design. The alternatives presented below are specifically intended to enhance or maintain environmental, historical, visual, or recreational sites valuable to the public in an economically feasible manner. Standards for their application are found in the Official Whatcom County Zoning Ordinance.

5.01.1 A clustering option shall be provided to the applicant for new residential land subdivisions in all URBAN RESERVE, RESIDENTIAL RURAL, RURAL and FORESTRY zones. It is specifically recommended for all development along Chuckanut Bay and around Lake Samish. The cluster method of subdivision is defined as an alternative method of creating building parcels that concentrates spatially efficient and marketable building lots while preserving the intent of the land use district and retaining options for future uses and densities by treating the land as both a commodity and a resource. The density of the use district defines the number of allowable dwelling units per land area. Minimum lot size is intended to be consistent with Whatcom County Health Department regulations. Land area not used for building purposes is designated as reserved for open space and other nonbuilding uses.

5.01.2 The option of Planned Unit Development may be used in any zone district in the Chuckanut-Lake Samish Subarea for any parcel of two acres or greater in size, or for smaller parcels where public benefit is demonstrated. It is specifically encouraged for the areas known as Governor's Point and Teddy Bear Cove. Planned Unit Development is defined as an alternative method of land use permitting greater flexibility in zoning requirements than is generally permitted by any other zoning district. It encourages creative site planning, permanent open space, variety in living and recreational environments, conservation of fragile topography, and mixed use developments.
VII. COMPREHENSIVE PLAN AMENDMENTS

The Chuckanut-Lake Samish Subarea Plan is a policy document that is used to guide the land use decisions affecting both the private and public sectors of the subarea. For the plan to function as an effective decision-making document, it must be flexible enough to weather changes in public attitudes, developmental technologies, economic forces and legislative policy. The plan envisions two general types of plan amendments. The first type is a review conducted every five years. This review should re-examine the entire plan, including a re-evaluation of goals, updates of land related elements, and the reaffirmation of land use policies and proposals. This review is the responsibility of the Whatcom County Planning Commission, the Planning Department staff and the people of the subarea.

The second type of amendment is that proposed and initiated by the private sector. The land uses illustrated on the Land Use Plan Map are the result of the application of the plan's goals and policies. However, it is reasonable to assume that the private sector may introduce land use proposals that conflict with the plan map or policies of the plan itself. In such instances, the private sector may propose an amendment to the plan. Private petitions for amendment of the Comprehensive Plan addressed to either the Planning Commission or the County Council shall be processed in accordance with statutory procedure for adoption or amendment of comprehensive plans. In applying for a particular amendment to the plan or plan map, the private sector shall conform to the following criteria:

1. The amendment request shall conform with the goals of the subarea plan;

2. The amendment request shall be compatible with the existing and planned surrounding land uses;

3. The amendment request shall not result in unmitigated detrimental impacts to existing transportation systems;

4. The amendment request shall not place uncompensated burdens upon existing or planned service capabilities; and

5. The amendment request shall demonstrate a land usage need which is currently or within the context of this comprehensive plan not met.
WHATCOM COUNTY
PLANNING COMMISSION

Repeal the 1986 Chuckanut-Lake Samish Subarea Plan and
Amend Provisions in the Whatcom County Comprehensive Plan
relating to Subarea Plans

FINDINGS OF FACT AND REASONS FOR ACTION

1. The subject proposal includes:
   a. Amending Whatcom County Comprehensive Plan provisions relating to
      subarea plans.
   b. Repealing the Chuckanut-Lake Samish Subarea Plan (1986).

2. A determination of non-significance (DNS) was issued under the State
   Environmental Policy Act (SEPA) on April 5, 2013.

3. Notice of the Planning Commission hearing was posted on the County website
   on April 9, 2013.

4. Notice of the Planning Commission hearing and that the proposal had been
   posted on the County website was sent to the City of Bellingham and citizen,
   media and other groups on the County's e-mail list on April 10, 2013.

5. Notice of the subject amendments was submitted to the Washington State
   Department of Commerce on April 18, 2013.

6. Notice of the Planning Commission hearing for the subject amendments was
   published in the Bellingham Herald on April 26, 2013.

7. The Planning Commission held a public hearing on the subject amendments
   on May 9, 2013.

8. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive
   plan amendments the County must find all of the following:
   a. 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.
b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.

c. 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:

i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

ii. The anticipated effect on 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.

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

d. The amendment does not include or facilitate spot zoning.

e. Urban growth area amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.

Growth Management Act

9. The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080 ("Comprehensive plans – Optional elements").

10. However, the GMA requires that subarea plans must be consistent with a county's comprehensive plan. Specifically, RCW 36.70A.080(2) states: "A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan."

11. The Chuckanut-Lake Samish Subarea Plan was adopted in 1986, prior to enactment of the GMA in 1990. The Whatcom County Comprehensive Plan was adopted in 1997 and subsequently amended from time to time. The Subarea Plan is inconsistent with the Whatcom County Comprehensive Plan. Specifically, the Subarea Plan does not address urban growth areas (UGAs), contains different land use designations, is inconsistent with the Comprehensive Plan’s rural element, and has a different planning period.
County-Wide Planning Policies

12. The County-Wide Planning Policies do not require the County to retain old subarea plans.

Interlocal Agreements

13. A portion of the Bellingham UGA is included in the Chuckanut-Lake Samish Subarea.

14. An interlocal agreement between the City of Bellingham and Whatcom County concerning Planning, Annexation and Development within the Bellingham UGA was signed in April 2012. This interlocal agreement does not require the County to retain this subarea plan.

Further Studies/Changed Conditions

15. The Chuckanut-Lake Samish Subarea Plan was adopted in 1986.

16. The GMA, adopted in 1990, included a requirement to designate UGAs. The 1986 Chuckanut-Lake Samish Subarea Plan does not address UGAs.

17. The GMA was amended in 1997 to include criteria for limited areas of more intensive rural development (LAMIRDs). The 1986 Chuckanut-Lake Samish Subarea Plan does not address LAMIRDs.

18. The Whatcom County Comprehensive Plan was originally adopted in 1997, and subsequently amended. The 1986 Chuckanut-Lake Samish Subarea Plan is not consistent with the County Comprehensive Plan.


20. The Urban Fringe Plan was adopted in 1997 and subsequently amended.

21. The City of Bellingham Comprehensive Plan was adopted in 2006 and subsequently amended.

22. Changed conditions including enactment of the GMA, adoption of newer plans and the passage of time warrant repealing the 1986 Chuckanut-Lake Samish Subarea Plan.

Public Interest

23. Repealing the 1986 Chuckanut-Lake Samish Subarea Plan will serve the public interest by removing a plan that is inconsistent with the Whatcom County Comprehensive Plan.
Spot Zoning

24. The subject proposal does not involve rezoning property.

CONCLUSION

The subject proposal is consistent with the approval criteria of WCC 2.160.080.

RECOMMENDATION

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends the following:

1. Approval of Exhibit A, amendments to Whatcom County Comprehensive Plan Chapter 2 (Land Use).

2. Repealing Exhibit B, the Chuckanut-Lake Samish Subarea Plan (1986).

WHATCOM COUNTY PLANNING COMMISSION

Michelle Luke, Chair       Sam Ryan, Secretary

May 21, 2013       5-21-13

Commissioners present at the May 9, 2013 meeting when the vote was taken: Ken Bell, Ben Elenbaas, Michelle Luke, David Onkels, Jeff Rainey, Mary Beth Teigrob, and Gerald Vekved.

Vote: Ayes: 7, Nays: 0, Abstain: 0, Absent: 2. Motion carried to adopt the above amendments.
NOTE:

Exhibits A and B are attached to the proposed Ordinance that will be considered by the County Council in order to avoid redundancy.
RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
May 9, 2013

Regular Meeting

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

Roll Call
Present: Michelle Luke, Ben Elenbaas, Jerry Vekved, David Onkels, Jeff Rainey, Mary Beth
Teigrob, Ken Bell
Absent: Gary Honcoop, Rod Erickson

Staff Present: Mark Personius, Matt Aamot, Becky Boxx

Department Update

Mark Personius gave the following updates:
- A Short Course on Local Planning will be presented by the City of Bellingham on
  May 21st.
- There will be a Water Supply Symposium May 30th & 31st sponsored by the WRIA I
  board.
- The Compliance order schedule: The Planning Commission/Staff proposals were
  submitted to the Council for introduction on May 7th. There will be a public hearing
  May 21st, followed by Council meetings on June 4th and 18th.
- The Commission’s next meeting will be a public hearing on capital improvement
  projects.
- PDS has been conducting interviews for a new Planner. A decision should be made
  next week.

Open Session for Public Comment

There was no public comment.

Commissioner Comments

There were no Commissioner comments.

Public Hearings

File # PLN2013-00005: Repealing the Birch Bay-Blaine Subarea Plan, which was adopted
in 1987. The proposal would also amend related provisions in the Whatcom County
Comprehensive Plan.

Matt Aamot gave a power point presentation which highlighted the following: The GMA
says counties can adopt subarea plans but they must be consistent with the County
Comprehensive Plan.

The Birch Bay-Blaine Subarea Plan was first adopted in 1977. At that time the plan had a
land use map which had resort and higher density designations in the core of bay, within
what is now the Urban Growth Area (UGA). The predominate designation in the outlying
areas was suburban. The plan also included a promenade area along the shoreline. A new
subarea plan was adopted in 1987. This plan covered a larger area than the 1977 plan
and preserved the promenade area. In 2004 the Birch Bay Community Plan was created
and included the UGA boundary and had the promenade and berm included. There are a
number of inconsistencies between the 1987 subarea plan and the Comprehensive Plan,
which includes population projections, the planning horizon and different land use
designations. Staff finds that the subarea plan served its purpose, it is outdated,
inconsistent with GMA and inconsistent with the Comprehensive Plan so they
recommended it be repealed.

The hearing was opened to the public. There was no public testimony. The hearing was
closed to the public.

Commissioner Onkels moved recommend repeal of the plan. Commissioner
Teigrob seconded. After discussion the Commission felt the motion should be
worded differently so they voted down the motion.

Commissioner Bell suggested adding a new finding to state: Repeal of the Plan eliminates
redundancy and ambiguity. The Commission agreed to add the finding.

Commissioner Onkels moved to recommend approval of Exhibit A which amends
the Whatcom County Comprehensive Plan, approval of Exhibit B which repeals
the Plan and the findings as amended. Commissioner Teigrob seconded. Roll Call
Vote: Ayes – Bell, Elenbaas, Luke, Onkels, Rainey, Teigrob, Vekved; Nays – 0;
Abstain – 0; Absent – Erickson, Honcoop. The motion carried.

File # PLN2013-00006: Repealing the Chuckanut-Lake Samish Subarea Plan, which was
adopted in 1986. The proposal would also amend related provisions in the Whatcom
County Comprehensive Plan.

Matt Aamot gave a power point presentation which highlighted the following: The
Chuckanut-Lake Samish Subarea Plan was adopted in 1986. It includes the Yew Street,
Lake Samish and Chuckanut areas. It summarizes citizen input that was received in the
1980s. The Yew Street residents were in favor of rural residential land use patterns. For
the Lake Samish area residents were concerned about traffic, water quality, and water
source. In the Chuckanut area the residents were concerned with residential development
being compatible with scenic qualities and beach access. Staff findings indicate the plan
served its purpose, it is outdated, inconsistent with GMA and inconsistent with the
Comprehensive Plan so they recommended it be repealed.

The hearing was opened to the public. There was no public testimony. The hearing was
closed to the public.

Commissioner Teigrob moved to recommend approval of Exhibit A which amends
the Whatcom County Comprehensive Plan, approval of Exhibit B which repeals
the Plan and the findings as amended. Commissioner Onkels seconded. Roll Call
Vote: Ayes – Bell, Elenbaas, Luke, Onkels, Rainey, Teigrob, Vekved; Nays – 0;
Abstain – 0; Absent – Erickson, Honcoop. The motion carried.
Regular Meeting

File # PLN2013-00007: Repealing the Lynden-Nooksack Valley Subarea Plan, which was adopted in 1986. The proposal would also amend related provisions in the Whatcom County Comprehensive Plan.

Matt Aamot gave a power point presentation which highlighted the following: The plan was adopted in 1986. The subarea covers a large area which contains large areas of agriculture. Staff compared the agricultural policies in the subarea plan to the Comprehensive Plan agricultural policies and concluded there may be some things that could be transferred over to the Comprehensive Plan in the 2016 update. The Agricultural Advisory Committee may review these policies over the next few years. There are four small cities in the subarea; Lynden, Everson, Nooksack and Sumas. PDS is working with officials from these cities regarding the 2016 update. Staff findings indicate the plan served its purpose, it is outdated, inconsistent with GMA and inconsistent with the Comprehensive Plan so they recommended it be repealed.

The hearing was opened to the public. There was no public testimony. The hearing was closed to the public.

Commissioner Onkels moved to recommend approval of Exhibit A which amends the Whatcom County Comprehensive Plan, approval of Exhibit B which repeals the Plan and the findings as amended. Commissioner Teigrob seconded. Roll Call Vote: Ayes – Bell, Elenbaas, Luke, Onkels, Rainey, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent – Erickson, Honcoop. The motion carried.

The meeting was adjourned at 7:25 p.m.

Minutes prepared by B. Boxx.

WHATCOM COUNTY PLANNING COMMISSION ATTEST:

Michelle Luke, Chair

J.E. "Sam" Ryan, Secretary
WHATCOM COUNTY COUNCIL
Special Committee of the Whole

May 21, 2013

CALL TO ORDER

Council Chair Kathy Kershner called the meeting to order at 1:34 in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

(1:34:11 PM)

Present: Barbara Brenner, Sam Crawford, Kathy Kershner, Bill Knutzen, Ken Mann, Carl Weimer and Pete Kremen.
Absent: None.

COMMITTEE DISCUSSION

1. DISCUSSION REGARDING A DRAFT ORDINANCE AMENDING WHATCOM COUNTY CODE TITLE 20, THE OFFICIAL WHATCOM COUNTY ZONING MAPS, AND THE WHATCOM COUNTY COMPREHENSIVE PLAN AND MAPS TO IMPLEMENT CHANGES RELATED TO RURAL LAND USE PLANNING (AB2013-180)

Gary Davis, Planning and Development Services Department, submitted and read from a presentation (on file, exhibit A) and a set of maps (on file, exhibit B).

Brenner asked if staff is proposing a downzone. Davis stated they aren’t.

Knutzen asked what they’re protecting if this isn’t resource land. There’s no bright line for rural character. Davis stated staff recommended criteria based on existing rural density in the rural, one unit per ten acres (R10A) area where there are nonconforming lots.

Kershner asked if the maps are to show how much could be rezoned. Davis stated staff’s attempt to demonstrate how many parcels they’re talking about. Staff’s recommendation is a total of about 36 parcels.

Knutzen asked if the maps consider the lots that have already been downzoned through this process. Davis stated staff criteria are based on the density from 2013. It’s the size of the lot that matters, not the zone.

Brenner asked if staff proposes downzoning. Davis stated they don’t. This establishes criteria that limit the number of parcels to get an upzone.
Brenner asked how many upzones occurred in rural zones in the last five years. Davis stated that until 2011, there was a policy in the Comprehensive Plan that discouraged rezones from R10A to rural, one unit per five acres (R5A). It was reworded to the current policy 2GG-A regarding the character of the area.

Davis continued the presentation on issue 2, lot clustering.

Brenner stated it creates a misunderstanding to name anything as a “reserve.” Use different language, such as conservation area. Defining a reserve tract and a reserve area is even more confusing. People understand a conservation area is not to be built upon.

Crawford stated he thought they were reserving an area for future development in urban growth areas (UGAs). Davis stated that it’s fine for development when it is in the urban growth area, but not when it’s in a rural area. He continued the presentation beginning with issue two and word clarification.

Brenner stated proposed changes to the North Bellingham area don’t divide the area, but the Fort Bellingham area is divided at the railroad tracks. Historically, the area on the other side of the tracks is still part of the neighborhood. Davis stated the Hearings Board decision said the boundaries need to correspond with the description, which identifies the areas with the higher densities. He continued the presentation beginning with the rural neighborhoods related to issue four.

Brenner stated she objects to the Board’s use of the term “dog leg” regarding issue six. It’s insulting, and it’s not a legal term.

Knutzen stated the prior boundary of Smith & Guide Meridian was more regular than it is now. There is clear evidence of a legal taking. What they’ve done to these commercial properties is ridiculous. People bought these commercial properties. The State Department of Transportation (DOT) built a four-lane highway with a turn lane down the middle, fully aware that it would be commercial all the way to Ten Mile Road. It’s upsetting the County is considering taking any more of this property. He will have a hard time supporting any of this.

Brenner stated the Planning Commission did recommend this. She was with Doug Pullar when he was told by the Planning Department that it would be better for him to wait until the State was finished, to make easier ingress and egress to his property, because it was going to be commercial property, and that the Planning Department would be glad to work with him as soon as that was done. Verbal promises are just as binding as written promises when they come from government.

Davis continued the presentation beginning with issue seven.

Crawford asked if there is a changed circumstance guiding the Planning Commission’s recommendation to include a parcel that the Hearing Board said must not be included. Davis stated there was technically no action, because the Planning Commission recommended doing nothing, and leaving the boundary the way it is. He doesn’t know the Planning Commission rationale for its recommendation. Staff presented in 2012 information that there was a small building on this parcel. The Hearing Board acknowledged it, and said
that one small building in 1990 does not equate to a two-acre addition of more intensive rural development.

Kershner asked if it’s typical for the Hearing Board to dictate a county’s zoning parcel-by-parcel. Davis stated it is common.

Brenner stated the Growth Management Act (GMA) says that roads and infrastructure are considered a built environment, but the Hearing Board isn’t considering the Guide Meridian, which is a large road. The Hearing Board’s decisions seem arbitrary.

Davis continued the presentation on issue eight and the proposed schedule going forward.

Mann stated the Planning Commission recommendation is not going to fly. He would like staff to prepare an ordinance based on the staff May 6, 2013 memo to be in compliance. The staff recommendation is a much clearer path to compliance.

Knutzen stated he disagrees. He recommends accepting the Planning Commission recommendation at the very least. They are sending a message that property owners have to sue to do what they want on their property. It’s time for the County to step up. The Planning Commission findings talk repeatedly of taking private property without proper compensation.

Mann stated the Council keeps sending the Hearings Board ordinances that the Hearings Board will not approve. The Hearings Board gave specific guidance which the Planning Commission chose to ignore in favor of making symbolic, ideological statements. Get in compliance. Get economic development feasible again instead of keeping people from being allowed to apply for building permits due to the County being out of compliance. It’s not anyone’s fault other than their own that the ordinances keep getting rejected. The County keeps sending the Hearings Board ordinances that aren’t legal. Send them something legal. Use the expert advice of Planning staff and legal counsel. That doesn’t mean he likes any part of this. It’s not about preventing sprawl or anything other than getting into compliance as soon as possible. It’s costing the County too much otherwise.

Knutzen stated the Council has made all the recommended changes. Each time, the County still gets orders to make even more changes. It’s time for a legal opinion on this, not the opinion of this appointed group.

Brenner stated that the County has won every appeal of the Hearing Board’s decisions. It is a political body. She prefers to work from the Planning Commission recommendation. It’s what was brought forward and what people have been seeing. If the Council makes changes, it should explain itself instead of accepting a ready-made alternative. The Planning Commission process was extremely public and they had a hearing.

Kershner stated the Council can make amendments to the Planning Commission recommended ordinance after the public hearing tonight. Davis stated that’s possible. It’s also possible to work on it on June 4 during the day, and introduce a new ordinance that night, for a public hearing and adoption on June 18.
Mann stated that’s the latest possible date for adoption.

Brenner stated the Council can meet on any Tuesday.

Crawford stated discuss this after tonight’s public hearing. He agrees that people are waiting to get permits until they are in compliance. However, the changes that the Hearings Board sends back to the County are more out of compliance with certain aspects of how they tried to approach this. The County has made an honest attempt to comply. He hopes they can work through this after the hearing tonight.

Weimer stated he doesn’t care which ordinance they work from. He shares the concerns of Councilmember Mann that there are clear problems they need to fix. He hopes staff is prepared. Quoting erroneous Planning Commission findings doesn’t make them the truth.

Crawford stated there must be common sense and a practical approach to zoning. The County is in a situation in which it is punishing the people who held off on developing and rewarding the people who developed early, when there was less environmental regulation and good population growth planning. That is not logical or reasonable. The State being in the growth planning business doesn’t work.

Mann stated he agrees that this has nothing to do with common sense. It’s the situation they’re in. He wants Whatcom County to get into State compliance. The State Hearing Board is the arbiter of that for now.

Brenner stated the Hearing Board was intended to keep people out of court. Instead, it’s added another layer of court. It’s unfortunate. It was never intended to be a court of law. It was intended to be mediation, but it’s become a court of politics. At some point, the County needs to say this is enough.

**OTHER BUSINESS**

There was no other business.

**ADJOURN**

The meeting adjourned at 2:45 p.m.

The Council approved these minutes on ______________, 2013.

**ATTEST:**

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________  ______________________________
Dana Brown-Davis, Council Clerk   Kathy Kershner, Council Chair
WHATCOM COUNTY COUNCIL
Regular County Council

May 21, 2013

CALL TO ORDER
Council Chair Kathy Kershner called the meeting to order at 7:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL
Present: Barbara Brenner, Ken Mann, Sam Crawford, Bill Knutzen, Kathy Kershner, Carl Weimer and Pete Kremen.
Absent: None.

FLAG SALUTE

ANNOUNCEMENTS
Kershner announced there was a discussion with Senior Deputy Prosecutor Karen Frakes regarding a draft ordinance amending Whatcom County Code Title 20, the official Whatcom County zoning maps, and the Whatcom County Comprehensive Plan and maps to implement changes related to rural land use planning (AB2013-180) in executive session during the Special Committee of the Whole meeting.

Kershner also announced there was a strategy planning discussion and positions to be taken regarding collective bargaining (AB2013-018) in executive session during the Committee of the Whole meeting.

MINUTES CONSENT
Brenner moved to approve the Minutes Consent items.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

1. REGULAR COUNTY COUNCIL FOR APRIL 23, 2013
2. REGULAR COUNTY COUNCIL FOR MAY 7, 2013

SPECIAL PRESENTATION
1. COUNTY EXECUTIVE JACK LOUWS TO PRESENT THE “STATE OF THE COUNTY” ADDRESS (AB2013-018) (7:04:58 PM)

Jack Louws, County Executive, submitted and read the State of the County address (on file, Exhibit A).

2. COUNTY EXECUTIVE JACK LOUWS TO READ A PROCLAMATION REGARDING PUBLIC WORKS WEEK (AB2013-018) (7:17:14 PM)

Jack Louws, County Executive, submitted and read the proclamation (on file).


Joe Fuller, Health Department, gave a staff report and stated they have served 9,000 individuals in the county since 2009. Over $500,000 was returned to the fund in 2012 due to cost savings, grants received, and additional funding made available. The fund balance at the end of 2012 was about $1.4 million. Recent survey results include positive outcomes regarding substance abuse issues, including teen drinking, and problem drinking, but there were concerns with mental health issues. They plan to dedicate more funding for youth and family services to bolster that part of their prevention efforts.

Staff is looking into proven successful intervention efforts for substance abuse and mental health. He does site visits with the schools regarding the school contracts. School services have been essential.

Crawford stated he’s glad to see how the money was spent in 2012. There is a housing support services item for $87,000. He’s glad housing support services is not a higher percentage of the overall budget. The intent of the Council is to get the treatment dollars into treatment, and let housing dollars come from other sources in the community that can weigh need and demand. Keep the housing number a small part of a much greater program.

PUBLIC HEARINGS

1. INITIAL PUBLIC HEARING ON A DRAFT ORDINANCE AMENDING WHATCOM COUNTY CODE TITLE 20, THE OFFICIAL WHATCOM COUNTY ZONING MAPS, AND THE WHATCOM COUNTY COMPREHENSIVE PLAN AND MAPS TO IMPLEMENT CHANGES RELATED TO RURAL LAND USE PLANNING (AB2013-180) (7:26:38 PM)

Gary Davis, Planning and Development Services Department, read from the presentation (on file) he submitted at today’s Special Committee of the Whole meeting.

Crawford referenced the map of North Bellingham and asked for clarification on the staff recommendation.
Kershner opened the public hearing, and the following people spoke:

Eric Hirst stated his primary focus is that after eight years of litigation over the rural element update, that the County adopts an ordinance that really abides by State law, the 1990 Growth Management Act, and responds adequately to the orders from the Growth Management Hearings Board. The GMA has 14 goals. The County Council has consistently focused on one goal primarily, which is to protect private property rights. There are lots of other goals in the GMA, including encouraging development in urban areas, reducing sprawl, encouraging efficient multi-modal transportation, maintaining and enhancing natural resource-based industries, retaining open space recreation and so-on, and protecting the environment and enhancing the state’s high quality of life. In the County Executive’s State of the County Address, he mentioned three priorities for the County: jobs, the economy, and environmental quality. When they adopt a final ordinance for the rural element, pay more attention to that goal, and protect water supply and water quality.

Warren Sheay stated in the last 20 years and more, they’ve had periodic visioning get-togethers that allow citizens to express their thoughts about what kind of place they want this to be. The results have been consistent. The majority of citizens want the bulk of development to occur in cities and towns, which already have services to meet the needs of additional populations, and leave rural areas alone. It is pretty simple and in keeping with the dictates of the Growth Management Act. Yet continued efforts are made to undermine this perfectly reasonable approach to development, which is why Whatcom County has been in continual conflict with the State Growth Management Hearings Board. He’s not aware of any other county in the state that has had such strife. They must protect their land from those who would degrade it and from those who feel that, because they own a piece of land, they can do whatever they want with it, without regard for the environmental ramifications. As they grow more crowded, they will need more environmental and zoning regulation, not less. With that said, he specifically supports recommendations made by Futurewise, which include endorsement of the County staff proposals versus those of the Planning Commission, because the staff proposals demonstrate more concern for the environment and maintaining our rural character. Specifically he supports the staff’s proposal for rural neighborhood boundaries in North Bellingham, Fort Bellingham, and Marietta, because it removes a number of large parcels that could be subdivided in the future if left at a higher density. These are not parcels that are well suited to urban style development because there are no urban services there to be provided. He also supports the staff proposal for the Birch Bay Lynden and Valley View LAMIRD and the Smith and Guide Meridian LAMIRD because it will protect our rural character and is compliant with State law and the Growth Management Hearings Board’s order.

Linda Twitchell, Building Industry Association of Whatcom County (BIAWC), stated this is the other side. The reason they have so much strife over this in this county is that those who have one goal only, which is environmental protection at the cost of property rights and a vibrant economy, have been repeatedly challenging the County. She submitted a letter earlier in the day with specific points. In general, after the Committee of the Whole meeting today she was asked by one of their members what she is hearing from the builders, and are people upset because of delays in terms of not reaching compliance. That’s not the sentiment she’s hearing. The sentiment she’s hearing is that it’s time to do this right. If they have to push back to protect property rights in the county, their constituents’ ability to use their property as zoned, etc., she hopes they do that. The BIA supports solutions that will provide the most benefits for all. Again it was said by one of the
councilmembers this afternoon they have reached the point where the benefits to the community do not seem to outweigh the takings and damages to individuals. She hopes the County Council pays attention to that and stands up for the individuals. The State Department of Commerce suggests they define rural character by what the people who live in the district have to say about it. The same way in Bellingham. We don’t come in from Pole Road to tell people how to run the Roosevelt or Sunnyland neighborhood associations. She hopes the considerations of the people who actually live in the rural districts are taken into consideration here, not just the complaints from the people in the city who like the views, etc. She is a rural resident. In general, the BIAWC supports, with all due respect to the hardworking staff, the Planning Commission version of the rules being put before the Council. They support solutions that will provide the most benefits for all. They are concerned as an industry about buildable land supply and how this affects home affordability for the average median income citizen. They are concerned about restrictions that are going to impact their ability to use their land. The letter she mentioned went over specifics including minimum cluster reserve tracts. The tracts here have been extremely high, 80 percent. She hopes those are cut considerably. If they can’t do it now, please consider that during the 2016 Comprehensive Plan reconsiderations. Please keep the record open tonight, so people who want to sign for the written comment can do so.

Edwin Brown stated he is retired from the Western Washington University Geology Department and has lived in Whatcom County for 47 years. He spent time in many other parts of the world, and has always found Whatcom County the place he loves to return to. It’s not so much a consequence of development here as it is the natural surroundings of the area. He finds that the wide open spaces, landscapes, clean water and air, and wildlife, those are things that give him high quality of life. The low density part of the county needs to be protected for the future. It’s a treasure. He sees from his time in Bellingham, 47 years, a lot of change. He sees also that the population has grown from 75,000 when he got here to over 200,000 now. It’s more than doubled in that period of time. He sees no reason why that rate of population increase isn’t going to continue on. They will have another doubling in another 40 or 50 years. It’s an exponential growth. The County Council needs to take a hard line in protecting the natural resources and the quality of life that’s based on enjoying the natural environment. He strongly urges them to support staff proposals for modification of the County zoning.

Amy Mower submitted and read her testimony (on file, Exhibit B, attached).

Don Hickey submitted and read his testimony (on file, Exhibit C, attached) and stated his mother-in-law lives by the South Hills neighborhood. That’s been developed. Timberlake has been developed. East of her has been developed. She’s stuck in the middle with a five acre plot. Lot consolidation happened, and they can’t go there anymore. They are looking for any way to find out to get a downzone. He asked if he has to go out to the Planning Commission. He would like to know any future things that would help him out. She’s paid taxes on her property for 45 years. He can’t even help her because she’s had neck surgery. Now she needs help with upkeep. He can take care of it. His two little girls can go to the nice, new Wade King Elementary, which he heard is having a hard time getting a lot of students over there without everybody driving them over there, because there’s not enough children in the neighborhood. They are burning up a lot of gas with all the cars going up to that school. The poor little kids get to walk down the street there without a sidewalk or anything. It would be nice to move over there and help his mother-in-law out.
Greg Brown stated the big words today at the Committee of the Whole were micromanagement, and you commented on that. He wants them to know he attended the last two Planning Commission meetings that went over this issue. They worked very very hard and very late to make the best decisions they could with the information they had, the direction they had, and common sense. Today, in the meeting, one councilmember belittled this effort, and (inaudible) time constraints, not agreeing with the Planning staff, and not agreeing to everything the Hearings Board wants. He also listened to other councilmembers today say the Growth Management Board is political, and that its rulings and recommendations have become confusing and inconsistent. He also listened to another councilmember who couldn’t attend the meeting for some reason today, say on the radio that there are no options, and they must comply. He offers three other options. Don’t accept the Growth Management Hearings Board recommendations. Challenge them. Two, support our legislature and those who are trying to get this state to audit the Growth Management Act, as it’s totally out of control. Third, get out of it. They chose to be in it. They didn’t have to be in it. They just have to take a little bit less money and a fewer headaches. This has to come to senses. If they heard themselves today, they would be embarrassed.

Max Perry stated the Council has appointed a very knowledgeable group on the Planning Commission. They do diligent research and have thorough discussions on all the items the Council assigns to them. Therefore, he recommends that they rely on the Planning Commission’s recommendation for the rural element update.

Wynne Lee stated she lives in a rural area. She speaks as someone who has been involved one way or another with land use since moving here in 2000. She was on the Lummi Island subarea plan land use committee for six years, so she knows something about land use. She urges the Council very much to support the Planning Department recommendations. She honors the Planning Commission’s efforts, but they are not professional and do not seem to share her concern that it’s time to move ahead past the 20 years of noncompliance that the County has had with regard to the Growth Management Act. She doesn’t see how they will be able to move ahead with the 2016 Comprehensive Plan revision if they aren’t on solid legal footing, where they are not going through all these very expensive iterations. She has never seen, and she imagines she will never see and no taxpayer will ever see, the total cost of all of what has happened the last few years in terms of Planning Department staff time, legal staff time, Council staff time, other executive staff time. It’s time to come to a close and become compliant with the Growth Management Act, which is no more a political appointee group than the Planning Commission. It’s time to move ahead, stop fighting compliance to the State Growth Management Act, and get on with things. From her perspective as a taxpayer, at this point, it’s the most efficient and most productive thing they can do. By adopting the Planning Department recommendations, perhaps with some modifications as the women earlier pointed out would still be feasible, they are going to put Whatcom County finally on the right track. She urges them to accept the Planning Department’s recommendations and not those of the Planning Commission, which are inconsistent with State law. She believes in law and order.

Roger Almskaar, Citizens Alliance for Property Rights Chapter for Whatcom County President, submitted corrected comments (on file, Exhibit C). There are technical matters about the percentages in required rural cluster reserve areas. He’d like to make introductory comments. His group is mainly just ordinary people who think that they’ve got
too much regulation now on land. He’s been in planning and land use since 1971, when he
was hired by Whatcom County to do the first shoreline management program. In those
days, they didn’t have enough regulations. Now, almost everybody would agree they have
too many regulations. From the big picture angle, that is one of the reasons our country is
still struggling to get out of this recession. The rate of growth is still not satisfactory
compared to their population growth. They heard talk about compliance on the radio this
morning and here this afternoon. Based on his experience, and he’s been working in
Growth Management since 1990, when it was passed, there is no magic formula to get to
compliance. Every person they talk to will have a different idea. Every group will have a
different idea of what that really means. They heard tonight that the County has not paid
any attention to the environmental goals, the sprawl goals. That’s absolutely untrue. Part
of the problem is that for the last ten years, they’ve been ignoring the economic goals, the
affordable housing goals, and the property rights goal, and have been over-emphasizing
open space and the environmental goal. It’s time to find a balance. The Hearings Board
does not do a very good job of finding a balance. Their last order has major mistakes in it.
One of his points is that now the Board wants reserve cluster tracts to be forever set aside.
That’s based on one little rule in the Department of Commerce rules that is in his letter and
the Building Industry letter, and it says “should.” It doesn’t say “shall.” He urges the
Council to talk to its legal counsel seriously about objecting to that item. In his letter, he
goes into more detail on that. It’s time to find some balance here and pay attention to all
the Growth Management goals. He is looking for reasonable, clear, and effective rules. The
complex of rules in the State of Washington, and Whatcom County, and the City of
Bellingham do not meet that test.

Carolyn Smith stated she is speaking to put a face on her property in the Fort
Bellingham neighborhood, rather than just having it be a place on the map. She is
concerned about the zoning of Smith Gardens property at 1265 Marine Drive, approximately
39 acres located on the waterfront in the Fort Bellingham neighborhood. This property has
been owned by the Smith family for 112 years, being purchased in 1901. They have
operated a truck farm and then nursery on the property for all of that time. It is now being
operated by the fourth generation. There is a potential that this nursery will be closed in
the future and hopefully the property will be used for development for family members and
others. The property has historically been zoned one house per acre, and is now
surrounded by less than one to two acre lots in the rural neighborhood. It is totally not
understandable why her property would be singled out to be zoned one house per five acres
when it is surrounded by much smaller lots. It does not make sense. They are being
punished for operating a business, providing employment, paying taxes, and not developing
their property previously. The Planning Commission recommends zoning at the Fort
Bellingham/Marietta rural neighborhood of RR2, which is less dense than the current RR1
zoning, but the Planning staff asked the Council to remove Smith Gardens from the Fort
Bellingham/Marietta rural neighborhood entirely and give it R5A zoning. This is based on
the Growth Management Hearings Board ruling that larger parcels cannot be in the rural
neighborhood. This makes no sense in her case. If Smith Gardens is not developed, it will
leave a gaping hole inside the rural neighborhood between Smith Gardens and the
Satushek’s property because they will have no incentive to do anything other than to leave
the greenhouses there. Again this makes no sense because the neighboring properties are
smaller, between one and two acres. Moreover, the dead infrastructure of the greenhouse
business will remain with little other use. It will resemble the dead cement plant on Marine
Drive near the city limits. We have two appeals pending with Whatcom county Superior
Court because they think the Growth Management Hearing Board is incorrect regarding her
property. Please follow the Planning Commission's recommendation, and keep Smith Gardens in the Fort Bellingham/Marietta rural neighborhood.

Simi Jain, Zender Thurston Law Firm, stated she is speaking tonight on behalf of Caitac USA, and she has a brief comment on behalf of the Birch Bay Water and Sewer District. She too would like to echo Ms. Twitchell’s request to leave the record open after this evening to allow for submission of further written comments. Her first comment is on issue one on the County Comprehensive Plan changes. The Planning Commission tried their best to take into consideration all the comments made during the process. There are a couple of things that could be clarified a little bit further. In the preamble prior to the policies listed under 2GG, it should state that rezones from R10A to allow higher densities are limited to those R10 areas that are abutting higher density or higher zoning or development. That will make it more consistent with what the Planning Commission adopted under policy 2GG-3(A). Also, Caitac urges that the preamble contain language that specifically calls out the R10A land should not be precluded from being included within the UGA once the County goes through that process. That’s something that may have been missed. They had proposed that to the Planning Commission, but somewhere between the public comment period and the recommendation, it didn’t get adopted, and she didn’t hear any opposition to that. It’s more of a clarification type comment. Staff’s comment to policy 2GG-3(A) suggests that the options should be removed completely. She respectfully disagrees with that suggestion. What would be remaining then is only the option under B, which has a number of faults with it. It goes too far. It’s also somewhat arbitrary at a 500-foot boundary line. Finally, it’s difficult for property owners to figure out whether or not they meet that criteria. On issue two, she agrees that the staff recommendation to change the definition of reserve tract is a good one and should be adopted by the Council. They also agree with the changes made to the percentages of reserve area that the Planning Commission has adopted. She urges the Council to keep those. On behalf of Birch Bay Water and Sewer District, they made comments on issue eight and they agree with the Planning Commission recommendation and hope that the Council will adopt that.

Kate Blystone, Futurewise Whatcom, stated she appreciates staff and Planning Commission’s consideration of this issue. Her specific suggestions are in a letter she sent to Council last week. It’s been referenced a couple times tonight. Generally, she recommends that the Council support the Planning staff’s recommendation over that of the Planning Commission. Specifically, she supports provisions to permanently protect the open space parcel in cluster subdivisions, but has concerns about some of the other provisions. She outlines those very specifically in her letter. The original boundaries for the Fort Bellingham/Marietta, Welcome, Smith/Guide Meridian, and Birch Bay Lynden/Valley View LAMIRDs in rural neighborhoods, she supports staff’s original recommendation from the March 11 memo. That was reiterated in the May 6 memo. She also supports amendments to WCC 20.80.030(3)(B) for water services. She appreciates the work staff has done on that. These amendments will get the County into compliance with the Growth Management Act. They support staff’s original proposal to not allow rezones from R10 to R5 based on the lack of R10 land that is left. But, if they are going to adopt criteria for these rezones, she really supports Planning staff’s recommendation. She also suggests they consider criteria that are listed in her letter for habitat and availability of water. In conclusion, she urges the Council to adopt something that is compliant with the Growth Management Act. Staff’s recommendation will help them achieve this compliance. It is a reasonable approach to the Growth Management Hearings Board order. She hopes that after tonight’s hearing, the Council requests an ordinance based on staff’s recommendations.
Dale Vander Giessen stated lives in Blaine. His property of concern is a Hinotes Corner. Like the BIA’s staff, he recommends and encourages the Council to do this properly, and not without forgetting about the property owners’ rights. This entire process has been unfair to the property owners. Their taxes maintain as if their potential growth is there, but they can’t get a building permit because of what’s going on. This has been going on for quite a few years. They can’t sell the property. No developer will look at it. He bought a piece of property with potential rights to build six units. First he couldn’t get water. Then when he could get water, he can’t a building permit. He bought this so he’d have some retirement money. Do it properly. They have to help people out. They have to do something pretty soon. This is not fun. The Council expects the taxes. He’s tied to the one-acre parcel on a golf course and all he can build is a single family home. No one is going to pay him the value he needs or the money he’s invested for a single family home.

Jack Swanson submitted a handout (on file, Exhibit G, attached.) and stated he has to take a breath when he listens to this stuff, not as a lawyer representing a client, but as a person who has lived his entire life in this community. When he listens to Mr. Vander Giessen, he contemplates the fact that what they’ve done by implementation of the Growth Management Act is cause a huge loss of wealth in the community. It created a lot of individual hardship that they simply didn’t need created in the first place. Frankly, it’s irritating. His particular topic tonight is the Birch Bay Lynden/ Valley View Road LAMIRD. He referenced and read the handout he submitted. The limited area of more intense rural development (LAMIRD) was downzoned from 80 acres to 11 acres. He read from the letter.

Kristen Reid, attorney, submitted handouts (on file, Exhibits D and E) stated she speaks on behalf of two property owners. The first client is Mr. Doug Pullar who owns property on the Guide Meridian. Until the 2013 Growth Management Hearings Board order, his property was contained in the Smith Road and Guide Meridian type one LAMIRD. For the first time ever in that order, the Board found that inclusion of his property and the property to the north of him was “a stretch too far” in using the LAMIRDS for rural planning purposes. The Board deliberately downplayed the significant use that has been ongoing on his property as well as property to the north, specifically a Culligan water retailer, a veterinarian office, a paintball business. Currently it is occupied by a church. Rather than recognize the indisputable uses of the property, the Board found that not only did inclusion of the property violate the logical outer boundary criteria in the GMA, but also violated GMA goal two, which is to reduce sprawl. Regarding those two reasons why the Board found the boundaries of the LAMIRD to be clearly erroneous, she gives the following commentary: First, the logical outer boundary criteria for a LAMIRD requires the County to consider a physical boundary, such as boundaries of water, streets, highways, and land forms and contours in the prevention of abnormally irregular boundaries. This property is bound by the Guide Meridian on the east and developed lands on both the north and south. It would seem those are rather logical boundaries to use for a LAMIRD according to the RCW. Second, the GMA goals are to be considered equally when determining compliance with the GMA. The Board contends that goal two is violated because the property’s seven acres are included. Amazingly, however, the Board took this a step farther and determined that the Smith Road and Guide Meridian LAMIRD was invalid. Consider what those seven actually mean countywide. The property is only 472 lineal feet along the Guide Meridian. The LAMIRD has over a mile of frontage on both sides. The portion of the property in the LAMIRD is 6.5 acres. The LAMIRDS in Whatcom County contain a total of 7,361 acres. That means the property is .088 percent of the total LAMIRD area. The property is also .0053
percent of the total rural area. This small area certainly cannot constitute sprawl. Nor can it substantially interfere with the fulfillment of the goals. Including it in the Smith Road and Guide Meridian LAMIRD does not violate the GMA. Moreover, the Board does not bother to consider any of the other GMA goals. For instance, GMA goal three is about transportation. This property is in the middle of the county on the Guide Meridian. Transportation to and from the property could not be more efficient. GMA goal five is economic development, which is also applicable as the property is in the right place to have a business that can serve rural Whatcom County efficiently. The board completely ignores goal six, which is about property rights. That goal is supposed to protect Mr. Pullar from actions like that ordered by the Board here. Removing the LAMIRD designation from the property would remove virtually all of Mr. Pullar’s value in the property unnecessarily. It is for those reasons as well as the reasons stated in the letter that they respectfully request the Council follow the Planning Commission recommendations, findings of fact, and conclusions of law related to the property and retain the rural community Comprehensive Plan designation and associated RGC zoning currently on place on the property.

Ellen Baker stated wants to commend the Council and Planning Department for doing a good thing in this case. She’s delighted to see this hearing is preceding the actual vote to make the determination. For once she’s happy to see that there is a hearing weeks before the decision will be discussed. That is a real pleasant surprise. She strongly supports the proposal that transmission lines for water line size be flexible in rural areas. They need to cover large distances. There is a lot of friction loss in water lines. There is a real distinction between rural supply versus urban supply. She strongly supports that correction. She can’t imagine why the Growth Management Hearings Board would continue to be confused about that issue. The idea of restricting the supply of water in order to limit sprawl or growth seems like restricting the availability of air, food, fire protection, or other good things. They need those services and resources in rural areas. That is a very good thing that is easy to support. She agrees with some previous speakers who spoke to urban viewpoints dominating this entire process. It’s unfortunate that there has been less rural input to the process and that so many urban tastes, definitions, and perspectives have driven the inflexible law cases that have come before the Growth Management Hearing Board. Listen to rural people. Their community needs to reflect their lifestyle and needs. A few years ago, she sent photographs of a lovely bank in Baker City, Oregon that had been established in an old Victorian house. It was a lovely bank. The cash machine was in a little woodshed. Anyone driving by would never suspect that there was a bank in this rural town. As a rural resident, it made an impact on her. Be flexible about what may and may not be allowed in rural areas in the future.

Lorraine Newman stated she realized today during the committee meeting that even councilmembers are at the heart of what Thomas Jefferson thought was the most important part of the government, which is a strong local government. They are here to reflect the wills of the people right here that they live with. She also heard that they have worked long and hard to best incorporate all their diverse needs, wants, and desires into this. They sent it to the State with the best intentions. They sent it back. It sounds like most of the councilmembers thought what the State sent back was capricious. The Council must now step back from all this minutia and consider what James Madison had to say, “I believe there are more instances of the abridgement of the freedom of the people by gradual and silent encroachments of those in power than by violent or sudden usurpations. This danger ought to be wisely guarded against.” They will now have to step back, as much as it may cost the County or cost in time, and consider guarding them against what has become really
a slow abridgement and silent encroachment of the freedoms here in the county. Consider
that.

Kris Halterman stated she appreciates the work the Council does because it is hard,
and they are working for the citizens, even if it’s not always exciting. Talking about
Futurewise, Futurewise are not the taxpaying citizens of Whatcom County. The Planning
Commission’s efforts are not strong enough in protecting their property rights. The Growth
Management Hearings Board and Futurewise have gone afar from the objectives of the GMA
to preserve a functioning, vibrant, and diverse rural community. They’ve been shutting
down their resource land and rural diversity, the opposite of what the original objective of
the GMA was. The County needs to not only fight for the private property owners, the
taxpaying citizens of Whatcom County, and consider the county’s future. Are we willing to
agree to plan with the GMA guidelines, or isn’t it time to rethink if this county and the
property taxpayers can afford to continue to do so.

Hearing no one else, Kershner closed the public hearing and stated the written
record is left open.

(8:38:47 PM)

Brenner stated the Council must continue working on the Planning Commission
recommendation. She will recommend changes to it, but agrees with the majority of their
work. The Hearings Board members are political appointees, not experts. Councilmembers
are lay experts because they spend so much time on this. The Planning Commission
developed a recommendation that is fair. The Council has repeatedly changed this and
gone with the wishes of the Hearings Board, which has become another layer of court rather
than preventing things from going to court. She would like to go through the ordinance
point by point and read the information received tonight.

Crawford moved to adopt the ordinance as presented. If there are changes that
merit another hearing, they can do that another time.

Brenner moved to hold in committee.

Kershner asked to hear from other councilmembers to see if they’ve got any
comments on Councilmember Crawford’s motion to approve.

Brenner withdraw the motion to hold in committee.

Knutzen stated he commends the planning commissioners for the work they did,
which didn’t go far enough. He supports the Planning Commission recommendation.

Crawford moved to amend the Planning Commission recommendation for policy
2GG-3, “A. Rezoning area abuts zoning of higher density or intensity (parcels are abutting
even if there is a public or private road between them), or.” There isn’t a pressing demand
to convert from R10 to R5. People can still apply under policy 2GG-3(B) if there are
extenuating circumstances.

Kershner asked if Council considered that the Council approved a settlement last
year between Caitac and Futurewise. Part of the settlement was that they would give up
their five-acre zoning and go back to ten-acre zoning if Futurewise gives them permission to build a small hotel on their own property. The Council voted to go ahead with that settlement approval, because Caitac wanted to get started on developing something on their property, and didn’t want to fight Futurewise anymore. She asked if the Council would make it impossible for Caitac to rezone if it adopts the Planning Department recommendation. That would be underhanded. Davis stated staff did that calculation for the Caitac property for the Planning Commission. They found that Caitac would be eligible for rezone under staff’s recommendation for the 500-foot density calculation.

Brenner stated she supports the motion to amend. This doesn’t downzone anything. There is some ability to upzone to R5A under certain circumstances.

The motion to amend carried by the following vote:
**Ayes:** Brenner, Mann, Crawford, Kershner, Weimer and Kremen (6)
**Nays:** Knutzen (1)

Davis stated the items in that section would be renumbered.

**Crawford moved** to amend to add language to policy 2GG-3 to add a criterion, “C. The proposed rezoning area is not within an area designated as a rural study area in the 2007 Rural Land study accepted by the County in resolution 2009-040.”

Brenner asked about potential unintended consequences. Davis stated unintended consequences are limited. Thirteen properties are affected one way or another. If they exclude the rural study area, 13 properties would not be eligible to rezone.

Brenner stated the affect is minimal, except to the people it affects. She won’t support the motion.

Weimer stated he supports the motion. It’s part of the agricultural strategic plan to protect these areas for agricultural land. Even if it’s only 12 or 13 parcels, it makes a lot of sense to not let them subdivide.

Knutzen asked if seven of those are in the urban growth area (UGA) reserves. Davis stated they are.

Crawford asked if they go from UGA reserve to UGA concurrent with their change to UGA status, they would probably be rezoned. He asked if they zone really high in UGA areas. It’s like going from one extreme to another. A concurrent rezone if in UGA status would be hard to imagine.

Kershner stated the UGA status is the most protected land in the county. Nothing can happen on it until it’s annexed.

The motion to amend carried by the following vote:
**Ayes:** Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (6)
**Nays:** Brenner (1)

**Brenner moved** to amend to change the terms “reserve area” and “reserve tract” to “conservation” regarding issue two and lot clustering. As it is, the word “reserve” is
misleading. The word “reserve” makes people think the property is reserved for future development. That’s how they used to use that term. If this is not reserved for future development, say what it is, which is conservation. It can be undone if it becomes part of a city. It’s not the same thing as a conservation easement in perpetuity with some other party. The conservation tract can be developed if the area inside it is left the way it is. The change will be less confusing.

Crawford stated he disagrees. It will become confusing when it goes into a UGA, and people question what this conservation area is if it can be changed. Leave the language as it is because it gives the most options for property owners in case the City ever reaches them.

Brenner stated a majority of these areas will never be part of any UGA or any city. It will be confusing for those people.

Crawford stated the permanence of conservation easements exceeds their lifetime. Don’t anticipate what will happen someday.

The motion to amend failed by the following vote:

**Ayes:** Brenner and Weimer (2)

**Nays:** Mann, Crawford, Knutzen, Kershner and Kremen (5)

Crawford moved to amend section .315 to correspond with the uses listed in the individual zoning chapters, “A portion of a reserve tract may be developed but development within a reserve area easement shall be limited to that permitted per the reserve area standards for the zoning district in which the tract is located above ground development shall not occur within a reserve area easement.”

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

**Nays:** None (0)

Crawford moved to amend Whatcom County Code sections 20.32, 20.34, and 20.36 to add language, “.315(2)...structures used for agricultural purposes onsite agricultural uses permitted in WCC 20.32.054 [or 20.34.052, or 2036.052]. Above-ground hard surface....” The term “agricultural purposes” is broad. This motion will restrict agricultural uses to those already permitted outright.

The motion to amend carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

**Nays:** None (0)

Crawford moved to amend 20.32.320, “For the purposes of this section, "reserve tract" is defined as that portion of a proposed subdivision or short subdivision which is intended for agricultural, forestry, or open space purposes as approved development purposes. All “reserve tracts” created through the subdivision process shall be subject to the following provisions:”

Brenner asked if this is a clarification that doesn’t change the intent. Davis stated the Planning Commission struggled with the definition of a reserve tract if it’s not the same as a reserve area. It’s appropriate to restore the previous wording.
The motion to amend carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

**Nays:** None (0)

Mann asked if there are limits now to the number of units that can be in a cluster. Davis stated it’s based on the density, zoning, and size of the lot.

Mann asked if they would allow clusters near agricultural areas. He asked if there are a maximum number of lots that can be in a cluster. Davis stated the limit in the rural zone is 16 lots in a cluster. They aren’t proposing any changes to the number of lots in a cluster or spacing between clusters. Lot clustering provisions can be a docketed item for next year.

Weimer moved to amend sections 20.32., 20.34, and 20.36, “.315(1), “A note An easement on the subdivision shall....”

Knutzen asked the criteria for this easement. Davis stated the easement size would have to exceed the minimum percentage of the parent parcel that is set aside as a reserve area. An easement would show up on the plat spatially. Rather than having a written note on the plat saying there is a reserve area, an actual easement is shown on the plat.

Knutzen stated he prefers something like a deed restriction. He is against the motion. Easements go on in perpetuity, especially in agricultural zones.

Crawford asked who the beneficiary of the easement is.

Karen Frakes, Prosecutor’s Office, stated the public is the beneficiary.

Knutzen asked what happens if it is put into a UGA with a conservation easement. Davis stated that when it goes into the UGA, it doesn’t necessarily have to remain as an open space easement. The notes would discuss the easement.

The motion to amend carried by the following vote:

**Ayes:** Mann, Crawford, Kershner, Weimer and Kremen (5)

**Nays:** Brenner and Knutzen (2)

Mann moved to refer to Committee of the Whole for a work session.

Brenner stated she supports the motion so they have time to read the information given.

Kremen stated he supports the motion and agrees with Councilmembers Brenner and Mann. They are keeping the record open. Allow people extended time to submit their recommendations and the Council time to hone this item.

Crawford stated he supports the motion so they have time to address the contentious items. Don’t end that Committee of the Whole meeting on June 4 until they’re done, because they will have to introduce it that night.
Brenner suggested a friendly amendment that staff prepares a verbatim transcript of the testimony given.

Weimer suggested a friendly amendment that staff should come prepared with a redline version of their recommendations.

Mann accepted both friendly amendments.

Davis asked how long the written record will be held open. Consider closing the written record before the meeting date.

Crawford stated close the written record on May 31 at 4:30 p.m.

Kershner stated the motion is to hold in Committee of the Whole on June 4 and includes direction for staff to prepare verbatim minutes of testimony and submit a redline version of its recommendations. The Council will hold open the written record until May 31 at 4:30.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

Nays: None (0)

OPEN SESSION

(9:27:46 PM)

The following people spoke:
• Tom Fenton submitted a handout (on file, Exhibit F) and spoke on the issue of wetlands.
• Steven James Carter spoke about a motocross track on Hemmi Road.

Brenner asked about the Sheriff enforcing noise levels. Dust from the track is a public health issue.

• Greg Brown spoke on the issue of the proposed packing house ordinance (AB2012-300B).
• Max Perry spoke on the issue of the proposed packing house ordinance (AB2012-300B).
• Donna Clark spoke about the issue of the Lake Whatcom connector and other transportation upgrades at Sudden Valley.

CONSENT AGENDA

1. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND THE OPPORTUNITY COUNCIL TO PROVIDE RENTAL ASSISTANCE AND ADMINISTRATION OF THE WHATCOM COUNTY HOMELESS SERVICE CENTER,
IN THE AMOUNT OF $175,391, FOR A TOTAL AMENDED CONTRACT IN THE AMOUNT OF $1,958,096 (AB2013-185)  

*Mann* reported for the Finance and Administrative Services Committee and *moved* to approve the request.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

**Nays:** None (0)

OTHER ITEMS

1. ORDINANCE AMENDING THE 2013 WHATCOM COUNTY BUDGET, SIXTH REQUEST, IN THE AMOUNT OF $702,109 (AB2013-178)  

*Mann* reported for the Finance and Administrative Services Committee and *moved* to adopt the ordinance.

Brenner stated prioritize real estate excise tax (REET) II money on stormwater facility requirements, not for things that aren’t as essential. They can’t afford to do everything they would like to do.

Knutzen asked about closing the park improvement fund.

Mann stated they are only removing the budgeted item, not the fund. The $94,000 was part of the $1.5 million that was moved out. It is no longer there.

Kershner asked if the Lookout Mountain project is to provide parking space to people who now park in front of the gated road up to the communications towers.

Rob Lamb, Parks and Recreation Department, stated it is.

Brenner stated it is up to the Parks Department to prioritize their park improvements.

The motion carried by the following vote:

**Ayes:** Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (6)

**Nays:** Brenner (1)

2. ORDINANCE AMENDING ORDINANCE NO. 81-06, AUTHORIZING THE TREASURER TO ESTABLISH A FUND TO BE KNOWN AS THE WHATCOM COUNTY COMMUNITY DEVELOPMENT FUND (AB2013-179)  

*Mann* reported for the Finance and Administrative Services Committee and *moved* to adopt the ordinance.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

**Nays:** None (0)
3. ORDINANCE AMENDING ORDINANCE NO. 2011-030 ESTABLISHING A PROJECT BASED BUDGET TO FUND CIVIC CENTER EXTERIOR REPAIRS (AB2013-176) (9:45:52 PM)

Mann reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

4. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO AWARD BID NO. 13-33 TO THE LOW BIDDER, TRIMAXX CONSTRUCTION, INC. FOR THE LOWER CANYON CREEK PHASE 2 RESTORATION PROJECT, IN THE AMOUNT OF $2,268,758.60 (AB2013-184) (9:46:34 PM)

(Clerk’s Note: Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.)

Mann reported for the Finance and Administrative Services Committee and moved to adopt the ordinance. He is opposed to the motion because it’s too expensive for too few properties. He’s opposed to bailing people out who built in ridiculously dangerous areas.

Brenner stated staff said there could be impacts from a 100-year event, but they would not be as devastating as they would be if the County didn’t do the project. They’re not just talking about people’s homes, which are important. They’re also talking about public roads.

The motion carried by the following vote:
Ayes: Brenner, Crawford, Knutzen, Kershner and Weimer (5)
Nays: Mann and Kremen (2)

5. REQUEST CONFIRMATION OF THE EXECUTIVE’S APPOINTMENT OF ROGER SASNETT TO THE DEVELOPMENTAL DISABILITIES BOARD (AB2013-187) (9:48:51 PM)

Mann moved to confirm the appointment.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

INTRODUCTION ITEMS
(9:49:26 PM)

Brenner moved to accept the Introduction Items.
The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

Nays: None (0)

1. ORDINANCE AMENDING WHATCOM COUNTY CODE TITLE 9 (PUBLIC PEACE, MORALS, AND WELFARE) TO REVISE SECTIONS PRE-EMPTED BY STATE LAW (AB2013-182)

2. RESOLUTION RESTORING THE WRIA 1 PLANNING UNIT TO ASSIST THE WHATCOM COUNTY COUNCIL REGARDING WATER RESOURCES (AB2013-190)

OTHER BUSINESS

(9:51:38 PM)

Knutzen stated schedule the proposed packing house ordinance in a special Committee of the Whole meeting in two weeks.

The Council concurred.

Weimer reported for the Natural Resources Committee on an update on proposed Whatcom County Code Chapter 20.51 Lake Whatcom Watershed Overlay District; PLN2011-00015 (AB2013-102) and stated this item should be introduced in two weeks.

Brenner asked for a presentation on homeless housing efforts.

REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS

Kremen reported that he will participate in an upcoming Washington State Association of Counties (WSAC) conference in Yakima via conference call. The meeting will be an update on the status of the legislative special session, the State budget, and other legislative issues.

Kershner reported that Whatcom County sends its best wishes to the citizens of Moore, Oklahoma, who suffered tragedy over the past couple of days. Whatcom County is fortunate that it isn’t in a tornado zone and doesn’t have many natural disasters. She appreciates living her all the more.

Knutzen reported on a water symposium at the end of May. He and Councilmember Weimer will serve as moderators. They must figure out a solution to water problems for the farmers in the future.

ADJOURN

The meeting adjourned at 9:59 p.m.
The Council approved these minutes on ______________, 2013.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________  ______________________________
Dana Brown-Davis, Council Clerk   Kathy Kershner, Council Chair

______________________________
Jill Nixon, Minutes Transcription
CALL TO ORDER

Council Chair Kathy Kershner called the meeting to order at 9:34 a.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

(9:34:49 AM)

Present: Barbara Brenner, Sam Crawford, Kathy Kershner, Bill Knutzen, Ken Mann, Carl Weimer and Pete Kremen.

Absent: None.

COMMITTEE DISCUSSION

1. DISCUSSION REGARDING A PROPOSED ORDINANCE AMENDING WHATCOM COUNTY CODE TITLE 20, THE OFFICIAL WHATCOM COUNTY ZONING MAPS, AND THE WHATCOM COUNTY COMPREHENSIVE PLAN AND MAPS TO IMPLEMENT CHANGES RELATED TO RURAL LAND USE PLANNING (AB2013-180)

Gary Davis, Planning and Development Services Department, gave a staff report. Regarding issue two, staff recommends using the easement language for the plat map and including a related finding. The proposed ordinance includes updated findings.

Brenner stated the term "restrictive covenant" instead of reserve in the easement language. People think a reserve refers to future development. The term "restrictive covenant" means development won't happen unless circumstances change. It's a good compromise. Davis stated staff talked about the easement language quite a bit and determined "easement" implies a line on the map that specifically shows the area on the plat that this agreement affects. The easement is an agreement between the County and property owners, going with the land. It's enforceable. There isn't a lot of difference legally between an easement or restrictive covenant. They like the word easement because it implies there will be a line drawn on the map.

Davis referenced conclusion 4(b) regarding lot clustering on ordinance page 12. He read proposed language for the Council to insert into the finding. "Lot Clustering: Amendments to WCC Title 20 revise rural lot clustering provisions to provide enforceable criteria and to prohibit residential development within reserve areas. Whatcom County Code 20.32.315, 20.34.315, and 20.36.315 require that an easement on the subdivision plat shall establish a reserve area per the definition in Whatcom County Code 20.97.344 that is..."
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protected in perpetuity so long as it is not within an urban growth area. This establishes an agreement between the owner and the County that is enforceable by the County in cluster design standards of Whatcom County Code 20.32.310, 20.34.310, and 20.36.310. Terms such as “should” and “where practical” have been replaced with terms that can be more effectively enforced.”

Crawford asked if the proposed language is a finding to support the change to WCC 20.36.315(2). Davis stated it is. The purpose of the findings and conclusions is to affirm that what they did has the effect the Hearings Board is looking for, which is to make things more enforceable and to make sure these areas are protected in perpetuity. This quotes that part of the code that does that.

Crawford stated Councilmember Brenner’s proposal to change the language would apply to sections 20.36.315, not this finding. The language change in the finding is incidental.

**Weimer moved** to approve the staff’s recommended language for conclusion 4(b) of the ordinance, “Lot Clustering: Amendments to WCC Title 20 revise rural lot clustering provisions to provide enforceable criteria and to prohibit residential development within reserve areas. Whatcom County Code 20.32.315, 20.34.315, and 20.36.315 require that an easement on the subdivision plat shall establish a reserve area per the definition in Whatcom County Code 20.97.344 that is protected in perpetuity so long as it is not within an urban growth area. This establishes an agreement between the owner and the County that is enforceable by the County in cluster design standards of Whatcom County Code 20.32.310, 20.34.310, and 20.36.310. Terms such as “should” and “where practical” have been replaced with terms that can be more effectively enforced.”

Knutzen asked about properties that could be affected by these reserve areas and where they might be. Davis stated it would apply to any parcel that could subdivide within the rural zone, rural residential zone, and RRI zone. He doesn’t have those estimates. This would just change the exiting clustering provisions. This doesn’t affect agricultural zoning.

Knutzen asked why they are doing this in perpetuity. Davis stated it was specifically mentioned by the Hearings Board. It is a standard practice for creating reserve areas.

Brenner asked if they can say it’s protected so long as it’s not in an urban growth area (UGA), and not use the term “in perpetuity.” There are all kinds of things that might happen in the future that might affect it.

Knutzen asked if this finding was proposed to the Planning Commission. Davis stated it was not. It is wording out of the code. All they’re doing is reflecting what was in the code and how it meets the Hearings Board requirements.

**Brenner moved** to amend Councilmember Weimer’s amendment and any other location in the ordinance to substitute “reserve” with “restrictive covenant.” Covenants are between two parties and can be changed. Easements are forever. People must understand that this applies unless it is in an urban growth area or they change it in the future.

Brenner’s motion failed by the following vote:

**Ayes:** Brenner and Knutzen (2)
Nays: Crawford, Kershner, Mann, Weimer and Kremen (5)

Mann asked the difference between a reserve area and a reserve tract. Davis stated the tract can be built upon. The reserve area applies to the percentage of the reserve tract that can’t be built upon.

Knutzen asked if the amendment would make the circumstances in code subsections .320 no longer applicable. Davis stated the perpetuity only applies to the reserve area.

Knutzen asked if this applies only to the reserve area. Davis stated it does.

Weimer motion carried by the following vote:

Ayes: Crawford, Kershner, Knutzen, Mann, Weimer and Kremen (6)
Nays: Brenner (1)

Davis referenced the map of Fort Bellingham/Marietta and gave a staff report. He described the staff recommendation and the Planning Commission recommendation.

Knutzen asked if there was a reference to logical outer boundaries. Davis stated there wasn’t. Logical outer boundary requirements are for limited areas of more intense rural development (LAMIRDS), not rural neighborhood designation. A small number of parcels in the interior of this rural neighborhood and the North Bellingham rural neighborhood were included to not create islands of zoning. Planning Commission included more of the large parcels on the periphery than the staff recommendation.

Brenner asked if the Planning Commission recommendation includes the Smith Gardens. Davis stated it does.

Knutzen read from the findings that reference a case in September 9, 2011. He asked how this could not be an area where similar densities are already established. Davis stated this area has higher densities than the rest of the rural areas. The Comprehensive Plan criteria say that areas with densities higher than one unit per two and a half acres would be eligible for inclusion in a rural neighborhood. This is one of them. Overall, the density is higher than that. The Hearings Board felt it doesn’t meet the spirit of the Comprehensive Plan because there are larger parcels. That’s why staff is also proposing a modification to the Comprehensive Plan policies that deal with the rural neighborhoods. In some places, the policy talks about higher rural densities. In other places, it talks about areas where smaller lot development has occurred. Those terms aren’t necessarily referencing the same thing. They’re not saying all lots within these areas have to be small lots, but that the overall density needs to be fairly high. Make the language consistent, using the language about high rural density instead of small lots.

Knutzen stated City zoning is on one side of that property. He asked how it cannot be argued that it is in an area where similar densities have already been established. Davis stated there are a number of smaller lots to the west with an average lot size of about 1.7 acres.

Knutzen moved to accept the Planning Commission recommendation for the Fort Bellingham/Marietta map.
Crawford stated they will need to show the Hearings Board they did some work on this. However, the May 31 letter regarding the Smith Gardens/Satushek properties is compelling, considering its location and being surrounded by smaller lots. He **moved to amend** the motion to approve the Planning Commission to remove the properties as recommended by Planning staff, except the Smith/Satushek properties. Keep those in. Develop a finding based on the May 31 letter of why the Smith Garden/Satusheck properties should remain.

Kremen stated he’s been an advocate for being in compliance with State law. This map is a glaring example of being irrational. The services are there. It’s in a confined area. There’s been a significant establishment of densities in a confined area already. It makes no sense to not do infill. The goal and objective to prevent urban sprawl is laudable. He will support the motion to amend as a compromise. He hopes the County can achieve compliance with the Growth Management Hearings Board, which he also hopes will be reasonable.

Davis stated Councilmember Knutzen motion is not necessary as the Planning Commission recommendation is already on the floor for approval.

**Kershner** stated Councilmember Knutzen’s motion is out of order.

Crawford moved to amend the Planning Commission recommendation and approve the staff recommendation, with the exception of the Smith Garden/Satusheck properties.

Knutzen stated he is against the motion. There was a Hearings Board decision about Growth Management Act (GMA) compliance due to limiting to areas where similar densities have already been established. Those densities have already been established in this area. They would be punishing people who didn’t develop when the standards were lower. They are already pulling out all the properties on the other side of Marine Drive and on Country Lane. It doesn’t make sense. This is a perfect example of something that would be infill.

The motion carried by the following vote:

**Ayes:** Crawford, Kershner, Mann, Weimer and Kremen (5)

**Nays:** Brenner and Knutzen (2)

Davis referenced the North Bellingham map and gave a staff report to describe the Planning Commission recommendation and the staff recommendation.

Weimer asked why they are leaving in two large parcels, one along Deer Creek and another along Ten Mile Creek, when they are trying to protect water resources along with rural character. Davis stated one parcel is a park parcel. The other parcel, if removed, would create a situation in which a single parcel of RR5A would be left. Staff recommends leaving it in based on the context of its location on Axton Road.

Weimer asked if the park parcel has an easement in perpetuity or if it can be changed. Davis stated he doesn’t have that information. He believes it’s in public ownership.

Crawford moved to amend the Planning Commission recommendation for the North Bellingham to draw the boundary lines as presented by staff.
Kershner suggested a friendly amendment to remove the park area to the west and include the two areas east of Northwest Drive and south of W. Axton Road.

Crawford asked for information on the two areas east of Northwest Drive and south of W. Axton Road. Davis stated they are more than five acres in size. They are currently zoned RR2A, subject to the density overlay. They are proposed to go to RR5A.

Brenner stated the overlay isn’t part of this. There was something they did that wouldn’t allow it to be denser than two units per acre. Davis stated there is a rural residential overlay that achieves higher densities than the minimum lot sizes if the surrounding developed properties have an average lot size that is smaller.

Crawford accepted a portion of the friendly amendment and moved to accept the staff recommendation, with the exception of the southern two parcels one-quarter mile south of Axton Road on the east side of Northwest Drive. Include those two parcels within the boundary.

The motion carried by the following vote:

Ayes: Crawford, Kershner, Knutzen, Weimer and Kremen (5)

Nays: Brenner and Mann (2)

Davis referenced issue six and the Smith & Guide Meridian maps. He gave a staff report on the Planning Commission and staff recommendations.

Kershner asked if this is related to conclusions 5(a-c). Davis stated it is.

Mann moved to remove the two northern properties on the Smith & Guide Meridian maps from the LAMIRD.

Crawford stated this is a difficult decision. He’s sympathetic to Mr. Pullar and everyone who was removed. In reality, this should not impact anything in Whatcom County. This is a great example of how the people who appeal these things go overboard. They are really harming people. However, he can’t say there was development there in 1990. The applicant hasn’t asserted that development existed there. The small building on the north parcel has existed, but is not of a scale that is what the State is trying to define their LAMIRDs as. With great reluctance and frustration, he will vote for the motion.

Brenner stated stuff has been sold on the property since before 1990. She went to the Planning Department with Doug Pullar, who Planning staff advised to delay developing until the State did its improvements to the Guide Meridian so the ingress and egress could be determined as regional for everyone there. It’s not just about buildings. It also had roads and services. It’s not accurate to say nothing ever happened there.

Knutzen stated he agrees with Councilmember Brenner. That property has always had some sort of commercial activity. The State Department of Transportation (DOT) installed a five-lane road with a turn lane because it expected commercial activities. The State dealt with these property owners in terms of commercial activity for their ingress and egress. The property owners paid property tax on commercial status. Now they’re telling the property owners, who did the responsible thing and delayed development, that they are
no longer commercial. Throughout the findings, the Planning Commission referenced that
the County could be guilty of a taking. Accept the Planning Commission recommendation.

Mann stated he’s reluctant about the motion also. He prioritizes getting into
compliance. There’s no way around this one.

Brenner stated appeal this Hearings Board requirement, and the County will be in
compliance when it wins the Superior Court appeal.

Kershner stated she won’t support the motion to amend. According to the GMA,
LAMIRDs can include undeveloped property within its boundaries. There is a developed
property to the north. They are in compliance with the GMA due to that clause. She agrees
with comments about the motives of the groups who are appealing the County’s decisions.
It does not have anything to do with protecting rural character or preventing sprawl. It has
to do with control. In this case, the law is behind them. The parcel is within a LAMIRD.

Kremen stated they are all being threatened. It doesn’t make sense. This is prime
commercial property on a thoroughfare that is optimized for commercial property, and the
law allows for undeveloped properties. Because he is being threatened, he will reluctantly
support the motion. They have to be in compliance.

Brenner stated they are supposed to be in compliance with State law. The Hearings
Board is a political body. It’s not necessarily State law. Every time they have appealed the
Hearings Board in the past, they have won.

The motion failed by the following vote:

**Ayes:** Crawford, Mann and Weimer (3)

**Nays:** Brenner, Kershner, Knutzen and Kremen (4)

Davis referenced the Birch Bay-Lynden & Valley View maps.

Crawford stated he wishes they had appealed this decision, along with the others. A
Hearings Board decision said this is not an issue of logical outer boundary. However, the
Growth Management Act defines roads as a logical outer boundary for LAMIRDs. The
County hasn’t used it too much. In this case, the idea is that this area could develop in the
near future as a freeway-accessible development, which the Hearings Board accepted.
Letting the one corner go fallow makes no sense. That parcel is necessary to make any
kind of LAMIRD logical outer boundary. The County could have presented that in court, and
may someday. He supports the Planning Commission recommendation.

Weimer asked if an argument can be made about logical boundary. Davis stated
staff made that case last year, and also noted a building on that parcel in 1990.

**Weimer** stated the County has already been down that road, and the Hearings
Board rejected it. He **moved** to remove that parcel to get back into compliance.

Brenner stated it won’t get the County into compliance. It just means that the
County won’t deal with that issue before Superior Court. She would like to know how many
acres affect their so-called compliance.
Mann stated he wished they’d opted for mediation or some sort of arbitration a long time ago. This going back and forth with the Hearings Board is frustrating. People criticize Futurewise and other litigants, but they aren’t doing this for fun. They would have been reasonable and may have agreed to some of these things. The Hearings Board is a political body. The County Council and Planning Commission are political bodies. The Governor is a political person. They also elect the judges. Don’t make it a criterion for ignoring anything the Hearings Board has to say. Follow the law as it’s currently applied. It’s obvious they have to remove these properties if the Council has any intention of complying.

Crawford read from RCW 36.70A.070(5)(d)(iv). He asked how removing that corner lot accomplishes anything in the RCW as a logical outer boundary.

Kershner stated the Growth Management Act was not designed to target specific property owners. The County was cautioned many times that it cannot pick and choose parcels based on what was there or who owned it. They have gone beyond what is acceptable in setting up the rural element, Comprehensive Plan, and zoning code. She supports the Planning Commission recommendation. The County is in compliance with that parcel included.

The motion failed by the following vote:

**Ayes:** Mann and Weimer (2)

**Nays:** Brenner, Crawford, Kershner, Knutzen and Kremen (5)

Davis referenced the small lots language on page 9 of 12 of the Comprehensive Plan regarding rural neighborhoods and Policy 2MM. Replace language about smaller lot areas with higher rural densities. They intend to clarify and remove inconsistencies from using two different terms. Don’t use the “small lot” terms.

Kremen moved to accept the language changes above Goal 2MM and in Policy 2MM-2 on pages 9 and 10 of 12 as shown in the Council packet.

The motion carried by the following vote:

**Ayes:** Brenner, Crawford, Kershner, Knutzen, Mann, Weimer and Kremen (7)

**Nays:** None (0)

Davis referenced conclusion five of the ordinance and gave a staff report. Legal staff suggested deleting the wording in that finding and replacing it with more general finding that talks about private pending appeals and County appeals. The new language is, “The County and property owners in affected areas have appealed several issues on which the Board found the County out of compliance in its January 4, 2013 order. With the adoption of this ordinance, the County has opted not to take action on these issues on appeal and, at the present time, does not intend to take action until they’re reviewed by the courts.”

Crawford moved to replace the language in conclusion 5(a-c) and replace it with the language submitted by Planning staff, “The County and property owners in affected areas have appealed several issues on which the Board found the County out of compliance in its January 4, 2013 order. With the adoption of this ordinance, the County has opted not to take action on these issues on appeal and, at the present time, does not intend to take action until they’re reviewed by the courts.”
The motion carried by the following vote:

**Ayes:** Brenner, Crawford, Kershner, Knutzen, Mann, Weimer and Kremen (7)

**Nays:** None (0)

Davis stated there are several staff clarifications of the proposed findings shown in red text. He asked if there are objections. If not, he will make revisions for Introduction tonight.

**Weimer moved** to approve all the Planning staff recommended language shown in red underlines.

Knutzen stated they’ve made changes to the reserve tract. Staff has different recommendations. He referenced conclusion 2(i) and asked if it still applies. They made changes to wording about perpetuity.

Kershner stated they didn’t change the wording about the reserve tract. They only made the finding stronger.

Davis stated this conclusion is where they say how the rural element of the Comprehensive Plan harmonizes the GMA planning goals in RCW 36.070A.020. The one later on is about how they responded to the Hearings Board. There is some overlap. In both cases they make the point that they have enforceable standards, and those areas are protected through the reserve area. There is no conflict.

Brenner stated they must go through each recommendation rather than doing one blanket motion.

Kershner stated they don’t have time to do them one-by-one.

**Weimer moved** to approve all the Planning staff recommended language shown in red underlines, but not highlighted in blue, in the proposed findings and conclusions, pages one through 20 of the ordinance.

**Brenner moved** to remove the last sentence in finding 28. The finding should be about what the County determines about the boundary, not what the Hearings Board determines. Davis stated it is a fact that’s what the Hearings Board said. He included the finding to differentiate the issue from the overall rural neighborhood device, which the Hearings Board found compliant. It just found the boundaries out of compliance. This finding explains the distinction.

Brenner stated the language doesn’t need to be in there.

Brenner’s motion failed by the following vote:

**Ayes:** Brenner and Kremen (2)

**Nays:** Crawford, Kershner, Knutzen and Weimer (4)

**Crawford moved** to close debate and vote on Councilmember Weimer’s motion.

The motion failed, due to the lack of a supermajority, by the following vote:

**Ayes:** Crawford, Kershner, Weimer and Kremen (4)
Nays: Brenner, Knutzen and Mann (3)

Brenner moved to amend to reinstate the first paragraph in conclusion 5(a) on ordinance page 12.

The motion failed by the following vote:
Ayes: Brenner and Knutzen (2)
Nays: Crawford, Kershner, Mann, Weimer and Kremen (5)

Brenner moved to reinstate the fourth paragraph in conclusion 5(a) on ordinance page 13 that begins, “The owner of the subject parcel has supplied additional information....”

The motion failed by the following vote:
Ayes: Brenner and Knutzen (2)
Nays: Crawford, Kershner, Mann, Weimer and Kremen (5)

Brenner moved to reinstate the second paragraph of conclusion 5(b) on ordinance page 13 that begins, “The owner of the parcel appealed the Board decision, which is pending....”

Kershner stated they included that language already in the substitute language.

Davis stated the substitute language deals with all the appeals in a general manner.

Brenner stated it's helpful to be more specific on some of this. They get specific on findings for people who oppose what they're doing, but they aren't getting specific for people with whom the Council agrees.

Kershner stated the property owners are appealing with their own attorneys. Let them build their case and stick with what the County is doing with its appeals. Don’t mix the two.

This motion was not voted on.

Weimer’s motion carried by the following vote:
Ayes: Crawford, Kershner, Mann, Weimer and Kremen (5)
Nays: Brenner and Knutzen (2)

Brenner moved to amend the Comprehensive Plan, the second sentence in the new paragraph above Goal 2GG, “Portions of the rural area...and must shall be retained. Rezones from....” It sounds punitive to say it the other way. Use language that is more legal.

The motion carried by the following vote:
Ayes: Brenner, Kershner, Knutzen, Mann, Weimer and Kremen (6)
Nays: Crawford (1)

Weimer moved to amend section 20.34.320(2) on page 6 of 14, which should be “conservation reserve tract.”
The motion carried by the following vote:

**Ayes:** Brenner, Crawford, Kershner, Knutzen, Mann, Weimer and Kremen (7)

**Nays:** None (0)

**Mann moved** to amend policy 2GG-3(A), “Residential density (the average size of parcels that contained a residence as of January 1, 2013 for the rural area outside LAMIRDs) within 500 feet of the area to be rezoned is less than 7.5 acres 1 unit per 5 acres.”

Davis stated exclude urban growth area as well, in case one of these is next to an urban growth area. The change from less than 7.5 acres to 1 unit per 5 acres is a major shift in the criteria.

Mann asked if they can keep it as 7.5 acres if they use density. The Council received a comment about parcels that aren’t buildable. Davis stated it talks about the average size of parcels that contain a residence. There may be some illegally created parcels that have houses. Parcels without a house would be excluded. This only calculates the density in terms of parcels that have a house. In most cases, those lots will be legal lots of record. It is a good idea to exclude parcels within urban growth areas or LAMIRDs. He did not include those areas when he created the analysis maps. It would be consistent with the existing rural residential overlay district.

Mann stated it seems like 7.5 is an odd number. Davis stated that if half the lots around a parcel are ten acres and half are five acres, the average is 7.5 acres. If the threshold is five acres, the average of the lots would have to be smaller than five acres.

**Mann amended his motion and moved** to amend policy 2GG-3(A), “Residential density (the average size of parcels that contained a residence as of January 1, 2013 excluding parcels within an urban growth area or LAMIRD) within 500 feet of the area to be rezoned is less than 7.5 acres.”

Crawford asked if that’s already covered in Policy 2GG-3(B). Davis stated that means the proposed rezoning area, the lot itself, is not within an urban growth area. When drawing the 500 foot perimeter, it could include some really small lots that artificially affect that calculation.

Mann stated he thinks of density as something per something, not just 7.5 acres. Davis stated density means the average size of parcels that contained a residence.

Crawford stated he is against the motion. It goes in a direction opposite from where this should go. He never understood why Caitac ended up with ten-acre zoning when everything around it is urban growth area or five-acre zoning. The parcels near the urban growth area should be considered for being denser in the future. Say that it has to be on the edge of the zoning boundary between the R10 and whatever it’s adjacent to, as long as it’s a higher density zone. Otherwise, it’s possible someone could think they would be allowed to have an island of R5A in an area zoned R10A. If there is pressure to change from R10A to R5A in the future, the parcels next to a LAMIRD or UGA would be the best candidates. This is not the direction they should go.
Kershner asked if this language states the obvious. Davis stated not usually. If a parcel is within 500 feet of a UGA or LAMIRD, the perimeter will go into the LAMIRD. The question is whether they count the lots in the LAMIRD, or leave them out and count only the rural density.

Weimer stated he supports the motion. It goes to the heart of what the Hearings Board has been saying about controlling sprawl. If they include the lots in LAMIRDs and UGAs in the overlay calculation, they will increase densities into the rural character. They are supposed to protect the rural character, which is the density in the rural character, not the density in the UGA.

Crawford stated it’s a logical reduction of density to have R5A zones surrounding UGAs and R10A zones further out. The only place they will want to see shifts from the R10A zone to the R5A zone is on those edges. They aren’t talking about making it a UGA. They are simply talking about policies that guide future applications to change from R10A to R5A, which is still rural zoning.

Brenner stated she’s torn. She has no problem with R5A zone being next to a LAMIRD or UGA. There are plenty of ways to develop it without skewing density. In areas they know the cities will expand, be more careful about ensuring they can expand easily.

Crawford stated what he just said is consistent with the change from R10A to R5A he proposed after the downzone of 2009. They put R10A zone adjacent to UGA with no consideration of going to R5A instead. He proposed taking those adjacent parcels, which used to be in the UGA with a density of up to six units per acre, to one unit per five acres. Supporting this motion is inconsistent with the action the Council took in moving those R10A lots by Birch Bay back to R5A.

Kershner stated R5A zoning is rural and reflects rural character. She doesn’t have a problem with R5A zoning.

The motion failed by the following vote:

Ayes:  Mann and Weimer (2)

Nays:  Brenner, Kershner, Knutzen, Crawford and Kremen (5)

Brenner asked if the property owned by the mother of Mr. Hickey is in the Lake Samish or Lake Whatcom watershed. Davis stated it is in the Lake Samish watershed.

Brenner stated parts of the cities are never going to expand in certain directions. The County should include variety in the Yew Street Area. This gentleman is only asking for a simple division of the property. If zoned one unit per two acres, he and his mother could live there. This isn’t any kind of spot rezone. Consider areas next to city limits where the City has said it would never expand. Don’t downzone people in that area. She asked if it’s appropriate to do this as part of the rural element. Davis stated staff met with Mr. Hickey and discussed all his options and the 2016 review. His situation is only relevant in whether he would meet the criteria to go from R10A to R5A. In this case, it wouldn’t help him because the collection of parcels is just over five acres.

Crawford moved to recommend introduction of the Planning Commission recommendation as amended today and at the Council meeting on May 21.
The motion carried by the following vote:

**Ayes:** Brenner, Crawford, Kershner, Knutzen and Kremen (5)

**Nays:** Mann and Weimer (2)

2. **DISCUSSION REGARDING A PROPOSED ORDINANCE AMENDING THE WHATCOM COUNTY CODE TO ALLOW PACKINGHOUSES IN THE AGRICULTURE ZONING DISTRICT (AB2012-300B)**

Knutzen moved to move it forward for introduction and a public hearing.

Brenner stated she has stuff she wants to do.

Mann stated it’s not ready for introduction.

Crawford stated he doesn’t support the motion. He assumed the Committee of the Whole would have a work session.

Knutzen withdrew his motion.

Kershner stated this item is held in Committee of the Whole.

**OTHER BUSINESS**

There was no other business.

**ADJOURN**

The meeting adjourned at 11:52 a.m.

The Council approved these minutes on ______________, 2013.

**ATTEST:**

WHATCOM COUNTY COUNCIL

WHATCOM COUNTY, WASHINGTON

______________________________  ______________________________

Dana Brown-Davis, Council Clerk   Kathy Kershner, Council Chair

______________________________

Jill Nixon, Minutes Transcription
CALL TO ORDER

Council Chair Kathy Kershner called the meeting to order at 3:06 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

(3:06:35 PM)

Present: Barbara Brenner, Sam Crawford, Kathy Kershner, Bill Knutzen, Pete Kremen, Ken Mann and Carl Weimer.

Absent: None.

SPECIAL PRESENTATION

1. CONSULTANT DLR GROUP, INC. TO PRESENT JAIL PLANNING UPDATE (AB2013-042B)

Bill Valdez, DLR Group Principal and Programming and Planning Study Project Leader, submitted and read from a presentation (on file) regarding the project goals and upcoming schedule.

Tyler Schroeder, Planning and Development Services Department, continued the presentation with an update on the Supplementary Environmental Impact Statement (SEIS) process. A scoping notice was issued from May 9 to May 30. He held a scoping meeting in Ferndale on May 16 with about 26 attendees. He received about 16 topical scoping comments related to transportation, environmental health, noise and lighting, utilities, geotechnical issues, aesthetic design, fiscal impacts, and the existing jail. He is working with the City of Ferndale, which has permitting authority over the project, to determine where the supplemental EIS will go. Decisions will be made in the upcoming months. It’s likely the SEIS will be issued in late July or early August.

Other comments were submitted during the scoping period that were outside the items in the State Environmental Policy Act (SEPA) scope. Those comments will be addressed as they move forward through the process.

Valdez continued the presentation on the site location. Lot B and its associated environmental concerns is outside the bounds of the site being evaluated. The project site drops in elevation from east to west.

Lori Coppenrath, DLR Group, continued the presentation on bed projections, building size.
Knutzen asked if the Sheriff and Jail lobby can be consolidated. Coppenrath stated they are looking at that option with the site design. The lobby includes video visiting stations, public restrooms, and many other things. The design estimates will become more efficient as they go through the design process.

Brenner asked if they worked with the neighbors. Coppenrath stated they’ve only worked with the County staff.

Kremen stated the same jail population increase that the country in general has been experiencing over the last several decades is not the same as recently and as is projected into the future. The correlation between population growth and the need for the number of beds for incarceration has declined in relationship to population growth over the last few years. He asked if she has taken that decline into consideration of the projections. Coppenrath stated it was taken into consideration in different models. The models that showed to be more significantly valid were the estimates on jail growth based just on historical jail growth and historical county growth. It’s true that overall in the United States the incarceration rate is dropping, but it’s not dropping everywhere. Whatcom County jail population so far in 2013 is rising, based on average daily population.

Mann stated he anticipated a needs analysis that is much more dynamic and in-depth. He can create a spreadsheet and extend a graph into the future. There is a lot more to do to figure out whether there will be population impacts from changing drug laws, alternative sentencing options, and other factors. This isn’t nearly the level of rigor they must apply to the needs analysis.

Knutzen stated people have told him they had to wait to get into jail to serve their sentences. He asked if that population was given any consideration and if it’s an issue. He’s heard that from multiple people, and would like to know how large that population is. Coppenrath stated it wasn’t considered.

Weimer stated they’ve often heard that there are many people in the jail with mental health and substance abuse issues. He asked if any of the models look at the percentage of those people that might not be in jail if there were alternative programs up front. Coppenrath stated that is part of the classification review, which isn’t yet complete. Even if someone is mentally ill, they still have to serve the time for the crime.

Weimer stated that if they had mental health services up front, they might not commit the crime in the first place.

Erica Loynd, DLR Group Project Architect, continued the presentation on site characteristics and site layout. Weather information is from the Bellingham Airport. They will get more accurate information on this area and its microclimate. They will mitigate the northeast winter wind with the building orientation. The climate will affect the type of building materials they use and how they position windows and openings. They will attempt to get as much natural light into the work spaces as possible.

Knutzen asked how much consideration is given to rain. Loynd stated they considered the rain, with the understanding that it’s common. Rainwater harvesting is a
strategy they will consider for the site. They talked about stormwater management, providing proper filtration, and directing water into the wetlands.

Loynd and Ron van der Veen, DLR Group, continued the presentation on four site layout options.

Kremen stated a two-story design is common in Ferndale, and may be more cost effective. He asked which of the four options offer the most potential for the most number of beds. Loynd stated all four schemes use the exact same number of beds, including expansion plans. The only difference is the impact of the Sheriff’s Office to the site and the potential orientation of the jail support area. Funding is for commercial buildings that require vertical lifts and other costly and space-consuming features for accessibility compliance. A one story design is more cost effective for a commercial institution. A benefit of a one-story design also includes more connectivity among the staff.

van der Veen stated that as a commercial building, the building will be 15-feet high and have a larger roof. The ultimate scale will approximately equal a two- or three-story home, when adding the heights of a ceiling and a roof.

Knutzen asked if they’ve considered Leadership in Energy and Environmental Design (LEED) certification. Loynd stated they have. All government buildings in Washington State need to be LEED Silver certified or above. Most strategies will be about energy efficiency and materials. Rainwater harvesting is one of several strategies they want to develop in the design.

Knutzen asked about the roof pitch. Loynd stated the jail will have a flat roof. They haven’t determined the roof of the Sheriff’s Office yet. It will likely be a different building type. They are looking at floor plans now, not building form. The flat roof of a jail will have a nominal slope for rain flow.

Kremen asked the total build out possible with each of the four site design options. They don’t want to have to relocate the jail for at least several decades. Valdez stated within each radial half of the housing unit, there are seven pod units. Those units can have a bed distribution of single, double, quad, or dormitory. The number of beds, depending on bed mix, can range from 200 to 450. Now, they are considering about 300 beds in each of the two radial sections, based off a bed mix of single, double, and quad cells, which provides the maximum flexibility for the user. The plan has roughly 600 beds in it. All the site layout options allow for a second pair of radial housing units, which would allow up to another 800 beds, added to the current 600 beds on the site. That would require a heavy mix of quad and dormitory units, in addition to doubles. Most likely, the range would be up to 1,200 beds, which would have a more normal mix of doubles, quads, and one or two dormitories.

Knutzen asked the federal or state requirements for minimum square footage per inmate. Valdez stated they are designing to American Correctional Association (ACA) standards, which requires cell size per inmate, day room size, and other requirements for a fully functional jail.

Knutzen asked if they are using the minimum or maximum requirement. Valdez stated there is no minimum or maximum ACA standard range. There is one standard of
square feet of unencumbered space per inmate, per cell. There are also requirements for
support systems.

Crawford asked if they plan to open the new jail with all 600 potential beds filled, or
if they will build to the current bed space capacity of about 450 beds. Valdez stated they
plan to build for a capacity of 500 beds, which accommodates for need and growth through
2026. They will see a bump up in average daily population when it opens. That trend will
last for a couple of years. After that, it will normalize to the trend line as outstanding
warrants and other issues run through the judicial system. After it normalizes, it will
continue to rise after time as programmed and planned.

Bill Elfo, Sheriff, stated there was a huge backlog of warrants and mandated
sentences that went back ten years, before the jail work center site was opened. Close to
1,000 people were waiting to serve mandated sentences. Those have been moved through
the system, and they have now about 200 people waiting to serve and are scheduled
throughout the year. When the new jail opens, they will see only a slight increase in the jail
population.

The legislature recently changed the drug laws by putting more people in the county
jails as opposed to the State prison. Another factor that could affect the jail population
includes a triage center for those who are chronically mentally ill. There may be money
available to move in that direction. Another disaster they face is with the legislature, which
reduced funding to Western State Hospital for severe and dangerous mentally ill. They used
to be able to get people in there for competency hearings in a matter of weeks. Now there
are backlogs of three and four months. People who are severely and dangerously mentally
ill are on the first floor of the jail. A lot of these factors are beyond the County’s control.

Crawford asked if the jail population could grow by installing more bunks before
building more modules. He asked if it’s correct to not associate the number of beds with
the actual square footage of the footprint. Valdez stated there are a couple of strategies.
There can be a range of beds in the radial units. They are designing to ACA standards, so
they have to decide up front if the designs are double, quad, or dormitory bunks, which will
change the size of the day rooms and cells. If the need is for more beds in the future, some
of the seven pods within each radial design can be shelled out or not built at all.

Mann stated he was looking for a needs assessment that was more robust than an
extended trend line. It should analyze the drug laws, funding for Western State Hospital,
and other impacts. Elfo stated it’s not something the County has a lot of control over. The
legislature sets the sentencing grid, which determines how long someone is in jail.

Brenner asked for information on how changes in State law can require more County
jail time instead of prison time. Elfo stated legislative changes during the past decades
have transferred incarceration responsibility from the State Department of Corrections to
the county jails. The DLR Group looked at the historic jail populations and data. There was
a dramatic change in driving under the influence (DUI) laws in the early 1980’s and also
changes in the arena of domestic violence. Those changes have a big impact, and are
unpredictable. A certain category of drug offences used to be served in the State prison,
but are now served in the County jail.
Kremen stated the legislature and federal government will likely require that the County will have to incarcerate more criminals. The current blood alcohol level may be lowered from .08 to .05, which will significantly increase the demand. History has shown that there is a combination of shifting the burden from the State to the local municipalities and increasing the number of offenses that require incarceration. It’s easy and advantageous for politicians to do that because it sells to the public. Neither the federal nor the State governments provide funding to incarcerate these newly legislated lawbreakers.

Mann stated they may need an 800-bed jail right away. The needs analysis must discuss these items. Extending the trend line does not constitute an analysis. He doesn’t know if the number should be higher or lower. He has no agenda there. Of all these factors they are discussing, none were reflected in the needs analysis. That’s the first thing they need to do.

Elfo stated they first must be able to constitutionally, safely, and humanely incarcerate those who are committed to the custody of the Sheriff. He doesn’t make the laws or sentence people, but he must hold them in a manner that is safe, humane, and constitutional. Elfo stated they have one of the most robust programs in the state to keep people out of jail and reduce incarceration. Whatcom County is trying every avenue to keep the jail population down. The legislature determines for how long people go to prison or jail.

Mann stated he supports that. He doesn’t want the answer to be no. He wants to know how many beds the County needs for the Sheriff to do that.

Elfo stated that’s what DLR produced using all the different methodologies they have to assess population. They looked at eight or nine different models. The best predictor is the historical since the work center opened up.

Brenner asked if there is any level in which the County can sue the federal and State governments for not providing the County with some of the funding it needs. Otherwise, all the counties will eventually go bankrupt. Elfo stated that is a question for the Prosecutor. All the counties are under similar demands. Many of the jails were built in the same era as this jail. Many counties are in the same situation and replacing their jails in a smarter, more efficient design. He encourages people to visit the South Correctional Entity (SCORE Jail). If they are going to reduce jail population, the County needs to offer literacy and other programs in the jail, including mental health treatment.

Brenner stated the original County jail was badly designed from the beginning.

Kremen stated they all really care about this issue. It’s good that they are engaged and focused on this issue. He asked how much flexibility can be built into the original footprint or shell they originally construct so they can have 500 to 800 inmates in the same building. Valdez stated they are looking at a couple of different bed mix models. The two preferred models have a potential of about 650 for total build out.

Kremen asked if they would be stuck with a quad unit once a unit is built as a quad unit, for example. Valdez stated they would not be stuck with the unit as built. There are strategies to design a quad unit, install only two bunks, and add the other two bunks in the future. The unit would be designed as a quad, the square footage and day rooms would
meet ACA standards for the unit as a quad. The other flexibility is to build the shell only, and then later complete the interior as needed. They could also leave out some of the wedges, and fill out the wedge when it’s needed. There is much flexibility in the design, including the support spaces such as the laundry and food services. They are designed to run on a single shift. As bed population increases, add shifts and capacity into the same footprint. Those strategies are being designed into the facility as a whole.

Crawford stated the capped area of contamination on Lot B is a bit concerning. He asked how they know it won’t present a problem to the County property in the future. Valdez stated that property owner is developing information that evaluates that site and indicates the material was capped properly. There are opportunities to confirm that there is not additional leaching into the subject site.

Crawford asked the contaminant that is on the property and how it’s capped. Valdez stated the contaminant is ash from the plant. He can’t respond to exactly how it was capped, based off the engineering report. He doesn’t know if there is groundwater monitoring.

Louws stated he wants to verify the information, and will provide the information to the Council. There is a letter from the Environmental Protection Agency that says no further action is needed. He needs to verify that. He wants to do testing along the property edges to make sure there hasn’t been any further migration of any contaminated groundwater into the site. The County is not purchasing that property or any direct liability related to that property.

Crawford stated the topography slopes away from the County property. Any leachate may flow west rather than affect the County property. Louws stated they’ve authorized a geo-technical study on the site to determine the soils and groundwater conditions. That can create a huge disparity in costs. It will indicate whether migration is possible.

Valdez described the topography.

(4:24:33 PM)

Valdez concluded the presentation on the schedule of the three processes. The report will be finalized in September. They will have more budgetary numbers and more defined departmental, floor plan, and site layouts in July. He will present an update to the Council sometime in July.

Louws stated the jail size and programming issues and the interactions with the State and federal government in the next 25 years are impossible to comprehend. The current average daily high for the current population is 474 people. The National Institute of Corrections dictates a 20 percent overage for inmate and staff safety and comfort. That totals 592 beds. Today, they have 550 to 600 beds to optimally run the system. He proposes a facility of 540 to 575, with the capacity to add about 100 beds within the current footprint. It allows for doubling of that if necessary. If they do things right, they may be able to increase the general County population without a corresponding increase in the jail population. If not, they can expand the facility in the future. DLR is a great group to work
with. The Sheriff’s Office, Jail, and Administrative staff are going in the right direction. He
thanks the Council for listening today. Another update will occur in July.

Kershner asked who decides on the final site layout and design option. Louws stated
it partially depends on the City of Ferndale and whether it will relax the 350-foot setback
requirement. Ultimately, the decision will be made by the Sheriff, with input from the
design professionals. They need to keep the project contained as much as they can.
However, don’t contain it to the point that it is immediately outdated when it opens.

Brenner stated don’t reduce the setback. It prevents impacts to the people who live
in the area. The neighbors will deal with this on a daily basis. Louws stated that if the
setback is reduced, it will be conditioned on the County meeting other design requirements
such as buffers, lights, and many other issues. The City of Ferndale has to go through a
conditional use process to issue permits. All the issues discussed by the SEIS will be a
condition of the permit. The County will work with the City of Ferndale to do the best job
for the neighbors.

OTHER BUSINESS

There was no other business.

ADJOURN

The meeting adjourned at 4:33 p.m.

The Council approved these minutes on ______________, 2013.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________  ______________________________
Dana Brown-Davis, Council Clerk   Kathy Kershner, Council Chair

______________________________
Jill Nixon, Minutes Transcription
WHATCOM COUNTY COUNCIL  
Regular County Council  

June 4, 2013  

CALL TO ORDER  
Council Chair Kathy Kershner called the meeting to order at 7:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.  

ROLL CALL  
Present: Barbara Brenner, Ken Mann, Sam Crawford, Bill Knutzen, Kathy Kershner, Carl Weimer and Pete Kremen.  
Absent: None.  

FLAG SALUTE  

ANNOUNCEMENTS  
Kershner announced that the following items were discussed in Special Committee of the Whole meetings throughout the day:  

- Discussion with Senior Deputy Prosecutor Karen Frakes regarding a draft ordinance amending Whatcom County Code Title 20, the official Whatcom County zoning maps, and the Whatcom County Comprehensive Plan and maps to implement changes related to rural land use planning (AB2013-180). Discussed in executive session.  
- Discussion regarding a proposed ordinance amending Whatcom County Code Title 20, the official Whatcom County zoning maps, and the Whatcom County Comprehensive Plan and maps to implement changes related to rural land use planning (AB2013-180)  
- Discussion regarding a proposed ordinance amending the Whatcom County Code to allow packinghouses in the Agriculture Zoning District (AB2012-300B). This item was not discussed.  
- Consultant DLR Group, Inc. to present jail planning update (AB2013-042B)  

Kershner announced there was also discussion with Senior Deputy Prosecutor Liz Gallery regarding pending litigation – Murphy v. Whatcom County Sheriff’s Office and Sheriff Bill Elfo (AB2013-018) in executive session during the Committee of the Whole meeting.  

Crawford moved to authorize the defense by the County of one of its officers, officials, Sheriff Bill Elfo in this case. With the motion, the County Council affirmatively finds that the official was acting in a manner in which the County had an interest, the official was...
acting in the discharge of a duty imposed or authorized by law, and the official acted in good faith.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

MINUTES CONSENT

1. COMMITTEE OF THE WHOLE FOR MAY 7, 2013

   Brenner moved to approve the minutes.

   The motion carried by the following vote:
   Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
   Nays: None (0)

PUBLIC HEARINGS

1. ORDINANCE AMENDING WHATCOM COUNTY CODE TITLE 9 (PUBLIC PEACE, MORALS, AND WELFARE) TO REVISE SECTIONS PRE-EMPTED BY STATE LAW (AB2013-182)

   Kershner opened the public hearing and, hearing no one, closed the public hearing.

   Brenner moved to adopt the ordinance.

   Knutzen asked if this is to ban firearms in parks.

   Crawford stated it’s not. It’s to align firearm regulations with State and federal law.

   Knutzen read from the proposed ordinance section 9.32.085(A)(1) that prohibits firearm discharge in a County park.

   Crawford stated that regulation already exists. They are removing language from the code, not adding language.

   Karen Frakes, Prosecutor’s Office, stated the State law preempts the County on these issues and already covers this. The County cannot have this regulation as a County law because of the preemption issue. This ordinance doesn’t change anything because State law controls. If anything, they are removing controls from County Code.

   Crawford stated a citizen said a number of years ago that County Code doesn’t follow State law. He’s glad to see they are finally doing this. The language that prohibits showing a firearm in a park is against State law, which allows someone to show a firearm in a park.

   Mann stated the whereas statements of the proposed ordinance explains that the purpose of the ordinance is the clear State directive, not the merits of these matters.
Kremen stated Councilmember Knutzen should embrace and support this ordinance.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

**Nays:** None (0)

**OPEN SESSION**

The following people spoke:

- Ken Weaver spoke about the Catholic Community Services project (AB2013-150).
- Larry Helm spoke about the County coordinating with the federal government and the proposed packinghouse ordinance (AB2012-300B).
- Greg Brown spoke about the proposed resolution reinstating the Planning Unit (AB2013-190).

Brenner stated the Executive totally supports the resolution, and asked the Council to wait for one month, until the attorney is available. She's fine with waiting a month since the Executive supports the resolution.

- Judy Tilley submitted and read from a handout (on file) and spoke about a contractor depositing construction debris on her property.
- Charles Herrick submitted and read from a handout (on file) and spoke about concerns the Whatcom Transit Authority (WTA).
- Stephen Gockley spoke about the Catholic Community Services project (AB2013-150).
- Theresa Mears spoke about the Catholic Community Services project (AB2013-150).
- Lorraine Newman submitted and read from a handout (on file) and spoke about the proposed ordinance regarding the rural element (AB2013-180).
- Kris Halterman submitted a handout (on file) and spoke about the proposed ordinance regarding the rural element (AB2013-180) and the Catholic Community Services project (AB2013-150).
- Ellen Baker spoke about the proposed Resolution Amending the 2013 Whatcom County Flood Control Zone District Budget, Third Request, In The Amount Of $211,682 (AB2013-211).
- Donna Clark spoke about the frightening streets in Bellingham compared to the friendly streets of Mt. Vernon and the County’s abstract regulations.
- Linda Twitchell, Building Industry Association of Whatcom County, spoke about proposed ordinance regarding the rural element (AB2013-180) and the Catholic Community Services project (AB2013-150).
- Patrick Alesse spoke about the Growth Management Act and the cost of services.
- Chet Dowe spoke about the proposed ordinance regarding the rural element (AB2013-180).
CONSENT AGENDA

Mann reported for the Finance and Administrative Services Committee and moved to approve Consent Agenda items one through seven.

Brenner withdrew items one and five.

The motion to approve Consent Agenda items two, three, four, six, and seven carried by the following vote:

Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

1. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND KIBBLE & PRENTICE FOR BENEFIT CONSULTATION SERVICES FOR THE SELF-INSURED MEDICAL PROGRAM, IN THE AMOUNT OF $45,000 IN 2014, $46,500 IN 2015, AND $48,000 IN 2016 (AB2013-193)

Mann reported for the Finance and Administrative Services Committee and moved to approve the request.

Brenner stated these are the consultants that made terrible presentations last year. They didn’t know what they were talking about and couldn’t answer questions. She will not support the contract.

Knutzen asked if there are any other options.

Brenner stated there could be a regional program with other counties. The other counties are paying less per employee and getting more service.

Jack Louws, County Executive, stated the Human Resources (HR) Division sent out a request for proposals (RFP). They received five or six proposals. This firm was the best choice for Whatcom County. He agrees the presentations and the situation the County was in last November and December were difficult to manage. In their defense, there are challenges with the Affordable Health Care Act and working with the bargaining groups and unrepresented employees. The federal government was not providing answers to questions regarding the current plans and the high deductible plans. It was a difficult time. This firm has done well for the County over the past years. He recommends approving the contract.

Kershner asked if the contract could be shortened to one or two years. Louws stated that may be possible. If the Council holds this item, the HR Manager can answer the question.

Brenner stated other counties and municipalities are also having difficult times. Other choices are available. Last fall, she had reams of information from other counties about programs that gave the employees more coverage for less per employee. Consider a regional self-insured program. It’s time to change direction.
Mann stated Councilmember Brenner did a lot of work on this last fall, and there was a lot of negative feedback. He withdrew his motion to approve and moved to refer to the Finance and Administrative Services Committee.

The motion carried by the following vote:
Ayes: Brenner, Mann, Knutzen, Kershner, Weimer and Kremen (6)
Nays: Crawford (1)

2. RESOLUTION AMENDING CRP NO. 912004 AND AUTHORIZING ADDITIONAL FUNDS FOR THE AWARD OF THE CONSTRUCTION CONTRACT FOR LUMMI ISLAND FERRY DOCK REMOTE CONTROL TO THE LOW BIDDER, DALTON ELECTRIC COMPANY, IN THE AMOUNT OF $114,376.36 (AB2013-194)

3. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND THE WASHINGTON STATE MILITARY DEPARTMENT EMERGENCY MANAGEMENT DIVISION TO ENHANCE THE COOPERATION AND COORDINATION AMONG LOCAL, TRIBAL, STATE, AND FEDERAL LAW ENFORCEMENT AGENCIES IN A JOINT MISSION TO SECURE THE INTERNATIONAL BORDERS OF THE UNITED STATES, THROUGH THE US DEPARTMENT OF HOMELAND SECURITY FFY2012 OPERATION STONEGARDEN PROGRAM, IN THE AMOUNT OF $725,000 (AB2013-195)

4. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO AWARD BID NO. 13-37 TO THE LOW BIDDER, FOSS MARITIME COMPANY, FOR THE ANNUAL DRYDOCK REPAIRS AND MAINTENANCE TO THE WHATCOM CHIEF FERRY, IN THE AMOUNT OF $343,959 (AB2013-196)

5. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE PURCHASE OF A MANUFACTURED RESTROOM BUILDING FOR INSTALLATION AT LOOKOUT MOUNTAIN/OLSEN TRAILHEAD USING THE WASHINGTON STATE CONTRACT, FROM VENDOR CXT, INC., IN THE AMOUNT OF $85,459.68 (AB2013-197)

Mann reported for the Finance and Administrative Services Committee and moved to approve the request.

Brenner stated the funding comes from the real estate excise tax (REET) 2. The jail alone is going to need major and expensive stormwater facilities, which are in addition to all the stormwater facilities the County will be required to install in the Lake Whatcom watershed. The County doesn’t have enough money in the REET 2 fund. At some point, the Parks Department needs to prioritize its most important items.

The motion carried by the following vote:
Ayes: Mann, Crawford, Kershner, Weimer and Kremen (5)
Nays: Brenner and Knutzen (2)

6. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO AN INTERLOCAL AGREEMENT BETWEEN WHATCOM COUNTY AND THE WHATCOM COUNCIL OF GOVERNMENTS FOR THE COMPREHENSIVE ECONOMIC
DEVELOPMENT STRATEGY UPDATE, IN THE AMOUNT OF $12,500 (AB2013-198)

7. RESOLUTION ACCEPTING THE ADDITION OF THREE WHATCOM COUNTY CAPITAL PROJECTS INTO THE 2010 WHATCOM COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY (CEDS) (AB2013-199)

OTHER ITEMS

1. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT AMENDMENT BETWEEN THE WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT AND WASHINGTON STATE RECREATION AND CONSERVATION OFFICE FOR THE CANYON CREEK BARRIER REMOVAL PROJECT, IN THE AMOUNT OF $832,302, FOR A TOTAL AMENDED CONTRACT IN THE AMOUNT OF $2,171,362 (AB2013-191)

(Clerk’s Note: Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.)

Mann reported for the Finance and Administrative Services Committee and moved to approve the request. He is going to vote against the request. It’s a bailout for folks who built in a dangerous area. They must take responsibility for what happens there. Now the taxpayers are on the hook for $2 million to protect their houses. It’s not fair or equitable.

Crawford stated the flood fund protects people who built in places affected by floods. He asked if Councilmember Mann is in favor of removing them.

Mann stated he is not a fan of being in the Federal Emergency Management Agency (FEMA) flood control program. He would rather see people pay more directly for the services they get. This is an asymmetrical bailout. He doesn’t like bailing out people who build in unsafe areas, whether it’s the Mississippi River, the bottom of a mountain, or a flood plain.

Crawford stated consider putting on the ballot the elimination of the flood tax.

Mann stated that’s extrapolating the point too far. His point is that this is $2 million for a place that has very few houses at the base of a place with obvious flooding history. It’s not an appropriate place to build.

Crawford stated the purpose for this is the same reason the County uses flood money to bail out everybody.

Mann stated that per capita, it’s too asymmetrical.

Brenner stated those lots were created a long time ago. The County issued the permits. The County may not have liability, but it has some responsibility. Also, the County has roads in the area. This project will create a different area with less opportunity and ability for the floods to occur like they do now. Not doing something is very dangerous. It’s too bad they didn’t know better way back when, but this is where they’re at now.
Knutzen stated this issue is also about critical infrastructure, the State highway, which has been washed out before. He commends staff for finding non-County funding to pay for this project. He will support it.

The motion carried by the following vote:
Ayes: Brenner, Crawford, Knutzen, Kershner, Weimer and Kremen (6)
Nays: Mann (1)

2. RESOLUTION IN THE MATTER OF THE SALE OF SURPLUS PROPERTY PURSUANT TO WCC 1.10 (AB2013-192)

Mann reported for the Finance and Administrative Services Committee and moved to approve the resolution.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

3. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A LOAN AGREEMENT BETWEEN WHATCOM COUNTY AND CORNWALL HOUSING, LLC TO SUPPORT THE CORNWALL HOUSING PROJECT, IN THE AMOUNT OF $300,000 (AB2013-150)

Mann reported for the Finance and Administrative Services Committee and moved to approve the request. He will not support this agreement. He supports the mission of the project. He doesn’t have confidence in the project manager, and the location is not appropriate at this time. He is worried about the impacts to the surrounding neighborhood based on the track record of the applicant.

Knutzen stated he thanks the Health Department, downtown merchants, Councilmembers Mann and Brenner, and Catholic Community Services for working through this. He has some major concerns that the City purchased the property with the parking fund, and the merchants expected to get more parking in the downtown area so they could adequately run their businesses. The impact will be a loss in parking. This will take away some of the parking. The memorandum of agreement (MOA) does not address the concern that the Council expressed about ensuring there won’t be problems. He can’t support the project in its current form.

Brenner stated she is viewing this as a person who is mentally ill, was homeless, and has lived in this type of housing. This type of housing was the worst to stabilize her. She was fine with it, but no one around her was fine. The people, who have legitimate concerns, have been portrayed as bad guys. That’s disappointing. This proposal is great, but is in the wrong location. If developed in the proper location, it would be much more efficient and they could use the money for more people for a longer period of time.

Kremen stated this is not an easy black or white issue. There is some merit to the opponents of this project. He agrees with Councilmember Knutzen about the City of Bellingham, which sold the property in question and issued the permits for the project to go forward. This project, no matter where it’s located, will have opposition. The project needs
to be located in a fully-serviced area with public transit. Because the population needs to be served and because the loan comes from a fund dedicated to this kind of project, he will support the loan request.

Kershner stated she lives in Bellingham. She has a career in social services and understands this issue well. She sees a continued increase in a population that needs help. In the three years she has been on the Council, the County has spent millions of taxpayer dollars on programs to house, feed, and provide services to people. More and more people need help. She does not feel safe downtown. The downtown businesses have already lost her business. Bellingham is listed as one of the top places to come for people who don’t have a job and need support, because they spend lots of money on those people. Help people who need it. Use the money from the new City housing fund for low income housing to build a place, and save County mental health and behavioral health tax dollars to provide actual services that could help people. She will not support the request because of the impact to downtown businesses. She respects the businesses who have come forward and expressed their concerns.

Weimer stated he is going to support this request. They have a homeless housing effort that has won national recognition for what they’re doing. When the economy fell in 2008, a lot of people were hurt and ended up in places they didn’t want to be. They are starting to dig their way out of it. Downtown is the right location because it is near services. The model is shown to work. If it’s built downtown, maybe those people won’t be hanging out on the streets. He has worked downtown for over 20 years and been there late at night. He does not feel unsafe from the homeless people. Bellingham is not an unsafe place. As the Board of Health that runs homeless housing, they are responsible to have a piece of this project.

Jack Louws, County Executive, stated he supports this and gave a staff report. The money spent would create good in the community and for the people who are suffering from mental health and substance abuse issues. There is a plan and money is available. The loan gives the County the opportunity to be involved in the project. The loan condition is that they will provide 24/7 services. The memorandum of agreement goes beyond that in terms of operational integrity. Not getting involved in the project will negate the County’s opportunity to get involved and be heard in the future if there are concerns.

Mann stated he believes this will help people. However, the folks who are generating this tax, the downtown business owners, are being run over by this project. Someone needs to stand up for them. Denying the request will notify future requestors, who may expect the Council to approve everything, to think twice about any proposal. Send the message that proposals need to be better than this to get Council approval.

Kremen stated there is some merit to the concerns expressed by the opponents. He would like to know where they propose constructing this facility that would have less opposition. There will be opposition regardless of the location.

Mann stated the problem isn’t necessarily the address on that street, although that is a problem. That block has more than its fair share of subsidized housing for populations that have challenges. He might support the project if he had confidence that the project manager would take seriously the concerns of the community. It’s been clear to him that the project manager didn’t understand the concerns of the community or think they were
valid. His problem is the combination of this location and the track record of the project manager.

Brenner stated the YWCA is a perfect example of someone who has done an incredible job downtown. They provide a lot of services for many people. An entertainment district is not suitable for future tenants. People are not going to be able to relax and stabilize. The area is extremely loud. She would be willing to find an alternate place. This wasn’t their first proposal. They were going to do senior housing, but didn’t get a grant for it. Then they turned to this. The County was rushed the entire time, and they needed to look at this on the priority list compared to all the things they want for mental health and substance abuse services. The County would have heard from more people if they hadn’t been intimidated. Move on and find a better location.

Knutzen stated this project was bought with parking fund dollars. These people fully expected parking from those dollars. Instead, the downtown merchants are getting less parking. The wording of the MOA is weak. They have made an effort to provide 24-hour onsite manager and a process for making sure there was good behavior. He appreciates the effort, but it’s not good enough. The MOA was done poorly, and he’s disappointed.

The motion failed by the following vote:
Ayes: Crawford, Weimer and Kremen (3)
Nays: Mann, Knutzen, Brenner, and Kershner (4)

4. REQUEST CONFIRMATION OF THE COUNTY EXECUTIVE’S REAPPOINTMENT OF GLEN HALLMAN AND SHARON WOLF TO THE NORTHWEST SENIOR SERVICES BOARD (AB2013-200)

Crawford moved to confirm the appointments. They are both fantastic people who have given a lot to the community over the years. He appreciates their service. Mr. Hallman is committed to making sure senior services are delivered efficiently and helpfully.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

5. REQUEST CONFIRMATION OF THE COUNTY EXECUTIVE’S APPOINTMENT OF MEL MONKELIS AND JOHN GIBB TO THE LODGING TAX ADVISORY COMMITTEE (AB2013-201)

Mann moved to confirm the appointments.

Brenner stated she is very impressed with their credentials.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

6. RESOLUTION RESTORING THE WRIA 1 PLANNING UNIT TO ASSIST THE WHATCOM COUNTY COUNCIL REGARDING WATER RESOURCES (AB2013-190)
Brenner moved to hold for one month.

Jack Louwes, County Executive, asked that it be scheduled in committee before the evening meeting so the legal counsel can be present and discuss minor changes that align with the Revised Code of Washington (RCW).

Brenner amended her motion and moved to refer to Public Works Committee in one month.

Kremen stated schedule it for four weeks instead of one month. Schedule the resolution July 9, 2013.

Brenner accepted the suggestion and moved to refer to the Public Works Committee on July 9, 2013.

The motion carried by the following vote:

**Ayes:**  Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

**Nays:**  None (0)

**INTRODUCTION ITEMS**

Crawford moved to accept Introduction Items one through 14.

Brenner stated schedule Introduction Item 10 after the discussion about the Water Resource Inventory Area (WRIA) 1 Planning Unit discussion on July 9, not in two weeks.

Jack Louwes, County Executive, stated address it in two weeks, and then postpone it if necessary. He would like to make the presentation. Leave it as an Introduction Item tonight.

Knutzen asked if they have to deal with all three items in that budget request concurrently, or if they have the option to take one out. Louws stated the Council may split it up if it chooses.

Dana Brown-Davis, Clerk of the Council, stated item 14 was held in committee and should be removed from Introduction Items.

Crawford amended his motion and moved to accept Introduction Items one through thirteen.

Weimer withdrew item thirteen and asked to vote on it separately.

The motion to accept Introduction Items one through 12 carried by the following vote:

**Ayes:**  Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

**Nays:**  None (0)
1. ORDINANCE AMENDING THE WHATCOM COUNTY ZONING CODE TITLE 20 TO CREATE CHAPTER 20.51, LAKE WHATCOM WATERSHED OVERLAY DISTRICT, AND RELATED COMPREHENSIVE PLAN AMENDMENTS (AB2013-102A)

2. ORDINANCE REPEALING THE 1986 LYNDEN-NOOKSACK VALLEY SUBAREA PLAN AND AMENDING PROVISIONS IN THE WHATCOM COUNTY COMPREHENSIVE PLAN RELATING TO SUBAREA PLANS (AB2013-203)

3. ORDINANCE REPEALING THE 1987 BIRCH BAY-BLAINE SUBAREA PLAN AND AMENDING PROVISIONS IN THE WHATCOM COUNTY COMPREHENSIVE PLAN RELATING TO SUBAREA PLANS (AB2013-204)

4. ORDINANCE REPEALING THE 1986 CHUCKANUT-LAKE SAMISH SUBAREA PLAN AND AMENDING PROVISIONS THE WHATCOM COUNTY COMPREHENSIVE PLAN RELATING TO SUBAREA PLANS (AB2013-205)

5. ORDINANCE AMENDING WCC 3.08, PURCHASING SYSTEM (AB2013-206)

6. ORDINANCE AMENDING WCC 1.10, PROCEDURES FOR MANAGEMENT AND DISPOSITION OF COUNTY-OWNED PERSONAL AND REAL PROPERTY (AB2013-207)

7. ORDINANCE ESTABLISHING THE SUPERIOR COURT FOURTH JUDGE COURTROOM RENOVATION PROJECT AND ESTABLISHING A PROJECT BASED BUDGET FOR THE SUPERIOR COURT FOURTH JUDGE COURTROOM, RENOVATION PROJECT (AB2013-208)

8. ORDINANCE AMENDING ORDINANCE NO. 2012-053 (AMENDMENT #1) ESTABLISHING THE RURAL ROAD SAFETY PROGRAM FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR THE RURAL ROAD SAFETY PROGRAM (AB2013-209)

9. ORDINANCE AMENDING THE 2013 WHATCOM COUNTY BUDGET, SEVENTH REQUEST, IN THE AMOUNT OF $1,500,069 (AB2013-210)

10. RESOLUTION AMENDING THE 2013 WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT BUDGET, THIRD REQUEST, IN THE AMOUNT OF $211,682 (AB2013-211) (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

11. ORDINANCE AMENDING THE 2014 WHATCOM COUNTY BUDGET, FIRST REQUEST, IN THE AMOUNT OF ($2,496) (AB2013-212)

12. ORDINANCE RESCINDING ORDINANCE 87-86 AND CLOSING THE DRUG TASK FORCE REVOLVING BANK ACCOUNT (AB2013-213)

13. DISCUSSION REGARDING A PROPOSED ORDINANCE AMENDING WHATCOM COUNTY CODE TITLE 20, THE OFFICIAL WHATCOM COUNTY ZONING MAPS, AND THE WHATCOM COUNTY COMPREHENSIVE PLAN AND MAPS TO
IMPLEMENT CHANGES RELATED TO RURAL LAND USE PLANNING (AB2013-180)

Crawford moved to accept item number 13.

Weimer stated he cannot support this item.

Brenner stated he citizen indicated today that amendments about rural, one unit per ten acres (R10A) would not allow them to be in urban growth areas. Be clear that R10A zoning can be in urban growth areas.

Crawford stated they will have a hearing in two weeks and can deal with it then.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, and Kremen (6)

Nays: Weimer (1)

14. DISCUSSION REGARDING A PROPOSED ORDINANCE AMENDING THE WHATCOM COUNTY CODE TO ALLOW PACKINGHOUSES IN THE AGRICULTURE ZONING DISTRICT (AB2012-300B)

This item was held in committee.

OTHER BUSINESS

UPDATE RELATED TO MULTIPLE FERRY OPERATION ISSUES (AB2013-162A)

Brenner reported for the Public Works, Health and Safety Committee and stated she’s not sure how to proceed. She was fine with the update, but others wanted clarification. They should contact Director Abart.

Kershner stated the Council wanted the Ferry Advisory Committee to bring forward recommendations to clarify how they distribute the ferry fund monies.

Brenner stated Jeff Monsen said the attributable funds don’t have to be used for the ferry, but can be. The Council will have to make a decision.

Crawford stated the Council received a letter from Chris Wietzel, and each councilmember should commit to reading it. Consider his letter to Larry Brown, the Sudden Valley Board of Directors President, in which he does an analysis of the impacts to the Sudden Valley Community Association on stormwater standards for residential construction and in which small lots aren’t exempted. He also corrects a misunderstanding that small lots will be exempted until a community stormwater system was developed. That’s not what is being put forward. Mr. Wietzel understands Sudden Valley. He’s made a career out of buying and selling real estate in Sudden Valley. This is the most in-depth review he’s seen.
Mann stated he was extraordinarily underwhelmed by the thoroughness of the presentation the Council received today about the jail. He could have put it together in High School. The needs analysis was the extrapolation of a line. The architect said the sun pattern here was fairly typical that the sun rises in the east and moves west. His first impression of the consultants was bad, given how much money they are spending on an important project. The administration should convey to the contractor that he was not impressed and would like to see more rigorous input on their part.

Jack Louws, County Executive, stated he spent 16 to 20 hours with the group over the last couple of months. The presentation today was done within 45 minutes. They were under instruction to do a brief presentation in an hour. There is a lot more information underneath what they presented today. They went through eight different projections, and presented two today. The challenge is that the County has no control over how many people will be served, as mandated by the State and federal government. The Councilmembers are welcome to engage with the consultants. Keep an open mind. They are doing a really good job at this time listening to concerns and working with the City of Ferndale and County staff.

Mann stated he is most often asked about the jail during this campaign season. He says he will support the needs analysis, which is rigorous and will do a good job of evaluating needs. What they were presented with today was not anything like that. He understands the lack of control over jail populations, but that doesn’t justify what appeared to be a very rudimentary graph line extension exercise. The contractor tried to use statistical terms today that were totally invalid. Coincidence is not statistical validity. He will talk to them about that part of the analysis. He’s been assuring constituents that they are doing a good job on it, but he doesn’t have that confidence any longer. He would like to sit down with them and review their analysis.

Kremen stated the point today was that they took into consideration the exposure of the facility as they have developed plans. It’s easy to criticize and chastise them. He was impressed by the fact that they considered the elements and weather patterns of that location. When the councilmembers asked questions to the presenters, the answers were informative and responsive.

REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS

Kremen stated he is doing a teleconference. He wishes he were able to be in Eastern Washington in person, but he will attend via telephone for three hours to save the County money. He will get an update from the Washington Association of Counties on the legislature and certain County initiatives. He will report back at the next meeting.

Brenner stated she attended an event called Communities and Schools that was wonderful. The children performed Improv. It’s a great organization. Help with this organization any time they can.

Regarding senior services, she would like an update on the senior meals program. Compared to other counties, Whatcom County provides much fewer meals.
Mann stated he’s glad Councilmember Kremen was impressed by the jail consultant incorporation of the elements into their report. As someone who has taken multiple architecture classes and has an engineering degree, weather and exposure is taught freshman year of architecture school. It is not advanced thinking on their part.

Knutzen stated he spent a week that was about water, including the water symposium and a presentation by the U.S. Geological Survey (USGS) about the amount of sediment that is coming down the Nooksack River, which is very alarming. One and a half million tons of sediment comes down the river and accumulates. It is changing what goes on in the bay. He also had meetings with farmers and Congresswoman DelBene about water. The water symposium was well done and he is impressed with the USGS data on the Nooksack watershed. The sediment management program has projects that he hopes will happen.

Weimer stated he is thankful he is the last as he has to be in Alberta in the morning. They sit at the crossroads of the energy hub of the northwest, given the four refineries, the trainloads of oil, and the natural gas hub. He has been asked to give the keynote address tomorrow at the National Energy Board of Canada.

Kershner stated she congratulates Councilmember Crawford for being elected chair of the Washington State Transportation Improvement Board.

**ADJOURN**

The meeting adjourned at 8:51 p.m.

The Council approved these minutes on ______________, 2013.

**ATTEST:**

WHATCOM COUNTY COUNCIL

WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Kathy Kershner, Council Chair

Jill Nixon, Minutes Transcription
CALL TO ORDER

Council Chair Kathy Kershner called the meeting to order at 3:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

(3:00:23 PM)

Present: Barbara Brenner, Kathy Kershner, Bill Knutzen, Ken Mann, Carl Weimer and Pete Kremen.

Absent: Sam Crawford.

COMMITTEE DISCUSSION

1. DISCUSSION OF A PROPOSED ORDINANCE ADOPTING AMENDMENTS TO THE WHATCOM COUNTY CODE TO ALLOW AGRICULTURAL PARCEL RECONFIGURATION AND OTHER CHANGES AFFECTING THE AGRICULTURE ZONE (AB2013-128A)

Samya Lutz, Planning and Development Services Department, read from a presentation (on file).

Amy Keenan, Planning and Development Services Department, continued the presentation on the current and proposed development siting criteria.

Mark Personius, Planning and Development Services Department, continued the presentation on contextual issues. Regarding the monitoring issue, there doesn't seem to be a good way to impose that without encouraging more development. There are alternative ways of doing that, proposed in the staff memo. Move forward with the whole package or parse it up into just those agricultural areas amendments, which were just parcel creation and boundary line adjustment.

Lutz concluded the presentation on discussion and next steps.

Brenner stated she’s fine with the property line adjustment portion, but has a problem with clustering. The Agricultural Advisory Committee should consider parcel reconfiguration specifically.

Kershner asked what the Agricultural Advisory Committee voted on when it sent a letter November 2012. Lutz stated the Planning Commission had not made substantial changes, and the Agricultural Advisory Committee urged the Planning Commission to
continue moving forward. The Planning Commission made a few changes, but nothing substantial.

Brenner stated cluster development in the agricultural land does not help the farmer.

Mann stated he’s okay with the agricultural amendments. They could ask the Agricultural Advisory Committee to give an opinion on the current proposal for parcel reconfiguration.

Knutzen stated he’s fine with everything except parcel reconfiguration. He’s concerned about creating residences in the agricultural zone. He supports asking the agricultural advisory committee to give an opinion on potential benefits and negative impacts of parcel reconfiguration.

Weimer stated move forward with the agricultural area amendments. Delay parcel reconfiguration until they hear from the Agricultural Advisory Committee and get clarity on growth management issues regarding water.

Brenner stated they should get a legal opinion on the water issues. She moved to recommend the full Council introduce the agricultural area amendments, except pull out parcel reconfiguration to send to Agricultural Advisory Committee at its first meeting in October.

The motion carried by the following vote:

Ayes: Brenner, Kershner, Knutzen, Mann, Weimer and Kremen (6)
Nays: None (0)
Absent: Crawford (1)

Kremen stated the water issues will take a considerable amount of time. They won’t yet be able to get a definitive answer on that issue.

2. DISCUSSION OF A PROPOSED ORDINANCE ADOPTING AMENDMENTS TO THE WHATCOM COUNTY CODE TO ALLOW PACKINGHOUSES IN THE AGRICULTURE ZONING DISTRICT (AB2012-300B) (3:27:01 PM)

Knutzen moved to recommend the full Council introduce the ordinance as presented.

Mann stated he didn’t support it in committee because of concerns about the criteria. His biggest concern is with allowing packinghouses as an accessory use. It doesn’t have enough up-front oversight. This is a contentious land use. It should be a conditional use, but he won’t have support for that. The code already allows it as an administrative approval use in the industrial manufacturing zone. He moved to amend to make slaughterhouses an administrative approval use in the agricultural zone, not a permitted use.
Knutzen stated he is against the motion to amend. He referenced Revised Code of Washington (RCW) 36.70A.177 and stated farmers must have a place to process the meat to make agriculture in Whatcom County sustainable. The RCW says it should be an accessory use. The agricultural zone has adequate facilities to handle packinghouses.

Kremen asked the Agricultural Advisory Committee (AAC) recommendation on this issue.

Knutzen stated the Planning Commission recommended it be permitted.

Joshua Fleischmann, Planning and Development Services Department, stated it has not gone to the AAC.

Knutzen stated the AAC sent a letter of approval.

Fleischmann stated he had asked the AAC if they wanted to address the ordinance, but he didn't receive a response. It went to the Planning Commission.

Kremen stated there have been claims that this use is necessary for the survival of the agricultural industry in the community, but the AAC hasn't even expressed an interest in it.

Knutzen stated he believes the AAC sent a letter of unanimous support on behalf of the entire Committee.

Mann stated he doesn't know what version of the ordinance the AAC supported.

Brenner stated she prefers to hear an opinion from the AAC. She won’t support the motion.

Mann stated he’s supported responsible slaughterhouse operations in the agricultural zone from the beginning. As he’s learned more about it, he’s learned these things can be extremely hard on the environment and surrounding neighborhoods. Requiring an administrative approval does not create a barrier to allowing the use. According to the Planning Department, 97 percent of all administrative approval permits since 2000 have been approved. The Department of Ecology (DOE) and Health Department have said these operations create industrial-scale waste and require State waste discharge permits. Make sure they’re sited appropriately.

Knutzen stated that if they’re asking someone to invest the money required and to get financing, an accessory use makes it much easier. Items that make agriculture sustainable should be an accessory use, per the RCW. People who speak out against the use have no experience in the agricultural zone and live in the city. The agricultural community supports this ordinance. This will promote local grown beef.

Kershner asked if this is a rezone or adding an allowable use to the zone.

Mark Personius, Planning and Development Services Department, stated it is not a rezone. It is at zoning text change, not a map change.
Kershner asked if there is data on the industrial waste of packinghouses compared to a medium-sized dairy in Whatcom County. Personius stated DOE and Health Department discussed the State and County requirements. Treatment and disposal has to be done carefully. The DOE makes the decision on the State waste discharge permit.

Brenner stated the RCW says accessory uses in the agriculture zone include processing of plant and animal products. The ordinance needs to include the State industrial waste discharge language.

Mann stated he’s not arguing whether it meets the definition of an accessory use. This is accessory to agricultural operations. There’s a reason it requires an administrative approval in the industrial zone now, and why it was outright unpermitted for many years. They pose some unique pollution discharge problems. It must be an administrative approval use because of the rigor required for permitting and siting one of these facilities. If done right, a developer will get the permit as long as all the issues are taken care of.

Knutzen stated the industrial zone administrative approval is for industrial slaughterhouses that process many animals very quickly. A packinghouse designation will not be the same thing, according to the Environmental Protection Agency (EPA).

Weimer stated he supports the amendment. The RCW may allow this to be an accessory use, but concerns show it needs more review. An administrative approval makes more sense. The person who originally asked to allow this use was ready to start a business with a conditional use permit. He thinks they should all be conditional use permits.

Brenner stated there were concerns by people who live in the county, not just in the city. Some farm people have concerns. The Council has taken time, listened to concerns, and made changes. She would support the motion if she hadn’t heard the presentation from Jeff Hegedus. People must understand that waste is taken care of.

Weimer stated they can add that language in another motion.

The motion to amend failed by the following vote:

Ayes: Mann, Weimer and Kremen (3)
Nays: Brenner, Kershner and Knutzen (3)
Absent: Crawford (1)

Knutzen moved to amend Whatcom County Code (WCC) 20.40.114(5) and 20.40.164(4), “…a waste management plan, approved reviewed by the Whatcom County Health Department and approved by….“ The Health Department doesn’t have jurisdiction of this issue.

Brenner stated the Washington Administrative Code (WAC) language should be part of an exhibit. Incorrect information is going around because people look at something, and don’t go anywhere else. This is important enough to include all the language.

Knutzen motion carried by the following vote:

Ayes: Brenner, Kershner, Knutzen, Mann, Weimer and Kremen (6)
Nays: None (0)
Absent: Crawford (1)

Weimer moved to amend to create WCC 20.40.114(9) and 20.40.164(8), “The facility shall comply with solid waste handling standards as set forth in WAC 173-350, as administered by the Whatcom County Health Department as adopted by reference in WCC 24.06.”

Knutzen stated he thought this material would go through a digester and be handled by DOE, which is why they referenced the approved State waste discharge permit instead of the solid waste handling standards. Fleischmann stated a slaughtering facility would have to comply with the solid waste handling standards. If taken to a digester, it must comply with the State waste discharge permit.

Mann stated the State waste discharge permit allows a land application on a field, for example.

Personius stated the digester requires the State waste discharge permit. A packinghouse applicant who handles the waste must meet the solid waste handling standards.

Knutzen stated he is against the motion. The Health Department is one more agency that will regulate this use. He asked if they regulate any other agricultural operations in the county. The Health Department says it doesn’t deal with dairy waste and sends the farmers to the Department of Agriculture, which sends the farmers to the Department of Ecology. Adding another layer of confusion will make it more difficult to operate a facility in the county.

Kershner stated the requirements apply whether or not it’s in the ordinance. Adding it to the ordinance informs the applicant of the existing requirements. It doesn’t add a layer. The layer is already there.

Mann stated that this is a use in which the Health Department should be involved in permitting and siting.

The motion to amend carried by the following vote:
Ayes: Brenner, Kershner, Mann, Weimer and Kremen (5)
Nays: Knutzen (1)
Absent: Crawford (1)

Brenner moved to create a new exhibit within the ordinance that includes the language of the solid waste handling standards in WCC 24.06; national pollution discharge elimination system (NPDES) permit; Washington Administrative Codes (WACs) 173-216, 173-226, 173-220, and 173-350, and; RCW 90.48.

Weimer stated he is against the motion. It would be hundreds of pages. The Council has never done that.

The motion to amend failed by the following vote:
Ayes: Brenner, Knutzen and Kremen (3)
Nays: Kershner, Mann and Weimer (3)
Absent: Crawford (1)

Weimer referenced a limit on the size of holding pens for immediate processing so they don’t end up with feed lots. It’s still shown as a finding of fact. He moved to insert the option B language to limit the size of holding pens to 20.40.114 and 20.40.164, “Holding pens associated with packinghouses shall be limited to that necessary to accommodate animals intended for immediate process.”

The motion carried by the following vote:
Ayes: Brenner, Kershner, Mann, Weimer and Kremen (5)
Nays: Knutzen (1)
Absent: Crawford (1)

Mann stated there was language about not siting them in critical aquifer recharge areas. He moved to add language to 20.40.114 and 20.40.164 to not site packinghouses in critical aquifer recharge areas.

Kershner asked if that’s covered by the critical areas ordinance.

Knutzen stated it is covered by the critical areas ordinance. They learned they don’t have a lot of data on aquifer recharge.

Mann asked if there are maps that outline the critical aquifer recharge areas. Fleischmann stated maps show susceptibility according to amount of data.

Kershner asked if they allow building in those areas. Fleischmann stated they do. Much of the agricultural zone is within a moderate or high susceptibility zone.

Brenner asked if dairies and other types of businesses are located in high susceptibility aquifer recharge areas. Fleischmann stated be believes there are.

Kershner stated she doesn’t support building a slaughterhouse in a critical area, but it sounds like this is different. She doesn’t support the motion to amend.

Brenner suggested a friendly amendment to not site in a high susceptibility aquifer recharge area.

Mann accepted the friendly amendment.

Knutzen stated that if the County has data on the aquifer recharge areas, it should give the data to the folks at the water symposium.

Mann stated it’s in the critical areas ordinance.

Knutzen stated they are basing it on the critical areas, that this is within which watershed they’re draining water into. He asked if that was the criteria of the data they’re referencing. Fleischmann stated he doesn’t have that expertise.

The motion carried by the following vote:
Ayes: Brenner, Mann, Weimer and Kremen (4)
Mann stated he would like to see those maps.

Weimer referenced finding 19 and asked if adoption of this ordinance negates the conditional use permit for Keizer Meats. Personius stated it is a question for legal counsel. He believes they would become an accessory use subject to these conditions.

Brenner moved to refer to the Agricultural Advisory Committee at its first meeting in October before the Council holds a hearing.

Weimer stated that would be a long meeting, with agricultural reconfiguration.

Knutzen stated he is against the motion. He’s sure they’ve already provided a recommendation.

Brenner withdrew her motion until she sees the letter.

Personius stated staff can prepare for introduce in two weeks. He will submit maps of the recharge areas.

Kershner moved to introduce as amended in two weeks.

The motion carried by the following vote:

Ayes: Brenner, Kershner, Knutzen, Mann and Kremen (5)
Nays: Weimer (1)
Absent: Crawford (1)

3. DISCUSSION REGARDING ONGOING ISSUES ASSOCIATED WITH TUBING ON THE SOUTH FORK OF THE NOOKSACK RIVER (AB2013-236) (4:25:19 PM)

Brenner stated the Sheriff’s Office feels they can’t adequately patrol the area.

Jeff Parks, Sheriff’s Office, gave a staff report and stated they have concerns about logistics and staffing regarding that issue. The issue is seasonal. They don’t have programs or personnel to deal just with it. Problems seem to come up when things are very busy. There are parking issues on State and County roads. They worked to post no parking zones and on other issues with residents over the years. Conflicts have escalated to violent and disruptive behavior. Many issues revolve around the inner-tubing activity, which is difficult to police due to the location and other difficulties.

Knutzen asked about parking problems on Highway 9 and the standard procedure. Parks stated they do a number of things. They’ve towed vehicles, but that presents challenges also. They issue citations and other violations for blocking the road.

Brenner asked how much budget could take care of the problems and whether the Sheriff’s Office could keep it safe adequately. Parks stated that’s unknown. Use happens depending on the weather. If there were a contingency plan, people would have to be hired and work the area as if it were a special event. It’s tough to address efficiently and cost-
effectively, without overkill. They’ve dealt with similar issues in other areas by putting
together special emphasis and working on a case-by-case basis. It’s hard to give a number
of staff and overtime. It would really require someone there during nice weather in the
mornings before things get out of hand. A pre-planning effort with special emphasis and
enforcement plans is required.

Brenner asked about the possibility of having different private businesses be certified
through the Sheriff’s Office to take people to the area. Parks stated he doesn’t know how
that would work in an area with unrestricted access. That wouldn’t address the problems.
Only those who want to comply would go along with it. Those who already don’t want to
comply are the problem.

Kremen asked if they get any assistance from the State patrol. It’s their jurisdiction.
Parks stated they’ve asked for help from the State patrol and the State Department of Fish
and Wildlife. The State budget doesn’t allow for extra assistance. The Sheriff is the primary
law enforcement official.

Kremen stated he’s concerned about disruptive behavior, possibility for fatalities, and
other activity. However, local businesses rely on that business during the short summer
season. They have to deal with the issue in some way.

Kershner stated they discussed having licensed operators who would be responsible
for parking and transporting their clients and regulating their behavior. She asked if that
solution would not be effective. Parks stated he’s concerned about the current problem
people who would not do that activity through an operator and does not care about a
structured program.

Kershner asked for a recommendation on how to handle those folks. Parks stated
they must direct resources to the issue and enforce the laws on the books. That has issues
with cost, staff, and logistics.

Mann asked what rights a private property owner has when there are trespassers.
Parks stated there isn’t a black-or-white answer. Property owners have the right to not
have people trespass on their property, be secure on their property and with their
possessions, and not have the ill-effects of the use on their property. People have a right to
protect themselves and their property. Law enforcement evaluates individual
circumstances, which must be reasonable and proportional to the threat. It’s better to try
and prevent the problem.

Knutzen asked what rights they have for parking along the highway, if the State will
prohibit parking on the easement and put up no parking signs, whether the County could
inventory its property in the area and see if there is property available for some controlled
parking, and having a licensed vendor. Other jurisdictions have similar issues, and have
restricted access. The Tribes voiced concerns about salmon in the river. He asked who is
liable if someone drowns due to salmon recovery structures in the river.

Weimer stated it’s a nuisance, but it’s also a recreational asset without a
management plan. He doesn’t know if the County has the legal authority to manage access
to the river. He asked if they can say how many people per day can inner tube down the
river and charge them a fee, or do other things that could become Parks Department programs that are supported by fees.

Lynn Wheeler stated it’s become a public safety issue for the community. Few who come to the area respect the property, river, and residents. The users aren’t families. There aren’t resources for the Sheriff to enforce the laws. Whatcom County has not developed the land it owns around the Acme bridge. Alcohol consumed is illegal and creates an unsafe environment. Put a moratorium on tubing until resources can be provided for enforcement.

Leea Heeringa stated the County should step up by banning the use or providing resources for enforcement. She and her family members feel threatened. The tubers have no responsibility.

Jeff Margolis submitted a handout (on file) and stated the situation has gotten worse over the decades because the County has not dealt with the issues. He asks the Parks Commission to consider his proposal. There are issues with the absence of signage, public notice, authority, sanctioned points of ingress and egress, and sanitation facilities. They need public education and supervision. The County must take charge. The Parks Department has data that shows the highest priority of citizens is access to fresh water shoreline. There is a shortage of that shoreline that is accessible to the public. Manage the area for the public good. Assign oversight and responsibility to manage the problem. Use the Sheriff Office volunteer force to control access on the Public Works Department property.

Cassidy Bristol stated there are options besides banning the use. Work to make it an asset to the community. Citizens can organize to raise awareness and pick up litter. Add signs to educate the public on the recreational use.

Elizabeth (Inaudible) stated the answer lies in their attitude toward tourism in Whatcom County. Develop the recreational opportunities to draw in tourism dollars that can be used to mediate the problems. Tourism creates jobs. Education is important.

Gordon Rogers, Parks and Recreation Commission Chair, stated the Commission is discussing the situation and formulating a recommendation.

Lee First referenced and read from the Washington public trust doctrine. ReSources annually organizes a clean up of the south fork of the Nooksack River. The trash is not just beer bottles and party trash. She’s more concerned with pollution, which doesn’t have anything to do with people inner-tubing down the river. It’s important to keep the river open to the public.

Eric Murda stated the County should put trash dumpsters at the put-in areas. The Sheriff’s Office enforcement deputies can get out of their cars and get down to the river. The property owners need to be more understanding. People coming out of the river just want to go home. Everyone needs to learn to manage the resource.

Unidentified speaker stated this is an important recreational resource in the county. Outdoor resources are important to the citizens. Don’t ban the use.
Jackie Rossing, Acme General Store Owner, stated the increased activity during the tubing season makes their year economically viable. The loss of revenue would be a blow to her business. Something needs to be done to manage the issue. Everyone should work together. Tubing upstream was banned to protect salmon. It was a compromise. All the activity has been pushed downriver. Parking fees can pay for sanitation facilities.

Ed Strachilla stated he’s witnessed things, been assaulted, and vandalized. He has no problem with people tubing on the river, but has a problem when they come onto his land. Public education can help. Garbage is a problem. The government has spent millions on fish habitat, and they let people float right over the fish.

Marina (No last name), Glacier, stated tubing is a tradition. Her group always packs up their garbage and doesn’t drink much. Keep the area open. Have signs about tubing responsibility and public education. They could self-regulate.

Rose Johns stated tubing in the river is different from what it used to be. She and her family and friends inner-tube responsibly. It seems a lot of the problem is from college students. An option is to create an education program at the river, similar to a program of the Whatcom Land Trust. It’s important to come up with something that preserves access.

Victor (Inaudible) stated trash removal is necessary. Place a volunteer patrol at a put-in area. A volunteer force at the area is possible. Banning access will not keep people from tubing the river. Property owners have the advantage of being at the river daily. Others don’t have that opportunity, and get there only when they can. Prohibiting the use only transplants the problem to another location. Volunteers are the solution. Property owner should be more accepting or consider moving.

Sara Strachillia stated the problem is not with responsible inner-tubers. It’s a safety issue before things such as garbage. Landowners have to deal with the problems daily.

**Kremen moved** to request that the Executive, Sheriff, Public Works Department Director, and Parks and Recreation Department Director have a meeting and address the issues that are confronting the community to attempt to develop solutions to these problems. Address specific issues: parking; access; safety; refuse and litter; disorderly, disruptive, and illegal conduct, and; and adequate sanitation.

Knutzen stated find out also how to restrict parking along Highway 9.

The motion carried by the following vote:

**Ayes:** Brenner, Kershner, Knutzen, Mann and Kremen (5)

**Nays:** None (0)

**Absent:** Crawford and Weimer (2)

**OTHER BUSINESS**

There was no other business.

**ADJOURN**
The meeting adjourned at 5:32 p.m.

The Council approved these minutes on ______________, 2013.

ATTEST:       WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk       Kathy Kershner, Council Chair

Jill Nixon, Minutes Transcription
WHATCOM COUNTY COUNCIL
Committee Of The Whole

June 18, 2013

CALL TO ORDER

Council Vice-Chair Bill Knutzen called the meeting to order at 6:17 p.m. in the Council Conference Room, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Sam Crawford, Kathy Kershner, Bill Knutzen, Ken Mann, Pete Kremen and Carl Weimer
Absent: None
Attorney Present: Karen Frakes and Jay Derr

COMMITTEE DISCUSSION

1. DISCUSSION WITH SENIOR DEPUTY PROSECUTOR KAREN FRAKES REGARDING PENDING LITIGATION, HIRST ET AL V. WHATCOM COUNTY, GMHB CASE NO. 12-2-0013 (AB2013-018)

Knutzen stated that discussion of agenda item one may take place in executive session pursuant to RCW42.30.110(1)(i). Executive session will conclude no later than 7:00 p.m. If the meeting extends beyond the stated conclusion time, he will step out of the meeting to make a public announcement.

Kremen moved to go into executive session until no later than 7:00 p.m. to discuss the agenda items pursuant to RCW citations as announced by the Council Vice-Chair.

The motion carried by the following vote:
Ayes: Crawford, Brenner, Kershner, Knutzen, Mann, Kremen and Weimer (7)
Nays: None (0)

OTHER BUSINESS

ADJOURN

The meeting adjourned at 7:02 p.m.

The Council approved these minutes on ______ 2013.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON
Disclaimer: This document is a draft and is provided as a courtesy. This document is not to be considered as the final minutes. All information contained herein is subject to change upon further review and approval by the Whatcom County Council.

Dana Brown-Davis, Council Clerk
Bill Knutzen, Council Vice-Chair
Jill Nixon, Minutes Transcription
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**

Ordinance closing a portion of Boundary Road (at SR 539)

**ATTACHMENTS:**

1. Memo to County Executive and Council
2. Ordinance
3. Vicinity map
4. Letter dated 4/17/13 from Washington State DOT requesting closure

**SEPA review required?** ( ) Yes ( X ) NO  
**SEPA review completed?** ( ) Yes ( X ) NO  
Should Clerk schedule a hearing? ( X ) Yes ( ) NO  
Requested Date: 6/18/2013

**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.)

Whatcom County has been requested by Washington State Dept. of Transportation to close Boundary Road where it intersects with SR 539 south of the international border. The closure will allow WSDOT to proceed with their project to enhance the border crossing by shifting SR 539 200 ft. east onto this portion of Boundary Road. WSDOT will add a truck lane, a NEXUS lane, install new illumination systems, construct new stormwater treatment facilities and install new ITS systems. Closing this portion of Boundary Road will allow WSDOT to re-grade, pave, sign and stripe the road.

**COMMITTEE ACTION:**

6/18/2013: Discussed

**COUNCIL ACTION:**

6/18/2013: Introduced

**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: The Honorable Jack Louws, Whatcom County Executive, and Honorable Members of the Whatcom County Council

Through: Frank M. Abart, Director

From: Joseph P. Rutan, P.E., County Engineer/Assistant Director

Date: May 17, 2013

Re: Ordinance Closing a Portion of Boundary Rd.

Requested Action:
Recommend adoption of an ordinance to close a portion of Boundary Road where it meets SR 539 (Guide Meridian) per Washington State Department of Transportation’s request to enhance the Lynden-Aldergrove Port of Entry and border crossing.

Background and Purpose:
The County Engineer is recommending closing Boundary Road where it connects to SR 539 to facilitate Washington State Department of Transportation’s project to reconfigure the SR 539 approach to the International Boundary at the Lynden-Aldergrove Crossing.

Information:
This ordinance will allow Washington State Department of Transportation to proceed with their design to shift SR 539 200 ft. east onto Boundary Road to improve the border crossing. Improvements will include the addition of a truck lane, a NEXUS lane, new illumination systems, construction of a new stormwater treatment facility and new ITS system. When this portion of Boundary Road is closed WSDOT will commence re-grading, paving, signing, and stripping the area. Completion of this project will serve the US Customs & Border Protection as well as the traveling public.

When Boundary Road is closed, the Public will have to use Double Ditch Road to gain access to points north or south. This detour will be from one to three miles depending on the direction drivers are headed.
SPONSORED BY: 

PROPOSED BY: Public Works - Engineering 

INTRODUCTION DATE: 06/04/13 

ORDINANCE NO. _______ 

CLOSING A PORTION OF BOUNDARY ROAD 

WHEREAS, the Whatcom County Council has been requested by the Washington State Department of Transportation (WSDOT) to close a portion of Boundary Road at SR 539, and 

WHEREAS, WSDOT is improving the International Border Crossing by reconfiguring the SR 539 approach to the International Boundary at the Lynden-Alder Grove Crossing by reconstructing SR 539 where Boundary Road now exists, and 

WHEREAS, the design requires that this portion of Boundary Road be closed for the facility to be built, and 

WHEREAS, the Whatcom County Council is authorized to close the road according to the provisions of RCW 36.32.120. 

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Public Works Department of Whatcom County is hereby directed, subject to further consideration for re-establishing access for adjoining property owners and the public, to close this portion of Boundary Road at SR 539 to vehicular traffic. 

ADOPTED this ____ day of __________, 2013. 

ATTEST: WHATCOM COUNTY COUNCIL 
WHATCOM COUNTY, WASHINGTON 

Dana Brown-Davis, Council Clerk Kathy Kershner, Council Chair 

APPROVED AS TO FORM: ( ) Approved ( ) Denied 

Chief Civil Deputy Prosecutor Jack Louws, Executive 
Date:
Vicinity Map
Proposed Boundary Road Closure

Canada
US

Aldergrove Port of Entry

Matsqui Indian Reserve 4

Proposed Portion Boundary Rd. to be closed

E Prairie Rd

© 2010 NAVTEQ © AND © 2013 Microsoft Corporation
April 17, 2013

Frank M. Abart
Whatcom County Public Works
322 N. Commercial St. Ste. 210
Bellingham, WA 98225

Subject: SR 539 Lynden-Aldergrove Port of Entry Improvements Project – Closure of Boundary Road Connection with SR 539

Dear Mr. Abart,

The Washington State Department of Transportation (WSDOT) is designing a project to reconfigure the SR 539 approach to the International Boundary at the Lynden-Aldergrove Crossing. The Canadian Border Services Agency (CBSA) is re-constructing their Port of Entry east of the existing facility. As part of the coordinated improvements, WSDOT will be shifting SR 539 200’ east onto the Boundary Road footprint approaching the border. WSDOT’s proposed improvements include the addition of a truck lane, a NEXUS lane, installing new illumination systems, constructing new stormwater treatment facilities and installing new ITS systems.

Design of this project is approaching 90% completion and WSDOT designers have identified areas within Whatcom County Rights of Way that will be impacted by project improvements. Work to be conducted in these areas primarily consist of re-grading, paving, signing, striping and closure of the Boundary Road connection with SR 539.

Project Schedule Milestones
- November 2013 Advertisement
- May 2014 Begin Construction
- October 2014 End Construction

During project development WSDOT has reached out to many of the project stakeholders to share our plan to close the Boundary Road connection with SR 539.

- US Customs and Border Protection has expressed support of the change as it will eliminate an operational problem that the Boundary Road access point causes during border back-ups.

- Duty Free has been made aware of the proposal and is actively working with WSDOT to ensure they can continue to operate after the improvements are made.
In order to construct a cul-de-sac on Boundary Road, WSDOT will be acquiring property from one parcel, Daryl VanderHaak. The project team has been in regular ongoing communication with Mr. VanderHaak and he has been very cooperative throughout the effort. Right-of-Way negotiations for the needed property are scheduled to begin within the next month.

WSDOT has hosted one open house to discuss and receive input from the public about this project. The open house was held on 5/10/11 at the Lynden City Hall Annex. During the open house WSDOT received moderate support for the project improvements. No future Open houses are planned.

The CBSA project will be making street modifications that will modify 0 Avenue's connection point that currently conflicts with the future configuration of the Canadian Port of Entry.

We will be applying for a construction permit and preparing a Turn Back Agreement with Whatcom County within the next month, but welcome any comments you have about the proposal at this time.

I have spoken with Joe Rutan and it is my understanding that the closure of Boundary Road’s connection with SR 539 will require Whatcom County Council’s approval and a hearing. Please consider this our formal request to initiate these processes. I would be happy to address any questions or present the project to County staff and officials as needed. If you have any questions or would like to discuss the project, you can contact me at (360)757-5901.

Attached for your review are proposed channelization plans and right of way plans.

Sincerely,

Patrick Fuller PE
Assistant Project Engineer

PF: JMK
Attachments: Channelization Plan, ROW Plan.
Cc: Project file: XL4244, COR - Correspondence
Joe Rutan, Whatcom County Road Engineer

T:\412354\XL4244_Lynden_Aldergrove_POE_Correspondence\2013_04_17_Whatcom County Request for Boundary Rd Closure.doc
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**
Closure of a portion of Limestone Road

**ATTACHMENTS:**
1. Memo to County Executive and Council
2. Ordinance
3. Vicinity map
4. Letter dated 2/6/13 from Lehigh NW Cement Company requesting closure

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<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( ) No</th>
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<th>( ) Yes</th>
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<td>( ) Yes</td>
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**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.)

Whatcom County Council has been requested by the property owner to close Limestone Road east of Tilbury Road because illegal dumping has taken place in that area for many years and efforts to stop dumping have been ineffective. This portion of Limestone Road is a dead-end with no residential structures. Adoption of this ordinance will allow the property owners to install proper signs and Whatcom County Public Works to permit the existing gate in order to allow pedestrian and non-motor vehicle access along said portion of closed road.

**COMMITTEE ACTION:**
6/18/2013: Introduced

**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: The Honorable Jack Louws, Whatcom County Executive, and Honorable Members of the Whatcom County Council

Through: Frank M. Abart, Director

From: Joseph P. Rutan, P.E., County Engineer/Assistant Director

Date: June 4, 2013

Re: Ordinance Closing a Portion of Limestone Road East of Tilbury Road

__Requested Action:__
Recommend adoption of an ordinance to close a portion of Limestone Road east of Tilbury Road.

__Background and Purpose:__
The County Engineer is recommending closing Limestone Road east of Tilbury Road because illegal dumping has taken place in that area for many years and efforts to stop dumping have been ineffective. The road is a dead-end road with no residential structures so that there will be minimal effect to residents. The property owner requesting the closure has already installed a gate at this location.

Whatcom County Public Works will permit this gate and proper signage installed by the requester to allow pedestrian and non-motor vehicle access along this portion of Limestone Road.

__Information:__
According to the provisions of RCW 36.32.120 the Whatcom County Council has the authority to close portions of county right of way.
ORDINANCE NO.________

ORDERING THE CLOSURE OF LIMESTONE ROAD
EAST OF TILBURY ROAD

WHEREAS, the Whatcom County Council has been requested by the property owner to close Limestone Road east of Tilbury Road; and

WHEREAS, the closure is requested because illegal dumping has taken place in that area for many years and efforts to stop dumping have been ineffective, and

WHEREAS, this road is a dead-end road with no residential structures, and

WHEREAS, the Whatcom County Council is authorized to close the road according to the provisions of RCW 36.32.120.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Public Works Department of Whatcom County is hereby directed, subject to further consideration for reestablishing access for adjoining property owners and the public, to close Limestone Road east of Tilbury Road, to vehicular traffic.

BE IT FURTHER ORDAINED that the property owners will install the proper signs and gate approved by Whatcom County Public Works, allowing pedestrian and non-motor vehicle access along said portion of closed road.

ADOPTED this _____ day of ______, 2013.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk Kathy Kershner, Council Chair

APPROVED AS TO FORM: ( ) Approved ( ) Denied

Chief Civil Deputy Prosecutor Jack Louws, Executive

Date:
February 6, 2013

Joe Rutan
322 N Commercial St Suite 210
Bellingham, WA 98225

Dear Mr. Rutan:

Six or seven years ago Lehigh Cement moved its security gate on Limestone Road one half mile east. I have looked through my files and cannot find a letter allowing me to do this. However, I did have a verbal okay to do this. I would not have moved the gate without permission.

We had a real problem with people dumping garbage down a small ravine in front of the old gate and along Limestone road. We had several letters from the Health Department ordering us to clean up some one else’s mess. We fenced of the corner of Limestone and Tilbury Road and the Health Department put up a camera to watch the area.

We also had three instances where cars traveling down Limestone Road at a high rate of speed crashed into the gate because it was in a low spot on Limestone Road.

The gate is now highly visible to drivers. It is located next to the fenced off area and where the camera’s are located. We do not have problems with garbage being dumped and people running into the gate. I hope the County will not ask us to move the gate back to its original location.

Sincerely,

Wayne Bratz
Plant Manager
Vicinity Map
Proposed Limestone Rd. Closure

Proposed Portion of Rd. Closed to Vehicle Access

Area Behind Gated Access
WHATCOM COUNTY COUNCIL AGENDA BILL

NO. 2012-40 C

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SUBJECT:

Ordinance imposing an interim moratorium on apps. in the Lk. Whatcom Watershed

ATTACHMENTS

SUMMARY STATEMENT:

<table>
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<th>Related County Contract #:</th>
<th>Should the Clerk schedule a hearing? (Y/N)</th>
<th>Requested Date: 1/15/2012</th>
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Ordinance imposing an interim moratorium on the acceptance of new applications for divisions of land resulting in lots smaller than five acres within the Lake Whatcom Watershed

RECOMMENDED MOTION (for final action):

COUNCIL ACTION TAKEN

12/4/2012: Introduced
1/15/2013: No vote taken on this item
6/18/2013: Introduced

Related File Numbers:

Related File Numbers:

Ordinance or Resolution Number (this item only):

AB2012-040
AB2012-040A
AB2012-040B
ORDINANCE # __________

IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE OF NEW
APPLICATIONS FOR DIVISIONS OF LAND RESULTING IN LOTS SMALLER THAN
FIVE ACRES WITHIN THE LAKE WHATCOM WATERSHED

WHEREAS, oxygen levels in Lake Whatcom are declining to lower levels and
decreasing faster than in the past; and

WHEREAS, lower oxygen levels and more rapid decline in oxygen in Lake Whatcom
are related to increased rates of sediment and phosphorus loading into the lake; and

WHEREAS, increased availability of phosphorus has limited the nitrogen availability
in the lake, making the lake more susceptible to blue-green algae blooms; and

WHEREAS, longer durations of very low oxygen levels increase the rate of
methylization of mercury and other anaerobic compounds; and

WHEREAS, increased productivity in the upper waters of the lake lead to increased
disinfection byproducts such as total trihalomethanes (TTHMs); and

WHEREAS, longer durations of very low oxygen levels release phosphorus bound in
the lake sediments resulting in increased availability of phosphorus and further increasing
biological production in the lake;

WHEREAS, Washington State Department of Ecology has listed Lake Whatcom as an
impaired water body and placed Lake Whatcom on the federal Clean Water Act 303(d) list
because of low oxygen levels; and

WHEREAS, the 303(d) listing requires the establishment of a Total Maximum Daily
Load (TMDL) that designates loading capacity of the lake such that there will be no
measurable change in oxygen levels from natural lake conditions; and

WHEREAS, a TMDL requires meeting Water Quality Standards and, for lakes, the
dissolved oxygen criterion requires no decline from natural conditions;

WHEREAS, other pollutants identified and monitored within the Lake Whatcom
watershed have the highest concentrations in the most developed areas of the watershed;
and

WHEREAS, meeting the TMDL goals and improving oxygen levels in Lake Whatcom
will require a variety of comprehensive planning, pollution prevention, pollution reduction and
technical approaches; and

WHEREAS, continued development while the TMDL goals are established and while
approaches for meeting those goals are developed will increase the size of the reductions
and will increase the costs that will be necessary to meet the TMDL goals; and

WHEREAS, Lake Whatcom County Code 20.71 establishes the Lake Whatcom
Watershed as a Water Resource Protection Overlay District; and
WHEREAS, Lake Whatcom is the drinking water source for approximately half the residents of Whatcom County; and

WHEREAS, the preservation and protection of drinking water is a high priority for Whatcom County; and

WHEREAS, the Whatcom County Comprehensive Plan, adopted on May 20, 1997, establishes the Lake Whatcom watershed as a Special Study Area; and

WHEREAS, Lake Whatcom is a valuable recreation lake for swimming, boating and fishing, and enhances the property values in the area as long as the lake maintains high water quality; and

WHEREAS, declining oxygen levels poses a risk to the water quality of Lake Whatcom that could harm drinking water quality, recreational opportunities, and lake property values; and

WHEREAS, actions required under the 303(d) listing and TMDL goals as well as declining water quality will cause a hardship to tax payers, local property owners in the watershed and water consumers and those hardships may be limited by effective planning, prevention and remediation programs established prior to the establishment of the TMDL goals; and

WHEREAS, the Whatcom County Council is considering new stormwater regulations in the Lake Whatcom Watershed Overlay District that would replicate the runoff of a natural vegetated conditions from new development sites in the Lake Whatcom Watershed; and

WHEREAS, the Whatcom County SEPA Official issued a Determination of Non-significance on January 24, 2005; and

WHEREAS, the Council makes the following findings of fact to justify its actions as required by RCW 36.70.795:

1. This interim moratorium on the acceptance of applications for division of land into lots of smaller than five (5) acres is necessary to avoid future degradation of the Lake Whatcom watershed and the associated threat to the drinking water supply of approximately half of the citizens of Whatcom County as well as recreational and lake property values.

2. Without a moratorium additional development lots may be created within the Lake Whatcom Watershed that could lead to negative hydrologic and storm water impacts that may cause irreversible harm to Lake Whatcom and therefore cause harm to the health and welfare of the public.

3. The Whatcom County Council desires the opportunity to evaluate the impacts of future development in relation to reducing phosphorus loads to Lake Whatcom and meeting the TMDL goal of reversing the declining oxygen trends in Lake Whatcom. This evaluation may include but are not limited to the following:
   ~ Storm water management plans, implementation and maintenance.
   ~ Storm water funding in the watershed.
   ~ Review existing zoning densities outside the Bellingham Urban Growth Areas within county jurisdiction.
Storm water management in areas that cross City of Bellingham and
Whatcom County jurisdictions.
Transfer of development rights programs.
Land acquisition.
Reviewing the proposed TMDL from the Department of Ecology and its
implications for additional county land use regulations.
Reviewing the ongoing monitoring studies on the Lake and its
tributaries to understand the extent to which new data further informs
our understanding of the relationships between development and other
land use activities and Lake Whatcom water quality.

4. All of the parcels remaining subject to this moratorium are also under review
in the rural element update/LAMIRD designation currently underway that may
affect potential future development on those parcels. Completion of that
review is expected before this ordinance would expire and the outcome of
that review will inform the Council’s future decisions relating to future zoning
densities within the rural areas of the watershed.

4. The proposed Lake Whatcom Watershed Overlay District stormwater
regulations would mitigate the hydrologic and water quality this moratorium
seeks to prevent.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that a
moratorium is hereby imposed on the acceptance of new applications for divisions of land
into lots smaller than five (5) acres in the Lake Whatcom watershed, as identified on the
map attached as Exhibit A.

BE IT FURTHER ORDAINED that divisions resulting in lots all of which are five (5)
acres or larger shall be exempt from this division moratorium.

BE IT FINALLY ORDAINED by the Whatcom County Council that, pursuant to RCW
36.70.795, this moratorium may be renewed for one or more six-month periods if
subsequent public hearings are held and findings of fact are made prior to each renewal.

ADOPTED this ______day of ________, 2013.

ATTEST: WHATCOM COUNTY COUNCIL

Dana Brown-Davis, Clerk of the Council WHATCOM COUNTY, WASHINGTON

Kathy Kershner, Council Chair

APPROVED AS TO FORM: Jack Louws, Executive

( ) Approved ( ) Denied

Date: ______________________
### CLEARANCES

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**Division Head: Mark Personius**

**Dept. Head: J.E. "Sam" Ryan**

**Prosecutor:**

**Purchasing/Budget:**

**Executive: Jack Lawes**

### TITLE OF DOCUMENT:
Agricultural Strategic Plan Implementation (part of PLN2012-00007) – Agricultural Area Amendments

### ATTACHMENTS:
Ordinance with Exhibit – proposed Agricultural Area Amendments

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<th>SEPA review required?</th>
<th>(X) Yes</th>
<th>( ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>(X) Yes</th>
<th>( ) NO</th>
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<td>SEPA review completed?</td>
<td>(X) Yes</td>
<td>( ) NO</td>
<td>Requested Date: July 23, 2013</td>
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**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 portions of the Official Whatcom County Zoning (Title 20) and Subdivision (Title 21) Ordinances for categorical changes related to the Ag Strategic Plan File. Changes include: Change to Ag Farmstead Parcel creation, Ag Siting Criteria, and Procedurally treating Ag Parcel Reconfigurations similar to Boundary Line Adjustments.

### COMMITTEE ACTION:

### COUNCIL ACTION:

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<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
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ORDINANCE NO. ________

CODE AMENDMENTS TO ALLOW AGRICULTURAL AREA AMENDMENTS AND RELATED CHANGES AFFECTING THE AGRICULTURE ZONE

WHEREAS, the Whatcom County Agricultural Advisory Committee developed an Agricultural Strategic Plan adopted by County Council Resolution 2011-023; and

WHEREAS, the Agricultural Strategic Plan includes the recommendation to develop a Parcel Reconfiguration tool in the Agricultural areas; and

WHEREAS, the Parcel Reconfiguration tool development process resulted in the creation of the Agricultural Area Amendments; and

WHEREAS, the proposed code amendments have 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 code amendments; and

WHEREAS, the Whatcom County Planning Commission held two public hearings on the proposed amendments, with notices published in the Bellingham Herald, and considered all testimony; and

WHEREAS, the Whatcom County Planning Commission held five work sessions on the proposed amendments, and forwarded its findings and reasons for action to the County Council; and

WHEREAS, the Whatcom County Council has reviewed the Planning Commission recommendation, held five committee work sessions between March and June of 2013, and held a public hearing on the proposed ordinance, with notices published in the Bellingham Herald, and considered all testimony; and

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

FINDINGS

1. The Whatcom County Agricultural Strategic Plan was developed by the county’s Agricultural Advisory Committee made up of farmers and farming
industry representatives appointed by the Whatcom County Executive and
affirmed by the County Council.

2. The Agricultural Strategic Plan was supported by the County Executive and
endorsed by the County Council on July 26, 2011 through Resolution 2011-
023.

3. The Agricultural Strategic Plan built upon previous work within the
agricultural community including the Rural Land Study (2007; endorsed
through Council Resolution 2009-040), and an examination of the existing
potential residential development within the agricultural areas of the county
as described in four White Papers delivered to the WA State Office of
Farmland Preservation in January 2009 and posted on the county’s
Agricultural website since that time.

4. The examination of existing development potential was initiated in 2008
through a stakeholder and public process conducted by Whatcom Farm
Friends (county contract number 200711051), wherein tools were identified
with the goals of both retiring and accommodating existing development
potential in ways that benefit agriculture. Tools that retire existing
development potential were identified as options to reduce the overall
development potential within the agricultural areas, assisting the farming
industry by reducing the potential for uses that may conflict with agricultural
activities. Accommodation tools were identified as potential options that
assist the farming industry through various incentives that neither reduce nor
add density to the agricultural areas.

5. The Agricultural Strategic Plan contains a number of priority tasks, one of
which is “Parcel Reconfiguration tool development” which was intended to
allow the reconfiguration of parcels within and across ownership, to place the
existing development potential in areas that are the least valuable as farm
land; accommodating existing development potential in a manner that better
fits with the farming operation.

6. A Project Review Team consisting of County staff, Agricultural Advisory
Committee (AAC) representatives, and a Whatcom Farm Friends
representative met throughout the process with assistance from BERK
Consulting to review objectives and draft documents. Meeting dates were:
February 15, April 12, May 10, and July 26, 2012. This team continued to
meet without the assistance from BERK Consulting as a subcommittee of the
AAC.

7. A Determination of Nonsignificance (DNS) was issued under the State
Environmental Policy Act (SEPA) on August 23, 2012.

8. The preliminary project plan was posted on the county website on March 6,
9. A Focus Group meeting conducted by BERK Consulting was held on March 5, 2012 with nine experts in Whatcom County agricultural land use, development, and financing to brainstorm how parcel reconfiguration could work to allow rearrangements of parcels (within and across ownership) to place the existing development potential in areas that are the least valuable as farmland, in a manner that benefits the County and the landowner and is consistent with other state and local priorities.

10. A Public Open House concerning the project and draft alternatives was held at Cornwall Church on May 3 at 6:30 PM, with notice posted on the County website and sent to citizen, media and other groups on the County’s e-mail list on April 19, 2012.

11. A document entitled “Situation Assessment: Incentives for Commercial Agriculture: Parcel Reconfiguration” (Situation Assessment) identifying the current conditions, parcel reconfiguration objectives, key issues, recommendations, public process, draft code amendments, and analyzing Growth Management Act and Hearings Board cases and other jurisdictional examples was published on May 31, 2012 by BERK Consulting and posted on the County website on June 8, 2012.

The Situation Assessment contains a list of principles used to help guide the parcel reconfiguration work program:

- Increase the long-term viability of agriculture while recognizing underlying economic realities.
- Provide more flexibility/incentives for homes, placed with the least impact to agricultural operations.
- Reduce potential conflicts with neighbors.
- Ensure parcel reconfiguration tools are “density neutral.”
- Overarching principles should drive the regulations (e.g. equal to or better than...).
- Honor and protect property rights and values to help farmers stay in business.

13. Notice of the subject amendment was submitted to the Washington State Department of Commerce on June 7, 2012.

14. The Planning Commission held a work session on July 12, 2012 to discuss the Agricultural Strategic Plan, including background information and all priority tasks. Notice was posted on the County website, and was sent to citizen, media and other groups on the County’s e-mail list on June 27 and on July 5, 2012.
15. A Code Development Technical Workshop open to the public was held on July 16, 2012 to further discuss proposed code amendments, with notice posted on the County website and sent to citizen, media and other groups on the County’s e-mail list on June 27 and on July 10, 2012.

16. The Planning Commission held work sessions on August 9, 2012, November 15, 2012, January 24, 2013, and February 14, 2013, to discuss the Parcel Reconfiguration tool and draft code amendments. Notice of these meetings was posted on the County website, and was sent to citizen, media and other groups on the County’s e-mail list prior to the meetings in accordance with general practices.

17. A Supplemental Analysis and Recommendations document was published on August 31, 2012 to provide updated information following the publication of the “Situation Assessment: Incentives for Commercial Agriculture: Parcel Reconfiguration” prepared by BERK Consulting. The Supplemental Analysis was posted on the County website on September 20, 2012.

18. The Planning Commission held a public hearing on the subject amendment on October 25, 2012. Notice of the Planning Commission hearing was sent to the county email list which includes City representatives from Lynden, Ferndale, Everson, Nooksack and Sumas; citizens; media; and other group representatives on October 4, 2012. Notice of the Planning Commission hearing for the subject amendment was posted on the County website on October 17, 2012. Notice of the Planning Commission hearing for the subject amendment was published in the Bellingham Herald on October 12, 2012.

19. The Planning Commission held a second public hearing on the subject amendment on February 28, 2013. Notice of the Planning Commission hearing was sent to the county email list which includes City representatives from Lynden, Ferndale, Everson, Nooksack and Sumas; citizens; media; and other group representatives on February 20, 2013. Notice of the Planning Commission hearing for the subject amendment was posted on the County website on February 19, 2013. Notice of the Planning Commission hearing for the subject amendment was published in the Bellingham Herald on February 17, 2013.

20. The Whatcom County Council held Committee work sessions on the subject amendment on March 26, April 9, May 7, May 21 and June 18, 2013, and in the process narrowed the scope of the changes, and began referring to them as the Agricultural Area Amendments.

21. The Whatcom County Council introduced an ordinance with the proposed amendments on July 9, 2013, and held a public hearing on the same on July 23, 2013. Notice of the hearing was posted on the county Planning Department – Agricultural program website, and sent to the county email list
which includes City representatives from Lynden, Ferndale, Everson, Nooksack and Sumas; citizens; media; and other group representatives on June 20, 2013. Notice of the hearing for the subject amendment was published in the Bellingham Herald and posted on the County Council website according to standard Council practices.

22. In order to approve the amendments, the County must find that they are consistent with the Growth Management Act (GMA). Additionally, the County must find that the amendments are consistent with and implement the Whatcom County Comprehensive Plan.

23. The GMA (RCW 36.70A.020) lists thirteen planning goals to guide the development and adoption of comprehensive plans and development regulations. The proposed amendments reflect a balance of these planning goals; primarily: (2) Reduce sprawl, (6) Property rights, (7) Permits, (8) Natural resource industries, (10) Environment, and (11) Citizen participation and coordination.

24. The GMA (RCW 36.70A.030) contains a definition for "agricultural land" meaning "land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production."

25. The GMA guides the adoption of development regulations to assure the conservation of designated agricultural, forest, and mineral lands of long-term commercial significance. Both the GMA and Washington Administrative Code (WAC) offer specific guidance:

- Development regulations must assure the conservation of agricultural lands (RCW 36.70A.060).

- Natural resource uses have preferred and primary status in designated natural resource lands. Counties and cities must determine if and to what extent other uses will be allowed. If other uses are allowed, counties and cities should consider using innovative land management techniques that minimize land use incompatibilities and most effectively maintain current and future natural resource lands (WAC 365-190-040).

- Regulations for the conservation of natural resource lands may not prohibit uses legally existing on any parcel prior to their adoption (RCW 36.70A.060).
• Development regulations must assure that the planned use of lands adjacent to natural resource lands will not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands (RCW 36.70A.060).

• Counties and cities are encouraged to use a coordinated program that includes non-regulatory programs and incentives to supplement development regulations to conserve natural resource lands (WAC 365-196-480).

26. The GMA (RCW 36.70A.177) encourages counties to consider use of innovative zoning techniques designed to conserve agricultural lands and encourage the agricultural economy, and requires accessory uses to be limited according to the section.

27. Consultant attorney review concluded that the GMA provides some flexibility for the County to allow landowners to vary from minimum lot sizes in individual cases, as long as:

• The County provides appropriate standards with reasonable limits that protect rural character (such as siting criteria that are consistent with the County’s definition for "rural character") and that conserve agricultural lands;

• The County does not allow the overall pattern of lot sizes and densities to be materially changed, to the detriment of rural character or agricultural conservation; and

• Where appropriate, the County requires compensating areas to be set aside and permanently dedicated to agricultural or open space uses.

28. Whatcom County Comprehensive Plan Goal 8A is to: Conserve and enhance Whatcom County’s agricultural land base for the continued production of food and fiber. Additionally, the following policies are relevant to the proposed amendments:

Policy 8A-4: Discourage conversion of productive agricultural land to incompatible nonagricultural uses.

Policy 8A-6: Prioritize agricultural activity in land use decisions when land is composed of prime and/or productive agricultural soils and agriculture is the highest value resource use.

Policy 8A-7: Establish flexibility in land use plans and regulations to encourage maintenance of the productive agricultural land base.
Policy 8A-12: The Agricultural Advisory Committee shall advise the
Whatcom County Executive and Council on agricultural issues and
agricultural land use. Whatcom County shall support the Agricultural
Advisory Committee with staff and other resources.

The proposed amendments developed through the recommendations of the
County Agricultural Advisory Committee prioritize agricultural activities while
providing land owner flexibility and recognizing existing legal lots.

29. Whatcom County Comprehensive Plan GOAL 8C is to: **Preserve and enhance the cultural heritage that is related to agriculture.**
   Additionally, the following policies are relevant to the proposed amendments:

   Policy 8C-1: Find ways for retiring farmers to pass their farms on to their children and for young farmers to be able to afford to buy productive farmland.

   Policy 8C-2: Identify, preserve, and enhance community character, landscape, and buildings associated with agricultural activity.

   Policy 8C-3: Involve those who actually are engaged in agricultural activities in the planning process. Utilize groups working effectively with the agricultural community to help preserve and/or create a sustainable economic agricultural base.

   Policy 8C-4: Support the continuation of owner occupied/family owned farms.

   The proposed amendments respond to public input from farmers, agricultural land owners, and the public by providing opportunities for smaller lot sizes that may be easier to finance for farming purposes while allowing existing residential development potential in a way that is minimally disruptive to the agricultural activities.

30. Whatcom County Comprehensive Plan GOAL 8D is to: **Reduce land use conflicts between Whatcom County’s agriculture and non-agricultural landowners.** Additionally, the following policies are relevant to the proposed amendments:

   Policy 8D-1: Work to reduce conflicts between incompatible agricultural activities by establishing zoning regulations which protect productive agricultural lands of long-term commercial significance from conversion to non-compatible uses. This zoning should recognize the diversity of agricultural landowners and agricultural land uses. This zoning should provide flexible regulations, which encourage all agricultural landowners
to maintain the productive agricultural land base while protecting them
from conflicting uses.

Policy 8D-6: Support agricultural activity in mixed farm/rural residential
areas, with the understanding that certain farm practices may conflict
with other neighboring rural land uses.

The proposed amendments provide a flexible alternative to larger-lot
residential development in a manner that encourages the conservation of the
productive agricultural lands.

CONCLUSIONS

1. The subject amendments comply with the Growth Management Act.

2. The subject amendments are consistent with and implement the Whatcom
County Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the
Whatcom County Code is hereby amended as shown in Exhibit 1.

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 ________, 20__.

ATTEST:

Dana Brown-Davis, Clerk of the Council

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Kathy Kershner, Council Chair

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Jack Louws, County Executive

( ) Approved    ( ) Denied
Date Signed: _____________________
EXHIBIT 1

PROPOSED CODE AMENDMENTS: AGRICULTURAL AREA

Chapter 20.40 AGRICULTURE (AG) DISTRICT

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Prepared by BERK & Whatcom County PDS staff

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Chapter 20.40
AGRICULTURE (AG) DISTRICT

Sections:

20.40.010 Purpose.
20.40.050 Permitted uses.
20.40.100 Accessory uses.
20.40.130 Administrative approval uses.
20.40.150 Conditional uses.
20.40.200 Prohibited uses.
20.40.250 Minimum lot size and land subdivision: Division or modification of parcels.
20.40.350 Building setbacks.
20.40.450 Lot coverage.
20.40.650 Development: New or modified parcel siting criteria.
20.40.651 Landscaping.
20.40.652 Drainage.
20.40.662 Use of natural resources.

20.40.010 Purpose.

The primary purposes of this district are to implement the agricultural designation of the Comprehensive Plan, established pursuant to RCW 36.70A.170, preserve, enhance and support the production of food and fiber in Whatcom County, to maintain a sufficiently large agricultural land base to ensure a viable agriculture industry and to maintain the economic feasibility of supporting services. Whatcom County supports agricultural activities as the highest priority use in the Agriculture District, with all other uses being subordinate to agricultural activities. Whatcom County seeks to minimize conflict with surrounding zoning districts, in conjunction with Chapter 14.02 WCC, Right to Farm. In order to limit the further fragmentation of the commercial agricultural land base, the Agriculture District includes smaller areas of land with poorer quality soils or nonagricultural uses, which do not meet the definition of agriculture lands of long-term commercial significance.

A secondary purpose of this district is to serve as a holding district when located within the urban growth area Comprehensive Plan designation to allow agricultural uses in the near term while protecting the area from suburban sprawl and preserving the potential for future urban development consistent with the protection of the resource land. (Ord. 2009-071 § 2 (Exh. B), 2009; Ord. 2005-079 § 1, 2005; Ord. 2001-020 § 1 (Exh. 1 § 1), 2001).
20.40.250 Minimum lot size and land subdivision. Division or Modification of Parcels.

(1) The minimum lot size in the Agriculture District is 40 acres, except as provided for in WCC 20.40.251 and 20.40.252. The minimum length to width ratio is five to one. The terms “length” and “width” refer to the average length and average width of the parcel.

(2) All divisions of land in the Agriculture District shall proceed in accordance with the local and state subdivision laws.

(3) Boundary line adjustments shall not make a lot substandard or further substandard, except as provided for in WCC 20.40.251 and 20.40.252.

It is the intent of this section to allow divisions which benefit the long-term viability of agriculture. This section describes the requirements for division or modification of parcels within the agricultural district that either are consistent with the minimum lot size, or would result in substandard parcels or make existing substandard parcels further substandard. Requests for land division or boundary line adjustment in the Agriculture District shall be made on forms provided by the department and will be reviewed administratively. An additional application, deemed sufficient to initiate subdivision or boundary line adjustment review by planning and development services, must be submitted within 24 months of the administrative approval granted pursuant to this section. All divisions must comply with the following provisions:

(1) Agricultural Divisions. All divisions of land in the Agriculture District shall proceed in accordance with the local and state subdivision laws.

(2) Allowable Density. No divisions or boundary line adjustment shall result in an increase in allowable density.

(3) Additional Acreage. Additional acreage gained through a boundary line adjustment shall not be considered in the total acreage calculations for determining density.

(4) Plat Restrictions. The following plat restriction is required, prior to recording, on the nonresidential lot of all divisions of land provided for in WCC 20.40.254(2) 252:

No further division or residential structure shall be allowed on this parcel until and unless and until changes in the zoning of this property occur consistent with State and local laws which would result in additional development density, in which case this restriction shall be null and void, and density and uses of the new zone shall apply to the property upon review by the Whatcom County zoning administrator.

(5) Deed Restrictions. Deed restrictions are required for all boundary line adjustments allowed under WCC 20.40.254(3) and (4) 20.40.252.

(a) The following language must be recorded separately and placed by reference of auditors file number on the deed, and placed on the tract map of the nonresidential portion of the adjusted parent parcels prior to recording:

The development density of the original parcel (parent parcel) remains with legal description _________. The ________ (# of acres) appended through boundary line adjustment to legal description _________ (receiving parcel)
shall not be included in calculations to determine total development density for the receiving parcel. The inclusion of existing agricultural structure(s) within the farmstead home-site parcel shall be allowed if the farmstead home-site parcel does not exceed three acres, and if any of the following criteria are met:

(a)-(b) The following deed restriction language must be recorded separately and placed by reference of auditors file number on the deed, and is required when there is no additional means to further subdivide the property due to the parcel sizes and density standards of this zone:

No further division or residential structure shall be allowed on this parcel unless and until changes in the zoning of this property occur consistent with State and local laws which would result in additional development density, in which case this restriction shall be null and void, and density and uses of the new zone shall apply to the property upon review by the Whatcom County zoning administrator.

20.40.251 Minimum Lot Size.
The minimum lot size in the Agriculture District is 40 acres, except as provided for in WCC 20.40.2531 and 20.40.2542. The creation of a lot less than the minimum size is permitted only when the subject application meets the standards contained in WCC 20.40.253, .254, and .650, as applicable.

<table>
<thead>
<tr>
<th>Parcel</th>
<th>Minimum Lot Size</th>
<th>Minimum Lot Size Exceptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conventional Parcel</td>
<td>40 acres</td>
<td>Reconfiguring existing nonconforming parcels</td>
</tr>
<tr>
<td>Farmstead Parcels Created through Agricultural Short Subdivision or Agricultural Boundary Line Adjustment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Farmstead Parcel – Parent Parcel with Existing Farmstead with public water</td>
<td>1 acre</td>
<td>Up to 3 acres pursuant to WCC 20.40.253 (1),(2) &amp; (4)</td>
</tr>
<tr>
<td>Farmstead Parcel – Parcel with Existing Farmstead without public water</td>
<td>2 acres</td>
<td>Up to 3 acres pursuant to WCC 20.40.253 (1)-(4)</td>
</tr>
<tr>
<td>Farmstead Parcel – Parent Parcel without Existing Farmstead with public water</td>
<td>1 acre</td>
<td>Up to 2 acres pursuant to WCC 20.40.253 (1) &amp; (2)</td>
</tr>
<tr>
<td>Farmstead Parcel – Parcel without Existing Farmstead with public water</td>
<td>2 acres</td>
<td>Up to 3 acres pursuant to WCC 20.40.253 (1),(2) &amp; (3)</td>
</tr>
<tr>
<td>Parcels Created for Agricultural Purposes Only</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----------------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Created Parcel <strong>with</strong> deed restriction for no residential buildings</td>
<td>10 acres</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**20.40.252 Minimum lot width and depth.**

(1) For parcels created consistent with the minimum lot size, the minimum length to width ratio is five to one $\frac{1}{5}$. The terms “length” and “width” refer to the average length and average width of the parcel.

(2) For lots created or rearranged pursuant to WCC 20.40.254, the following lot width and depth shall apply:

<table>
<thead>
<tr>
<th>Minimum Width at Street Line</th>
<th>Minimum Width at Bldg. Line</th>
<th>Minimum Mean Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>70’ [A]</td>
<td>80’</td>
<td>100’</td>
</tr>
</tbody>
</table>

[A] Applies only to land divisions or parcel reconfigurations where the parcel(s) does not contain a farmstead homesite at the time of the application.

**20.40.253 Farmstead or Reconfigured Parcel Minimum Lot Size Exceptions**

The base maximum for the farmstead parcel shall be consistent with the minimum lots size in 20.40.251, except as follows:

(1) A greater area is determined necessary by the health officer pursuant to Chapter 24.05 On-Site Sewage System Regulations;

(2) A greater area is determined necessary by the responsible official to accommodate a driveway or other access necessary for the farmstead parcel;

(3) For farmstead parcels without public water: Unless substantial evidence is provided by the responsible official indicating the location is not feasible, wells and wellhead protection zones shall also be located within the farmstead parcel. Wells located outside of the farmstead parcel area shall be sited to minimize potential impacts on agricultural activities.

(4) For farmstead parcels with existing farmstead homesites: There is an existing agricultural structure(s) within the farmstead parcel and any of the following criteria are met:

(a) The separation between the agricultural structure(s) and the primary residential structure is less than 150 feet; or

(b) Current use of the agricultural structure(s) is not related to an agricultural activity; or

(c) There is a low potential for future use of the agricultural structure(s) to be associated with an agricultural activity due to physical condition or compatibility with agricultural practices; or

(d) Water is not available for use at the agricultural structure(s).

**1)-20.40.254 Separation of the Farmstead Home-SiteParcel: Criteria**

Prepared by BERK & Whatcom County PDS staff

Exhibit 1 – page 5
(1) The maximum lot-size criteria for approval for the home-site farmstead parcel and remainder parcel created through Agricultural Boundary Line Adjustment or Agricultural Short Subdivision shall be determined by the following criteria for approval:

(a) The area of the parcel containing the farmstead home site, whether the home exists or is to be added, is limited to the minimum amount required to encapsulate structures, parking areas, driveways, septic systems, wells, and landscaping required setbacks; and

(b) The farmstead parcel size shall be as stated in WCC 20.40.251 less than one acre, unless the existing residential structure(s) and/or well and septic constraints require a larger parcel, but shall not exceed three acres; the maximum lot size consistent with the exceptions in WCC 20.40.253; and

(b)-c) The farmstead parcel and farmstead home site meet the siting criteria contained in WCC 20.40.650; and

(d) A remainder parcel shall be created equal to or greater than 10 nominal acres; and

(ec) The remainder parcel shall have no existing residential development and no development rights, and a condition containing the language as provided in WCC 20.40.250(4) or (5)(1)(3) shall be included on the short plat, boundary line adjustment, or agricultural parcel reconfiguration for the remainder parcel prior to final approval; and

(df) The applicant and his or her heirs provide right of first purchase for a period of not less than 60 days through deed restriction to the original purchaser and subsequent purchasers of the remainder parcel for purchase of the farmstead home-site parcel before they are offered on the open market; and

(eg) A right to farm disclosure statement as provided for in WCC 14.02.040(B) will be signed by the farmstead home-site parcel owner and subsequent purchasers of the farmstead home-site parcel, and recorded as per WCC 14.02.040(A)(1) and 14.02.050; and

(fh) All land division shall comply with the appropriate map and recording provisions of WCC Title 21; and

(gi) The overall submittal shall comply with WCC 20.40.250 et seq.

(2) Agricultural Short Subdivisions. Agricultural Short subdivisions for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.251 for a farmstead homsite shall comply with the following provisions:

(a) The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable code and provides a remainder (appended) parcel equal to or greater than 10 nominal acres; and

(b) The short subdivision application shall meet the size and performance standards of WCC 20.40.650.
(3) **Boundary Line Adjustments.** Boundary line adjustments for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.2510(3) of an existing or proposed farmstead home-site-parcel if such boundary line adjustment complies with the following provisions:

- (a) **Boundary line adjustments shall not make a lot substandard or further substandard, except as provided for in WCC 20.40.251 and 20.40.252.**

- (b) The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable codes and provides a remainder (appended) parcel equal to or greater than 10 nominal acres; and

- (cb) The farmstead home-site-parcel and boundary line adjustment application shall meet the size and performance standards of WCC 20.40.250 and 251, and the siting criteria of WCC 20.40.650.

(4) **Public Facility.** The division is for the purpose of public facilities for health and safety use or expansion of such uses pursuant to WCC 20.40.254; provided, that:

- (a) The division or boundary line adjustment will not adversely affect the surrounding agricultural activities; and

- (b) The applicant has demonstrated to the administrator's satisfaction that the siting of the proposed use cannot be located in an adjacent zoning district or alternative site, if the area is intensively farmed.

(5) **Division or Boundary Line Adjustment for Agricultural Purposes Only.** Lots smaller than the minimum lot size of WCC 20.40.251 may be created through land division or re-arranged through a boundary line adjustment provided the following:

- (a) The parent parcel does not contain an existing residence, or said existing residence will remain on a parcel larger than 40 acres in size; and

- (b) The parcel created is greater than 10 acres or is appended to another parcel; and

- (c) There is a properly executed deed restriction which runs with the land on lots which have been created through the division or modified by the boundary line adjustment, except those lots at or over 40 acres in size that maintain an associated development density. Such deed restriction shall be substantially similar to that listed under 20.40.250(5), approved by the zoning administrator and recorded with the County Auditor specifying:

  (i) All land divided or parcels adjusted are to be used exclusively for agricultural or flood management purposes and specifically not for a dwelling(s), and

  (ii) All land divided or parcels adjusted shall have no residential density, and

  (iii) For land divisions, the acreage of the newly created parcels shall not be included in calculations to determine total development density in the future, and

  (iv) For boundary line adjustments, the acreage of the newly created parcel and appended portion shall not be included in calculations to determine total development density in the future.
20.40.255 Consolidation of Adjacent Tracts.
Consolidation of adjacent tracts in the same ownership shall be required in accordance with 20.83.070 in approval of any subdivision, short subdivision, or boundary line adjustment in the Agricultural District. The County may waive the permit fee for a boundary line adjustment where adjacent lots of record are not in the same ownership and are consolidated voluntarily for purposes of the boundary line adjustment.

20.40.256 Establishing Intent.
The burden of establishing intent in and legal proceeding relating to a transaction accomplished or proposed under the authority of this section shall be upon the land owner or purchaser.

20.40.350 Building setbacks.
Building setbacks shall be administered pursuant to WCC 20.80.200 (Setback Requirements). Building setbacks for parcels of less than five nominal acres shall be administered pursuant to WCC 20.80.282(3)-.250.

20.40.450 Lot coverage.
No structure or combination of structures, including accessory buildings, shall occupy or cover more than 25 percent of the total area of the subject parcel. Exceptions to the maximum lot coverage may be allowed when any of the following can be demonstrated:
1. Proposed structures, in excess of the allowed maximum lot coverage, are located on lesser quality soils.
2. Proposed structures in excess of the allowed maximum lot coverage support additional agricultural production on parcels other than the subject parcel.
3. Expansion of facilities that were in operation prior to the adoption of the ordinance codified in this section if it can be demonstrated that substantial on-site investment has been made and location of additional structures off-site would cause an economic hardship to the farm operation.

20.40.650 Development New or Modified Parcel Siting Criteria
The location of vacant farmstead parcels shall be consistent with the following siting criteria and standards:

(1) Minimum Lot Size. Parcels shall be consistent with WCC 20.40.251.
(2) Parcel Design. Parcels shall be located and arranged to provide the maximum protection of agricultural land located both on and off-site. Parcel design and development shall be as follows:
   (a) The residential parcels shall be configured so that property lines are immediately adjacent and physically contiguous to each other; and

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Exhibit 1 – page 8
(b) Residential parcels shall be located as close as possible to existing public roads, or if none about the property then to existing access roads. New road or driveway development shall be avoided to the maximum extent feasible; and

(c) Except for parcels that recognize existing farmsteads, residential parcels shall be located to the extent feasible to maximize the remainder lot configuration and farmable area; and

(d) Except for reconfigured parcels that recognize existing farmsteads, each reconfigured parcel shall be limited to one single family residence and residential accessory structures; and

(e) Residential building sites shall maintain sufficient separation from on-site and off-site agricultural resources and exterior property lines. The setback, lot coverage, and height standards for reconfigured lots shall be as established in WCC 20.40.350 to 450; and

(f) Applicants shall verify that reconfigured parcels or farmstead parcels do not prohibit access to a point of withdrawal for any irrigation water rights certificates, claims, permits, or applications on the affected parcels; and

(g) All development shall be consistent with WCC Chapter 16.16; and

(h) The farmstead parcel avoids prime soils to the extent feasible. Where the site is predominantly in prime soils and such cannot be avoided, the applicant shall demonstrate that:

(i) the parcel is sized to be as small as feasible pursuant to WCC 20.40.251; and

(ii) located to maximize the agricultural use of the remainder lot; and

(iii) achieve the most suitable locations for parcels in terms of minimizing roads, allowing for water availability, and septic suitability.

(3) Substitute Parcel Design Standards. Applicants proposing a farmstead parcel may propose a substitute performance standard in place of a listed standard in .650 (New or Modified Parcel Siting Criteria) provided that the applicant submits a written justification demonstrating the substitute standard better or equally meets the purposes of the zone in WCC 20.40.010 and the following agricultural-related purposes:

(A) Expand the amount of commercially viable resource land under contiguous single ownership; and/or

(B) Protect and buffer designated resource lands; and/or

(C) Reduce impervious surfaces, such as by reducing the amount of road and utility construction required to serve the farmstead homesite, or by reducing the amount of impervious area for nonagricultural uses that could otherwise occur without the ag division; and/or

(D) Reduce the total number of lots of record through voluntary consolidation; and/or

(E) Produce a farm management plan approved through the Whatcom Conservation District or WA Department of Agriculture that demonstrates
increased viability of the agricultural operation through the ag division; and/or

(F) Enable improved floodplain management in cooperation with Whatcom County Public Works.

Such substitution shall be considered at the Administrator’s discretion.
Chapter 20.80
SUPPLEMENTARY REQUIREMENTS

Sections:
20.80.210 Minimum setbacks.
20.80.230 Measurement of setbacks.
20.80.250 Special setbacks provisions by district.
20.80.252 Rural District.
20.80.255 Agriculture District.
20.80.258 All districts.

20.80.210 Minimum setbacks.

(5) Setbacks. For the purposes of this chapter, the road classification used to determine setback requirements shall be as set forth in this section. In the event a particular road is not listed in this section, the department of public works shall determine the classification, which classification shall be based on the Whatcom County Development Standards or such other local, state or federal roadway standards as the department of public works deems appropriate.

(a) Setback Requirements of All Districts.

(i) No manure lagoon or other open pit storage shall be located closer than 150 feet from any property line, or in a manner which creates any likelihood of ground water pollution or other health hazard.

(ii) All manure storage shall be protected from a 25-year flood and shall be located 50 feet from irrigation ditches and waterways, 50 feet from the ordinary high water line of any lake or waterway; provided, that best management practices as determined by the Whatcom County Conservation District are in place. If the best management practices are not in place, 300 feet shall be substituted for 50 feet.

(iii) In all districts where a single-family residence is a primary permitted use, a building permit may be issued for the construction of a replacement dwelling on the same lot; provided, that the owner agrees by filing a statement with the building official that the old dwelling will be demolished, removed or converted to another permitted use upon completion of the new dwelling.

(iv) A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures
may only be built within the 10-foot setback area after approval from the International Boundary Commission.

(b) Setbacks Table.

***

### Resource Lands Setbacks

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<th>Agricultural (AG)</th>
<th>Road Type</th>
<th>Other</th>
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<td>Collector Arterials or Major Collectors</td>
<td>Minor Collectors</td>
</tr>
<tr>
<td>50'</td>
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</tr>
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1. The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds the new building or addition is located along the same building line(s) of existing structures and will result in no additional encroachment and the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.

2. The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed shall be 300 feet. New farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor’s residence, and pastures are excluded from this section’s requirements.

3. Parcels of less than five nominal acres shall have the following minimum setbacks:

   - Front yards:
     - Primary arterials and secondary arterials: 45 feet.
     - Collector arterials: 35 feet.
     - Neighborhood collectors, local access streets: 25 feet.
     - Minor access streets: 20 feet.
Minimum front yard requirements can be reduced by the zoning administrator for agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels established through WCC 20.40.253 - .254 if the proposed placement of the structures will result in a better fit with critical areas or prime soils and goes through the approval process in WCC 21.03. In no case shall front yard depth be less than 20 feet.

Side yards: minimum side yard setbacks shall be five feet. For boundary line adjustments or farmstead parcels established through WCC 20.40.253 - .254, the exterior side yard and exterior rear yard requirements of habitable structures shall be 30 feet.

Rear yards: minimum rear yard setbacks shall be five feet.

4. A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.

***

20.80.255 Agriculture District.

(1) The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds the new building or addition is located along the same building line(s) of existing structures and will result in no additional encroachment, the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.

(2) The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed, shall be 300 feet. New farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed, shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor's residence, and pastures are excluded from this section's requirements.

(3) Parcels of less than five nominal acres shall have the following minimum setbacks:

Front Yards:
- Primary arterials and secondary arterials: 45 feet.
- Collector arterials: 35 feet.
- Neighborhood collectors, local access streets: 25 feet.
- Minor access streets: 20 feet.
Minimum front yard requirements can be reduced by the zoning administrator for agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels established through WCC 20.40.253 - .254 if the applicant demonstrates better placement of the structures in relation to critical areas or prime soils and goes through the approval process in WCC 21.03, but in no case shall be less than 20 feet.

Side Yards: Minimum side yard setbacks shall be five feet. For agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels established through WCC 20.40.253 - .254, the exterior side yard and exterior rear yard requirements of habitable structures shall be 30 feet.

Rear Yards: Minimum rear yard setbacks shall be five feet. (Ord. 2001-020 § 1 (Exh. 1 § 2), 2001; Ord. 99-080, 1999).

...
Chapter 20.83
NONCONFORMING USES AND PARCELS

20.83.110 Reduction of area.
The administrator shall not cause or increase the nonconformity of lots that are substandard as to lot area and/or lot width requirements through boundary line adjustments; provided, however, that the administrator or hearing examiner may approve boundary line adjustments required to satisfy an unidentified or disputed property line or to identify the same in accordance with RCW 58.04.007. In addition, boundary line adjustments in the Agricultural zone in conformance with WCC 20.40.254 and 20.40.252 20.40.253-.254 shall be allowed. (Ord. 2009-031 § 1 (Exh. 1), 2009).
Chapter 21.01
GENERAL PROVISIONS

Sections:
21.01.010 Title.
21.01.020 Purpose.
21.01.030 Authority.
21.01.040 Applicability and exemptions.
21.01.050 Interpretation, conflict and severability.
21.01.060 Enforcement and penalties.
21.01.070 Fees.
21.01.080 Administrative responsibilities.
21.01.090 Pre-application meeting.
21.01.100 Applications required.
21.01.105 Consolidated application process.
21.01.110 Complete application.
21.01.120 Time frames.
21.01.130 Underground utilities.
21.01.140 Regulatory authority for development standards.
21.01.150 Repealed.
21.01.160 City urban growth areas.
21.01.170 Hearing examiner consultation with technical advisory committee.

21.01.010 Title.

This title shall be known and may be cited as the Whatcom County land division regulations. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.01.020 Purpose.

The purpose of this title is:
(1) To promote the public health, safety, and general welfare, and to protect the natural resources and the environment.
(2) To provide for proper application of Chapter 58.17 RCW.
(3) To facilitate efficient and cost-effective land division and to ensure orderly growth and development consistent with the Whatcom County Comprehensive Plan and the Whatcom County Code.
(4) To establish an orderly transition from existing land uses to urban development patterns in designated urban growth areas. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.01.030 Authority.

This title is authorized pursuant to the authority delegated to Whatcom County under Chapter 58.17 RCW, Plats - Subdivisions - Dedications. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

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21.01.040 Applicability and exemptions.
(1) This title shall apply to property boundary actions as defined in this title.
(2) The subdivision and short subdivision provisions of this title shall not apply to:

(f) A division made for the purpose of alteration by adjusting boundary lines, between
platted or unplatted lots or both, which does not create any additional lot, tract, parcel,
site, or division nor create any lot, tract, parcel, site, or division which contains
insufficient area and dimension to meet minimum requirements for width and area for a
building site in accordance with the provisions of this title;

(i) Divisions of land into parcels of less than forty acres but greater than ten acres within
the area zoned and designated as Agriculture in the Comprehensive Plan for Whatcom
County proceeding in accordance with 20.40.254(6).

21.01.100 Applications required.
(1) The applicant is encouraged to seek assistance from the subdivision administrator as to
which approvals are required for a particular proposal. One or more of the following
applications may be required for a particular proposal:

(a) Exempt land division;
(b) Boundary line (lot line) adjustment;
(c) Short subdivision;
(d) Preliminary long subdivision;
(e) Final long subdivision;
(f) Subdivision vacations and alterations;
(g) Preliminary binding site plan;
(h) General binding site plan;
(i) Specific binding site plan;
(j) Agricultural short plat. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).
Chapter 21.03
EXEMPT LAND DIVISIONS AND BOUNDARY LINE ADJUSTMENTS

Sections:

21.03.010  Purpose.
21.03.020  Repealed.
21.03.030  Pre-approval.
21.03.040  Certificate of exemption.
21.03.045  Required disclosures.
21.03.050  Access on state highways.
21.03.060  Boundary line adjustments.
21.03.070  Inactive applications.
21.03.080  Requirements for a fully completed exempt land division application.
21.03.085  Requirements for a fully completed boundary line adjustment application.
21.03.090  Repealed.

...  

21.03.060 Boundary line adjustments.

The purpose of this section is to provide procedures for the review and approval of adjustments or alterations to boundary lines of existing lots of record which does not create any additional lot, tract, parcel, site or division nor create any lot, tract, parcel, site or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site.

...

(2) Decision Criteria. In reviewing a proposed boundary line adjustment, the subdivision administrator or hearing examiner shall use the following criteria for approval:

(a) The boundary line adjustment shall not result in the creation of an additional lot.
(b) With the exception of those boundary line adjustments located within the agricultural zone, the boundary line adjustment shall result in lots which contain sufficient area and dimensions to meet minimum requirements for width and area for a building site pursuant to this title.
(c) The boundary line adjustment shall be consistent with any restrictions, depictions or conditions regarding the overall area in a plat or short plat devoted to open space, environmental mitigation or conservation.
(d) The boundary line adjustment shall be consistent with any restrictions or conditions of approval for a recorded plat, short plat, zoning permit, or development permit.
(e) The boundary line adjustment shall not cause boundary lines to cross on-site sewage disposal systems or their reserve areas, prevent suitable area for on-site...
sewage disposal systems, or prevent adequate access to water supplies unless suitable mitigation including, but not limited to, the granting of utility easements is provided to the satisfaction of Whatcom County; provided, however, in the agricultural zone only those lots with existing on-site sewage disposal systems or potable water supplies are subject to this provision.

(f) The boundary line adjustment will not create a new access which is unsafe or detrimental to the existing road system because of sight distance, grade, road geometry or other safety concerns, as specified in adopted Whatcom County road development standards.

(g) The boundary line adjustment on lots without an existing farmstead home site shall demonstrate adequate septic and potable water suitability. Applicants shall demonstrate adequate potable water availability per WCC 24.11. Applicants shall demonstrate septic suitability approval pursuant to WCC 24.05.
Chapter 21.04 SHORT SUBDIVISIONS

Sections:

21.04.010 Purpose.
21.04.031 Pre-application meeting.
21.04.032 Short subdivision application submittal.
21.04.033 Determination of completeness and vesting.
21.04.034 Application procedures.
21.04.035 Final short subdivision review process.
21.04.038 Applications subject to time limits.
21.04.040 Restriction of further division.
21.04.050 Development requirements.
21.04.060 Roads.
21.04.070 Public dedications.
21.04.080 Easements.
21.04.090 Water supply.
21.04.100 Sewage disposal.
21.04.110 Fire protection.
21.04.120 Short subdivision vacation and alteration.
21.04.130 Land survey.
21.04.150 Requirements for a fully completed application for short subdivisions.
21.04.160 Final review and submittal.
21.04.170 Disclosures and notes.

21.04.010 Purpose.

The purpose of this chapter is to establish or reference the procedure and requirements for the application, review and approval of short subdivisions.

...  


The provisions of WCC 20.40.253 - .2542(1) provide for the segregation of a farmstead parcel with an existing residence(s) from a remainder parcel used for farming in the Agriculture Zone. The remainder parcel is restricted to agricultural use only. Because no further residential development can occur on the remainder parcel and an existing residential structure is already on the farmstead parcel, many of the standard short plat requirements are unnecessary. Therefore, a shortened review process has been established.

Agricultural short plats that qualify under WCC 20.40.253 - .2542(1) shall be subject to the following:

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(1) Agricultural short plats that recognize an existing farmstead homesite shall be processed pursuant to all the requirements of this chapter except that the short plat will not be reviewed for compliance with:

(a) WCC 21.04.060 (Roads);
(b) WCC 21.04.090 (Water supply), when the remainder parcel will not require potable water;
(c) WCC 21.04.100 (Sewage disposal);
(d) WCC 21.04.130 (Land survey);
(e) Chapter 16.16 WCC (Critical Areas); and
(f) Shoreline master program.

(2) Any subsequent development must comply with all applicable codes.

(3) Survey Requirements – Partial. A survey, prepared by a professional land survey in accordance with WCC 21.09.010 and 21.09.020, which provides the location of at least two corners of the farmstead parcel shall be submitted. A survey is not required for the remainder parcel that cannot have further residential development.
Chapter 20.97 DEFINITIONS

Zoning Definitions

20.97.132 Farmstead parcel.
The "farmstead parcel" includes the legally subdivided portion of the property-parent parcel containing an existing or planned primary and secondary agricultural structures and the-farmstead home site. (Ord. 2005-073 § 1, 2005; Ord. 2001-020 § 1 (Exh. 1 § 3), 2001).

20.97.133 Farmstead home site.
The "farmstead home site" includes that portion of the farmstead-parent parcel used for existing or planned residential buildings, uses accessory to residential buildings, drainfields, wells, wellhead protection area(s), established landscaped areas contiguous with the non-agricultural built area, and structures as allowed in WCC 20.40.2532(a) through (d). (Ord. 2005-073 § 1, 2005).
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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AGENDA DATE: July 9, 2013

INTRODUCTION

July 23, 2013

COUNCIL

TITLE OF DOCUMENT: Ordinance adopting amendments to the 2013-2018 Six-Year Capital Improvement Program

ATTACHMENTS:
1. Cover Memorandum
2. Proposed Ordinance and Exhibits
3. Planning Commission Findings of Fact and Reasons for Action
4. Excerpts from May 23, 2013 Planning Commission Meeting Draft Minutes

SEPA review required? ( ) Yes ( ) NO
SEPA review completed? ( ) Yes ( ) NO

Should Clerk schedule a hearing? ( ) Yes ( ) NO
Requested Date: July 23, 2013

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 ordinance amends Chapters 11 & 12 of the County’s Six-Year Capital Improvement Program (CIP) (2013-2018). Chapter 11 of the CIP is amended by adding four additional capital improvement projects, and modifying two existing projects. The new and amended projects will be funded (in part) with Real Estate Excise Tax (REET) monies, and pursuant to state law, REET funds may be used for capital facility projects, but only when they are identified in the Capital Facilities Plan i.e. the Six-Year CIP [RCW 82.46.010 & RCW 82.46.035]. Chapter 12 of the Six-Year CIP, “Costs by Project Category” is also amended to reflect summary changes to Chapter 11 “total capital costs” over the six year planning period (2013-2018). Pursuant to the Growth Management Act (GMA), amendments to the County’s Comprehensive Plan may be considered no more frequently than once per year (with certain exceptions); one such exception is when a Capital Facilities Plan is amended concurrently with the County budget [RCW 36.70A.130(2)(a)(iv)]. Administrative Services Department, Finance Division proposed an amendment to the County’s 2013-2014 Biennial Budget to appropriate funds for one of the above referenced projects (the Superior Court Fourth Judge Courtroom Renovations Project); this amendment was adopted by the County Council at its June 18, 2013 meeting under Ordinance 2013-032, thereby satisfying the above exception.

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: AB2013-088 – Res. 2013-007
Related File Numbers: PLN2013-00009

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
Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-676-6907, TTY 800-833-6384
360-738-2525 Fax

MEMORANDUM

TO: Honorable Members of the Whatcom County Council & Honorable Jack Louws, Whatcom County Executive

FROM: Erin Osborn, Planner

THROUGH: Mark Personius, Long Range Planning Manager

DATE: June 25, 2013

SUBJECT: Draft Amendments to Appendix F, Six-Year CIP (2013-2018)

Presented here for your consideration is a packet containing Planning Commission recommendations on proposed amendments to Chapters 11 & 12 of the County’s Six-Year Capital Improvement Program (CIP), and also Exhibit A, which summarizes changes to the text of the CIP as proposed.

Also enclosed is a draft ordinance which has been prepared for review by the Council should they vote to adopt Planning Commission recommendations, and for review by the County Executive should he signify his approval by signing the ordinance. Please note: PDS staff recommends that the County Council strike a highlighted portion of Planning Commission Finding No. 22 located at the bottom of Page 4 of the draft ordinance which incorrectly references a notice of public hearing published in the Bellingham Herald.

This item is proposed to be introduced at the July 9, 2013 regularly scheduled Council Meeting, and as proposed it will be on the Council Agenda for discussion in Public Works, Health & Safety Committee meeting in the afternoon of August 6th, with public hearing and consideration by the full Council to follow on the evening of that same day.

**Background:** The Six-Year CIP is updated every two years and is adopted as Appendix F into the Whatcom County Comprehensive Plan. Most recently, the Six-Year CIP was updated in November 2012 under Ord. 2012-049 for the planning period of 2013-2018. The CIP contains an inventory of capital facilities and capital improvement projects for Whatcom County facilities along with a six year financing plan to fund these projects.

Pursuant to the Growth Management Act (GMA), amendments to the County’s Comprehensive Plan may be considered no more frequently than once per year
(with certain exceptions); one such exception is when a Capital Facilities Plan is amended concurrently with the County budget [RCW 36.70A.130(2)(a)(iv)]. Whatcom County Administrative Services Department, Finance Division recently proposed an amendment to the County's 2013-2014 Biennial Budget, in part, to appropriate funds for Superior Court Fourth Judge Courtroom Renovations Project (see below). This amendment to the County budget was adopted by ordinance (Ord. 2013-032) at the June 18, 2013 County Council meeting, thereby satisfying the above exception.

Summary of Proposed Amendments: The proposed amendments to Chapter 11 of the CIP are to add four new additional capital improvement projects, and to modify two previously adopted County Courthouse projects. Facilities Management has indicated that changes to the CIP are necessary, and that all of these projects, as amended will be funded (in part) with Real Estate Excise Tax (REET) monies. Pursuant to state law, REET funds may be used for capital facility projects, but only when they are identified in the Capital Facilities Plan i.e. the Six-Year CIP.

The four new additional capital improvement projects include:

1. Interior painting of Whatcom County buildings;
2. Exit Lighting at the County Courthouse;
3. Central Plaza (Public Defenders Building) exterior wall system engineering & repairs; and
4. Central Plaza building HVAC system upgrades.

The two existing CIP projects that are proposed to be modified are County Courthouse improvement projects. Changes to the existing CIP Courthouse projects only modify proposed source of funding, projected costs, and timeframe for expenditure of allotted funds. These improvement projects are:

1. Courthouse exterior wall system engineering and repairs; and
2. New Courtroom and Judicial Hearing Room for Whatcom County's new superior court judge (arriving in January 2015).

Exhibit A, draft text shows Chapter 11 of the CIP amended as proposed to show the four additional capital facilities improvement projects, the two existing modified Courthouse improvement projects, and funding sources, projected costs, and expected time frame for expenditure of funds for all projects. Exhibit A, draft text also shows Chapter 12 amended to reflect changes to costs that would occur if amendments to Chapter 11 are adopted.

Exhibit A also shows existing Chapters 11 & 12 with 'strike-through' text, to repeal these existing chapters in their entirety as recommended by the Planning Commission and Planning Division staff.

Thank you for your consideration.
ORDINANCE NO. __________

ADOPTING AMENDMENTS TO THE SIX-YEAR CAPITAL IMPROVEMENT PROGRAM (CIP) FOR WHATCOM COUNTY FACILITIES (2013-2018)

WHEREAS, The Whatcom County Council initiated the subject amendments for review in 2013; and

WHEREAS, The Growth Management Act (GMA) states that amendments to the County’s Comprehensive Plan may be considered no more frequently than once per year (with certain exceptions); one such exception is when a Capital Facilities Plan is amended concurrently with the County budget; and

WHEREAS, On June 18, 2013, the Whatcom County Council adopted an amendment to the County’s 2013-2014 biennial budget under Whatcom County Ord. 2013-032, concurrently with the proposed amendment to the Six Year Capital Improvement Program; and

WHEREAS, On May 23, 2013, the Whatcom County Planning Commission reviewed the subject proposal to amend the Six-Year Capital Improvement Program, and recommended approval of proposed amendments as shown on Exhibit A; and

WHEREAS, The Whatcom County Council held a public hearing on the subject amendments on XXXX XX, 2013; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The proposal is to amend the Whatcom County Comprehensive Plan as follows:

   a. Adopting amendments to Chapters 11 & 12 of the Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2013-2018 as shown in the attached Exhibit A: Amending Chapter 11 by adding four new capital improvement projects, and identifying for each a funding source, projected costs, and timeline for expenditure of allotted funds; and modifying funding source, projected costs, and spending schedule for two existing CIP County Courthouse projects previously adopted in 2012 under Ord. 2012-049; and finally, amending Chapter 12 to reflect changes to costs that will occur as a result of the above described amendments to Chapter 11.

2. Pursuant to RCW 36.70A.106, on April 22, 2013, a “60 Day Notice of Intent to Adopt Amendment” was submitted to the Washington State Department of Commerce in regards to the subject amendments.

3. On April 23, 2013, Whatcom County Planning & Development Services Department received confirmation from the Washington State Department of Commerce indicating that Commerce had received the County’s “60 Day Notice of Intent to Adopt Amendment”, and that Material ID # 19082 had been assigned to the materials received.

4. The State Environmental Policy Act (SEPA) requires that project and non-project actions be reviewed for the potential of probable significant adverse impacts to the environment, unless categorically exempt from review under SEPA.

   The Whatcom County Designated SEPA Official (lead agency) reviewed the proposed amendments to the Six-Year CIP (2013-2018), and on April 8, 2013 made a determination that no probable significant adverse impacts to the environment would be likely to occur as a result of adopting the proposed amendments, and further, that no additional public notice or public comment period would be required.

   This decision was made pursuant to WAC 197-11-600(4)(c), and after a review of a letter of addendum dated March 26, 2013, which was added to existing environmental documents on file with the lead agency under SEP2012-00058. Existing environmental documents on file with the lead agency include: an email “letter of addendum” dated March 26, 2013; a SEPA Checklist and Determination of Significance (DNS) originally issued August 23, 2012 which covered adoption of the [(Six-Year CIP (2013-2018) Whatcom County Ordinance (Ord. 2012-049)].

5. Notice of the Planning Commission hearing was posted on the County website on April 26, 2013.

6. Notice of the Planning Commission hearing, and that the proposal had been posted on the County website was sent to citizen, media, cities and other groups on the County’s e-mail list on May 9, 2013.

7. Notice of the proposed amendments was sent to the Lummi Indian Business Council, Historic Preservation Office on May 9, 2013.

8. The Planning Commission held a scheduled public hearing on the subject proposed amendments on May 23, 2013.

9. The Whatcom County Council held a scheduled public hearing on the subject proposed amendments on XXXX, XX, 2013.

10. Notice of the public hearing held by the County Council on the subject amendments was published in the Bellingham Herald on XXXX, XX, 2013.

11. Pursuant to WCC 2.160.080, in order to approve an amendment to the Whatcom County Comprehensive Plan, the County must find all of the following:
a. 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.

b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.

c. 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:

i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

ii. The anticipated effect on 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.

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

d. The amendment does not include or facilitate spot zoning.

e. Amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.

Growth Management Act

12. The Growth Management Act (GMA) establishes planning goals in RCW 36.70A.020 to guide adoption of comprehensive plan amendments.

13. GMA planning goal # 12 is to “Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards” (RCW 36.70A.020(12)).

14. The subject amendments include amending the Six-Year CIP for Whatcom County Facilities for the 2013-2018 planning period. Amendments to the CIP are one step in a process of planning regional facilities provided by the County to serve the people of Whatcom County.

15. The Growth Management Act, RCW 36.70A.070(3), requires that a comprehensive plan must include a capital facilities plan element consisting of:

a. An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities.

b. A forecast of the future needs for such capital facilities.
c. The proposed locations and capacities of expanded or new capital facilities.

d. At least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes.

e. A requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.

16. The Six-Year CIP (2013-2018) for Whatcom County Facilities contains an inventory of existing County owned or operated facilities, a forecast of future needs based upon the level of service standards adopted in the Whatcom County Comprehensive Plan and other factors, proposed expanded or new County capital facilities, costs and funding sources.

17. The purpose of the proposed amendments is to modify the Six-Year CIP, Chapters 11 & 12 (Exhibit A) to add four new improvement projects, their projected costs, sources of funding, and time line for expenditure of the allotted funds; and also to modify the funding source, projected costs, and projected date for expenditure of funds previously set for two existing County Courthouse improvement projects that are identified in Chapter 11 of the CIP as it was adopted in 2012.

18. The four new improvement projects that are proposed have been determined by Whatcom County Facilities Management as necessary to enhance performance and extend building longevity, and to increase life/safety in facilities used for official County business.

19. After their original adoption into the CIP, the two existing courthouse improvement projects that are proposed to be amended were reassessed and it was determined by Facilities Management that it would be necessary to make changes to projected costs, and funding sources, and changes to project start-up dates, in order to meet County goals for completion of these projects.

20. The proposed amendments are in conformance with the Growth Management Act in that the act requires that the County adopt a six-year financing plan to fund proposed capital facility improvement projects; the proposed improvement projects have been identified as necessary, and the CIP must be amended to include these projects prior to any monies spent.

**County-Wide Planning Policies**

21. In conformance with County Wide Planning Policies (A) 2-4 regarding public participation, the County has taken steps to ensure that the Whatcom County Public Participation Plan (2012) is followed with respect to providing information to the public, and other interested parties, about the details and scope of the proposed amendments under consideration.

22. PDS staff maintained a complete file on the amendments being considered, including background research, preliminary analysis, proposed draft text, and various agency correspondence. Public notice was published in the Bellingham Herald to inform the public of the scheduled upcoming public hearing to be held by the Planning Commission; and information about the upcoming hearing and a report containing staff analysis and recommendations were posted to the County website.

23. On May 9, 2013, an email describing the proposed amendments was sent to 200 interested citizens who have previously requested to be kept up to date on proposed amendments and
other County projects. Staff continues to be available to respond to inquiries from interested parties about the proposal. Any input received from interested parties will be considered and may form the basis of recommendations that are made to County decision-makers.

24. County-Wide Planning Policy K – Siting of Public Facilities

Policy K-1 states: “As part of the comprehensive planning process, the county and the cities shall identify appropriate land for public facilities which meets the needs of the community, such as schools, recreation, transportation and utility corridors, human service facilities, and airport and other port facilities . . .”

The proposed modifications to existing adopted CIP projects and the four new projects, if approved, will improve the structural integrity of county facilities, add to their longevity, and provide for an increase in overall life/safety in these facilities.

The proposed amendments to the CIP add four new projects to improve existing buildings, identify dollar amounts and funding sources for proposed improvement projects, and also modify existing sources of funding and dollar amounts set for expenditure on two existing improvement projects previously adopted in the CIP in 2012 (Ord. 2012-049). As proposed, the new projects and modified projects will help fulfill County-Wide Planning Policies that call for facility planning that “meets the needs of the community”.

Interlocal Agreements

25. Discussion: Interlocal agreements between Whatcom County and the cities emphasize the need for cooperation and identify the importance of consulting with any city as appropriate when the County plans new projects within the city’s urban growth area.

26. The purpose of the proposed amendments, in part, is to improve County owned/operated facilities. County facilities may be physically located throughout the county, such as the County Courthouse and the Central Plaza Building located within the City of Bellingham. Whatcom County facilities serve the interests of a widespread range of citizenry regardless of where they may reside. To ensure adequate notice of the County’s intent, and to ensure cooperation with all involved or affected parties, all of the cities were each sent an email memo describing County’s intent to amend its Six-Year Capital Improvement Program, along with an invitation to comment on proposal.

27. The Planning Commission finds that the proposed Six-Year Capital Improvement Program is generally consistent with the GMA, County Wide Planning Policies, and adopted Interlocal agreements with the cities.

Further Studies/Changed Conditions

28. The Six-Year CIP (2013-2018) was most recently revised and adopted, in November 2012, since that time, Whatcom County Administrative Services Department; Facilities Management Division has identified four additional projects that are designed to improve County facilities.

29. The four additional projects proposed, include: 1) Implementation of a interior painting schedule for all Whatcom County Facilities; 2) Improvements to the Central Plaza Building (Public Defenders Building) that include Heating, Ventilation, and Air Conditioning (HVAC) system upgrades that proactively address life/safety concerns in regards to air quality; 3) Improvements to the Central Plaza Building exterior, including crack repair and re-painting to remedy typical defects that often occur with Dryvit Stucco EIFS (Exterior Insulation Finish
System); and 4) Replacement of old and failing outdated (expired, end of life) Exit-Lights throughout the County Courthouse, another improvement project that addresses life/safety concerns.

30. Proposed amendments to the two existing courthouse improvement projects are aimed at modifying the source of funding; increasing total costs projected, and adjusts the time frame for expenditure of dedicated funds. The start date for the courthouse building envelope project (Item No. 3), was originally planned in 2014, but Facilities Management reassessed timelines for completion of this project and it was determined that the evaluation and engineering work on this project would need to start sooner (2013) with the bulk of the actual repair and costs still scheduled for 2015.

31. Because the completion of a new courtroom and new judicial hearing room (Item No. 5) needed to coincide with the arrival of a new superior court judge (as early as January 2015), this meant that design and engineering tasks associated with this project originally planned for 2014 would have to be moved up 2013, with the bulk of the actual improvements made in 2014.

32. In part, the purpose of these amendments is to ensure that the source of funding for these capital improvement projects, proposed to be utilized in 2013 & 2014, is identified in the Six-Year Capital Facilities Plan. Real Estate Excise Tax (REET) monies are proposed in part to fund these projects, and in accordance with state law, REET monies may only be utilized for project funding when identified in the County Six-Year CIP [RCW 82.46.010 & RCW 82.46.035].

33. Pursuant to the Growth Management Act (GMA), amendments to the County’s Comprehensive Plan may be considered no more frequently than once per year (with certain exceptions); one such exception is when a Capital Facilities Plan is amended concurrently with the County budget [RCW 36.70A.130(2)(a)(iv)]. It is understood that Whatcom County Administrative Services Department, Finance Division will also be amending the County’s 2013-2014 biennial budget concurrently with an amendment to the CIP.

34. The Planning Commission finds that information provided by Facilities Management demonstrate that changed conditions exist, which justify an amendment to the Comprehensive Plan.

Public Interest

35. The goal of capital facility planning is to plan for parks, stormwater facilities, government buildings, correction facilities, transportation improvements and other facilities to serve the people of Whatcom County.

36. The proposed amendments to the CIP will modify existing projects that are designed to improve County Facilities, and add additional projects that are designed to maintain or enhance County facilities over the six-year period from 2013 to 2018.

37. As proposed the additional improvement projects, once completed, should improve facility performance and longevity, and address life/safety concerns in existing facilities.

38. The proposed improvement projects are planned in a way that is responsive to anticipated population growth and other factors, and therefore it is expected that the proposed amendments will complement the County’s growth and development plans, and serve the public interest.
Spot Zoning

39. The subject proposal does not involve rezoning real property.

CONCLUSIONS

1. The proposed amendments conform to applicable requirements of the Growth Management Act, are internally consistent with the Whatcom County Comprehensive Plan and its adopted County-Wide Planning Policies, and adopted Interlocal Agreements with the cities.

2. The proposed amendments satisfy the approval criteria of WCC 2.160.080.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Six-Year Capital Improvement Program for Whatcom County Facilities 2013-2018 (Appendix F of the Whatcom County Comprehensive Plan) is hereby adopted as shown on Exhibit A.

Section 3. Chapters 11 & 12 of the Whatcom County Six-Year Capital Improvement Program are hereby repealed as shown on Exhibit A.

Section 4. 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 ______________, 2013.

ATTEST: WHATCOM COUNTY COUNCIL

Dana Brown-Davis, Council Clerk WHATCOM COUNTY, WASHINGTON

Kathy Kershner, Chairperson

APPROVED as to form: ( ) Approved ( ) Denied

Civil Deputy Prosecutor

Jack Louws, Executive

Date: ____________________
Exhibit A

SIX-YEAR CAPITAL IMPROVEMENT PROGRAM FOR WHATCOM COUNTY FACILITIES 2013-2018

Amendments
Chapter 11 – Improvements to Existing Buildings

Whatcom County plans to make the following improvements to existing buildings within the six-year planning period to maintain or enhance the function of these structures.

### IMPROVEMENTS TO EXISTING BUILDINGS, 2013-2018

<table>
<thead>
<tr>
<th>Project Name</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>Total Cost</th>
<th>Funding Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Civic Center Annex - Repair &amp; retrofit, HVAC, engineering, lighting, and exterior repair</td>
<td>1,000,000</td>
<td>1,000,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2,000,000</td>
<td>1, 2, 3 and 5</td>
</tr>
<tr>
<td>2. Upgrade jail and juvenile controls and improve exiting</td>
<td>1,400,000</td>
<td>1,000,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2,400,000</td>
<td>1, 3, 4 and 5</td>
</tr>
<tr>
<td>3. Courthouse - Exterior engineering evaluation and repairs</td>
<td>100,000</td>
<td>300,000</td>
<td>1,000,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1,400,000</td>
<td>1, 2 and 3</td>
</tr>
<tr>
<td>4. Courthouse - window replacement</td>
<td>0</td>
<td>250,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>250,000</td>
<td>1 and 3</td>
</tr>
<tr>
<td>5. Courthouse - Full suite courtroom and judicial hearing room</td>
<td>200,000</td>
<td>1,000,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1,200,000</td>
<td>3 and 7</td>
</tr>
<tr>
<td>6. Reconfiguration of Triage - Engineering evaluation and remodel</td>
<td>0</td>
<td>0</td>
<td>120,000</td>
<td>0</td>
<td>800,000</td>
<td>0</td>
<td>920,000</td>
<td>2, 3, and 6</td>
</tr>
<tr>
<td>7. Reconfiguration of Old Jail - Engineering and remodel</td>
<td>0</td>
<td>0</td>
<td>120,000</td>
<td>800,000</td>
<td>0</td>
<td>0</td>
<td>920,000</td>
<td>4</td>
</tr>
<tr>
<td>8. Northwest Annex - Engineering and remodel</td>
<td>0</td>
<td>0</td>
<td>120,000</td>
<td>800,000</td>
<td>0</td>
<td>0</td>
<td>920,000</td>
<td>2 and 3</td>
</tr>
<tr>
<td>9. Whatcom County Buildings Interior Painting</td>
<td>50,000</td>
<td>50,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>100,000</td>
<td>3</td>
</tr>
<tr>
<td>10. Central Plaza Building Engineering &amp; Replacement</td>
<td>10,000</td>
<td>65,000</td>
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<td>0</td>
<td>0</td>
<td>0</td>
<td>75,000</td>
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<td>11. Courthouse Exit Light Replacement</td>
<td>35,000</td>
<td>0</td>
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<td>0</td>
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<td>0</td>
<td>35,000</td>
<td>3</td>
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<tr>
<td>12. Central Plaza Building Exterior Building Envelope Repairs &amp; Maintenance</td>
<td>10,000</td>
<td>40,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>50,000</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>2,805,000</td>
<td>3,705,000</td>
<td>1,240,000</td>
<td>920,000</td>
<td>1,600,000</td>
<td>0</td>
<td>10,270,000</td>
<td></td>
</tr>
</tbody>
</table>

**Funding Source Key:** 1. Grants; 2. EDI funds; 3. REET; 4. Jail Fund; 5 Bonds; 6. Behavioral Health Fund; 7 General Fund

**Note:** Highlighted areas indicate proposed changes.
<table>
<thead>
<tr>
<th>Project Name</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>Total Cost</th>
<th>Funding Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Civic Center Annex—Repair &amp; retrofit, HVAC, engineering, lighting, and exterior repair</td>
<td>1,000,000</td>
<td>1,000,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2,000,000</td>
<td>1, 2, 3 and 5</td>
</tr>
<tr>
<td>2. Upgrade jail and juvenile control and improve exiting</td>
<td>4,400,000</td>
<td>1,000,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2,400,000</td>
<td>1, 3, 4 and 5</td>
</tr>
<tr>
<td>3. Courthouse—Exterior engineering evaluation and repair</td>
<td>0</td>
<td>180,000</td>
<td>1,000,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1,180,000</td>
<td>1 and 3</td>
</tr>
<tr>
<td>4. Courthouse—Window replacement</td>
<td>0</td>
<td>260,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>260,000</td>
<td>1 and 3</td>
</tr>
<tr>
<td>5. Courthouse—Full suite courtroom and judicial hearing room</td>
<td>0</td>
<td>200,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>200,000</td>
<td>1 and 3</td>
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<td>6. Reconfiguration of Triage—Engineering evaluation and remodel</td>
<td>0</td>
<td>0</td>
<td>120,000</td>
<td>0</td>
<td>800,000</td>
<td>0</td>
<td>920,000</td>
<td>2, 3, and 6</td>
</tr>
<tr>
<td>7. Reconfiguration of Old Jail—Engineering and remodel</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>120,000</td>
<td>800,000</td>
<td>0</td>
<td>920,000</td>
<td>4</td>
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<tr>
<td>8. Northwest Annex—Engineering and remodel</td>
<td>0</td>
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<td>0</td>
<td>0</td>
<td>920,000</td>
<td>2 and 3</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>2,400,000</strong></td>
<td><strong>2,630,000</strong></td>
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<td><strong>920,000</strong></td>
<td><strong>1,600,000</strong></td>
<td><strong>0</strong></td>
<td><strong>8,790,000</strong></td>
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</tbody>
</table>

**Funding Source Key:** 1. Grants; 2. EDI funds; 3. REET; 4. Jail Fund; 5. Bonds; 6. Behavioral Health Fund
### Chapter 12 – Costs by Project Category

#### CAPITAL COSTS BY PROJECT CATEGORY, 2013-2018

<table>
<thead>
<tr>
<th></th>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Parks</td>
<td>100,000</td>
<td>400,000</td>
<td>730,000</td>
<td>430,000</td>
<td>530,000</td>
<td>280,000</td>
<td>2,470,000</td>
<td>1.76%</td>
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<tr>
<td>Trails</td>
<td>1,500,000</td>
<td>155,000</td>
<td>1,140,000</td>
<td>1,125,000</td>
<td>1,125,000</td>
<td>1,175,000</td>
<td>6,220,000</td>
<td>4.43%</td>
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<tr>
<td>Sheriff's Office New Jail</td>
<td>10,000,000</td>
<td>10,000,000</td>
<td>18,000,000</td>
<td>18,000,000</td>
<td>4,000,000</td>
<td>0</td>
<td>60,000,000</td>
<td>42.70%</td>
</tr>
<tr>
<td>Transportation</td>
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<td>11,205,000</td>
<td>4,470,000</td>
<td>4,552,000</td>
<td>4,552,000</td>
<td>4,551,000</td>
<td>48,236,000</td>
<td>34.33%</td>
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<tr>
<td>Stormwater</td>
<td>1,400,000</td>
<td>1,525,000</td>
<td>650,000</td>
<td>920,000</td>
<td>600,000</td>
<td>1,200,000</td>
<td>6,295,000</td>
<td>4.48%</td>
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<tr>
<td>Flood Protection</td>
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<td>1,850,000</td>
<td>2,075,000</td>
<td>25,000</td>
<td>25,000</td>
<td>25,000</td>
<td>7,026,000</td>
<td>5.00%</td>
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<tr>
<td>Existing Buildings</td>
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<td>3,705,000</td>
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<td>920,000</td>
<td>1,600,000</td>
<td>0</td>
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<td>7.31%</td>
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<td><strong>Total Cost</strong></td>
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<td>28,305,000</td>
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<td>12,432,000</td>
<td>7,231,000</td>
<td>140,517,000</td>
<td>100.00%</td>
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</tbody>
</table>

Note: Highlighted areas indicate proposed changes.

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<table>
<thead>
<tr>
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<td>Sheriff's Office New Jail</td>
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<td>10,000,000</td>
<td>18,000,000</td>
<td>18,000,000</td>
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<td>4,551,000</td>
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<td>Stormwater</td>
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<td>650,000</td>
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<td>600,000</td>
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<tr>
<td>Flood Protection</td>
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<td>25,000</td>
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WHATCOM COUNTY
PLANNING COMMISSION

Amendments to the Six-Year Capital Improvement Program (CIP)

FINDINGS OF FACT AND REASONS FOR ACTION

1. The proposal is to amend the Whatcom County Comprehensive Plan as follows:

   a. Adopting amendments to Chapters 11 & 12 of the Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2013-2018 as shown in the attached Exhibit A: Amending Chapter 11 by adding four new capital improvement projects, and identifying for each a funding source, projected costs, and timeline for expenditure of allotted funds; and modifying funding source, projected costs, and spending schedule for two existing CIP County Courthouse projects previously adopted in 2012 under Ord. 2012-049; and finally, amending Chapter 12 to reflect changes to costs that will occur as a result of the above described amendments to Chapter 11.


2. Pursuant to RCW 36.70A.106, on April 22, 2013, a “60 Day Notice of Intent to Adopt Amendment” was submitted to the Washington State Department of Commerce in regards to the subject amendments.

3. On April 23, 2013, Whatcom County Planning & Development Services Department received confirmation from the Washington State Department of Commerce indicating that Commerce had received the County’s “60 Day Notice of Intent to Adopt Amendment”, and that Material ID # 19082 had been assigned to the materials received.

4. The State Environmental Policy Act (SEPA) requires that project and non-project actions be reviewed for the potential of probable significant adverse impacts to the environment, unless categorically exempt from review under SEPA.

   The Whatcom County Designated SEPA Official (lead agency) reviewed the
proposed amendments to the Six-Year CIP (2013-2018), and on April 8, 2013 made a determination that no probable significant adverse impacts to the environment would be likely to occur as a result of adopting the proposed amendments, and further, that no additional public notice or public comment period would be required.

This decision was made pursuant to WAC 197-11-600(4)(c), and after a review of a letter of addendum dated March 26, 2013, which was added to existing environmental documents on file with the lead agency under SEP2012-00058. Existing environmental documents on file with the lead agency include: an email “letter of addendum” dated March 26, 2013; a SEPA Checklist and Determination of Significance (DNS) originally issued August 23, 2012 which covered adoption of the [(Six-Year CIP (2013-2018) Whatcom County Ordinance (Ord. 2012-049)].

5. Notice of the Planning Commission hearing was posted on the County website on April 26, 2013.

6. Notice of the Planning Commission hearing, and that the proposal had been posted on the County website was sent to citizen, media, cities and other groups on the County’s e-mail list on May 9, 2013.

7. Notice of the proposed amendments was sent to the Lummi Indian Business Council, Historic Preservation Office on May 9, 2013.

8. Pursuant to WCC 2.160.080, in order to approve an amendment to the Whatcom County Comprehensive Plan, the County must find all of the following:

   a. 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.

   b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.

   c. 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:

      i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

2
ii. The anticipated effect on 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.

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

d. The amendment does not include or facilitate spot zoning.

e. Amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.

**Growth Management Act**

9. The Growth Management Act (GMA) establishes planning goals in RCW 36.70A.020 to guide adoption of comprehensive plan amendments.

10. GMA planning goal #12 is to “Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards” (RCW 36.70A.020(12)).

11. The subject amendments include amending the Six-Year CIP for Whatcom County Facilities for the 2013-2018 planning period. Amendments to the CIP are one step in a process of planning regional facilities provided by the County to serve the people of Whatcom County.

12. The Growth Management Act, RCW 36.70A.070(3), requires that a comprehensive plan must include a capital facilities plan element consisting of:

a. An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities.

b. A forecast of the future needs for such capital facilities.

c. The proposed locations and capacities of expanded or new capital facilities.

d. At least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes.
e. A requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.

13. The Six-Year CIP (2013-2018) for Whatcom County Facilities contains an inventory of existing County owned or operated facilities, a forecast of future needs based upon the level of service standards adopted in the Whatcom County Comprehensive Plan and other factors, proposed expanded or new County capital facilities, costs and funding sources.

14. The purpose of the proposed amendments is to modify the Six-Year CIP, Chapters 11 & 12 (Exhibit A) to add four new improvement projects, their projected costs, sources of funding, and time line for expenditure of the allotted funds; and also to modify the funding source, projected costs, and projected date for expenditure of funds previously set for two existing County Courthouse improvement projects that are identified in Chapter 11 of the CIP as it was adopted in 2012.

15. The four new improvement projects that are proposed have been determined by Whatcom County Facilities Management as necessary to enhance performance and extend building longevity, and to increase life/safety in facilities used for official County business.

16. After their original adoption into the CIP, the two existing courthouse improvement projects that are proposed to be amended were reassessed and it was determined by Facilities Management that it would be necessary to make changes to projected costs, and funding sources, and changes to project start-up dates, in order to meet County goals for completion of these projects.

17. The proposed amendments are in conformance with the Growth Management Act in that the act requires that the County adopt a six-year financing plan to fund proposed capital facility improvement projects; the proposed improvement projects have been identified as necessary, and the CIP must be amended to include these projects prior to any monies spent.

**County-Wide Planning Policies**

18. In conformance with County Wide Planning Policies (A) 2-4 regarding public participation, the County has taken steps to ensure that the Whatcom County Public Participation Plan (2012) is followed with respect to providing information to the public, and other interested parties, about the details and scope of the proposed amendments under consideration.

19. PDS staff maintained a complete file on the amendments being considered, including background research, preliminary analysis, proposed draft text,
and various agency correspondence. Public notice was published in the Bellingham Herald to inform the public of the scheduled upcoming public hearing to be held by the Planning Commission; and information about the upcoming hearing and a report containing staff analysis and recommendations were posted to the County website.

20. On May 9, 2013, an email describing the proposed amendments was sent to 200 interested citizens who have previously requested to be kept up to date on proposed amendments and other County projects. Staff continues to be available to respond to inquiries from interested parties about the proposal. Any input received from interested parties will be considered and may form the basis of recommendations that are made to County decision-makers.

21. County-Wide Planning Policy K – Siting of Public Facilities

Policy K-1 states: "As part of the comprehensive planning process, the county and the cities shall identify appropriate land for public facilities which meets the needs of the community, such as schools, recreation, transportation and utility corridors, human service facilities, and airport and other port facilities . . ."

The proposed modifications to existing adopted CIP projects and the four new projects, if approved, will improve the structural integrity of county facilities, add to their longevity, and provide for an increase in overall life/safety in these facilities.

The proposed amendments to the CIP add four new projects to improve existing buildings, identify dollar amounts and funding sources for proposed improvement projects, and also modify existing sources of funding and dollar amounts set for expenditure on two existing improvement projects previously adopted in the CIP in 2012 (Ord. 2012-049). As proposed, the new projects and modified projects will help fulfill County-Wide Planning Policies that call for facility planning that "meets the needs of the community".

Interlocal Agreements

22. Discussion: Interlocal agreements between Whatcom County and the cities emphasize the need for cooperation and identify the importance of consulting with any city as appropriate when the County plans new projects within the city’s urban growth area.

23. The purpose of the proposed amendments, in part, is to improve County owned/operated facilities. County facilities may be physically located throughout the county, such as the County Courthouse and the Central Plaza Building located within the City of Bellingham. Whatcom County facilities serve the interests of a widespread range of citizenry regardless of
where they may reside. To ensure adequate notice of the County’s intent, and to ensure cooperation with all involved or affected parties, all of the cities were each sent an email memo describing County’s intent to amend its Six-Year Capital Improvement Program, along with an invitation to comment on proposal.

24. The Planning Commission finds that the proposed Six-Year Capital Improvement Program is generally consistent with the GMA, County Wide Planning Policies, and adopted Interlocal agreements with the cities.

Further Studies/Changed Conditions

25. The Six-Year CIP (2013-2018) was most recently revised and adopted, in November 2012, since that time, Whatcom County Administrative Services Department; Facilities Management Division has identified four additional projects that are designed to improve County facilities.

26. The four additional projects proposed, include: 1) Implementation of a interior painting schedule for all Whatcom County Facilities; 2) Improvements to the Central Plaza Building (Public Defenders Building) that include Heating, Ventilation, and Air Conditioning (HVAC) system upgrades that proactively address life/safety concerns in regards to air quality; 3) Improvements to the Central Plaza Building exterior, including crack repair and re-painting to remedy typical defects that often occur with Dryvit Stucco EIFS (Exterior Insulation Finish System); and 4) Replacement of old and failing outdated (expired, end of life) Exit-Lights throughout the County Courthouse, another improvement project that addresses life/safety concerns.

27. Proposed amendments to the two existing courthouse improvement projects are aimed at modifying the source of funding; increasing total costs projected, and adjusts the time frame for expenditure of dedicated funds. The start date for the courthouse building envelope project (Item No. 3), was originally planned in 2014, but Facilities Management reassessed timelines for completion of this project and it was determined that the evaluation and engineering work on this project would need to start sooner (2013) with the bulk of the actual repair and costs still scheduled for 2015.

28. Because the completion of a new courtroom and new judicial hearing room (Item No. 5) needed to coincide with the arrival of a new superior court judge (as early as January 2015), this meant that design and engineering tasks associated with this project originally planned for 2014 would have to be moved up 2013, with the bulk of the actual improvements made in 2014.

29. In part, the purpose of these amendments is to ensure that the source of
funding for these capital improvement projects, proposed to be utilized in 2013 & 2014, is identified in the Six-Year Capital Facilities Plan. Real Estate Excise Tax (REET) monies are proposed in part to fund these projects, and in accordance with state law, REET monies may only be utilized for project funding when identified in the County Six-Year CIP [RCW 82.46.010 & RCW 82.46.035].

30. Pursuant to the Growth Management Act (GMA), amendments to the County’s Comprehensive Plan may be considered no more frequently than once per year (with certain exceptions); one such exception is when a Capital Facilities Plan is amended concurrently with the County budget [RCW 36.70A.130(2)(a)(iv)]. It is understood that Whatcom County Administrative Services Department, Finance Division will also be amending the County’s 2013-2014 biennial budget concurrently with an amendment to the CIP.

31. The Planning Commission finds that information provided by Facilities Management demonstrate that changed conditions exist, which justify an amendment to the Comprehensive Plan.

Public Interest

32. The goal of capital facility planning is to plan for parks, stormwater facilities, government buildings, correction facilities, transportation improvements and other facilities to serve the people of Whatcom County.

33. The proposed amendments to the CIP will modify existing projects that are designed to improve County Facilities, and add additional projects that are designed to maintain or enhance County facilities over the six-year period from 2013 to 2018.

34. As proposed the additional improvement projects, once completed, should improve facility performance and longevity, and address life/safety concerns in existing facilities.

35. The proposed improvement projects are planned in a way that is responsive to anticipated population growth and other factors, and therefore it is expected that the proposed amendments will complement the County’s growth and development plans, and serve the public interest.

Spot Zoning

36. The subject proposal does not involve rezoning real property.

IV. CONCLUSIONS

1. The proposed amendments conform to applicable requirements of the
Growth Management Act, are internally consistent with the Whatcom County Comprehensive Plan and its adopted County-Wide Planning Policies, and adopted Interlocal Agreements with the cities.

2. The proposed amendments satisfy the approval criteria of WCC 2.160.080.

V. RECOMMENDATION

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends approval of:

1. Exhibit A, which contains proposed draft text intended to amend Chapters 11 & 12 of the Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2013-2018, (Appendix F of the Whatcom County Comprehensive Plan).

2. The Planning Commission also recommends repealing existing Chapters 11 & 12 previously adopted under Whatcom County Ordinance (Ord. 2012-049) as shown in Exhibit A.

WHATCOM COUNTY PLANNING COMMISSION

Michelle Luke, Chair

Sam Ryan, Secretary

Date: June 6, 2013  Date: 6-7-13

Commissioners present at the May 23, 2013 meeting when the vote was taken: David Onkels; Jeff Rainey; Ken Bell; Ben Elenbaas; Gary Honcoop; Mary Beth Teigrob; Michelle Luke; Rod Erickson; Gerald Vekved.

Vote: Ayes: 9, Nays: 0, Abstain: 0, Absent: 0. Motion carried to adopt the above amendments.
EXCERPTS FROM DRAFT RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
May 23, 2013

Regular Meeting

Public Hearing


Erin Osborn presented the staff report.

The proposed amendments are required by the Growth Management Act (GMA) which requires counties to adopt a capital facilities plan element that contains an inventory of county facilities, a forecast of future needs and a six year financing plan. It is updated every two years. The proposed amendments address four new projects and modify two existing projects. They will be funded with real estate excise tax monies.

The hearing was opened to the public.

Greg Brown, Whatcom County: Stated money continues to be added to these projects because the previous repairs didn’t get done properly the first time. This needs to be looked at closely. Some of the items should have already been in the budget, not added to it.

Max Perry, Whatcom County: Recommended the County look at extending park trails with existing money instead of adding more land to make trails on.

The hearing was closed to the public.

Work Session

Staff stated finding #8 needs to be removed due to an error in the Bellingham Herald publication. Commissioner Teigrob so moved. Commissioner Bell seconded. The motion carried.

Commissioner Vekved made a motion to correct the second paragraph on page 2 of the staff report to read: Explanation of Change: Proposed change in dollar amount and funding source for this item includes a change from “zero dollars” set for expenditure in 2013 to a scheduled $100,000 in 2013, and a change from $180,000 set for expenditure in 2014 to a scheduled $300,000 in 2014 (a net increase of $120,000 $220,000 for the two year period). Changes to source of funding for this item: “Grants and REET” funding, is proposed to be replaced with: “Grants, EDI Funds, and REET”. The Commission agreed to the correction. Commissioner Honcooop seconded. The motion carried.
Commissioner Onkels moved to recommend approval of the findings and conclusions; Exhibit A, which contains proposed draft text intended to amend Chapters 11 & 12 of the Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2013-2018, (Appendix F of the Whatcom County Comprehensive Plan); and the repeal of existing Chapters 11 & 12 previously adopted under Whatcom County Ordinance (Ord. 2012-049) as shown in Exhibit A.

Commissioner Bell seconded.

Roll Call Vote: Ayes – Bell, Elenbaas, Erickson, Honcoop, Luke, Onkels, Rainey, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent – 0. The motion carried.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**
Ordinance amending WCC 10.34, Ferry Rates

**ATTACHMENTS:**
Ordinance, Exhibit A

**SEPA review required?**
( ) Yes  ( ) NO

**SEPA review completed?**
( ) Yes  ( ) NO

**Should Clerk schedule a hearing?**
( × ) Yes  ( ) 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.)

This ordinance amends Whatcom County Code 10.34 paragraphs K and L. Both paragraphs concern the Needs Based ticket program. This ordinance amends the income limits from a set amount to the Dept. of Housing and Urban Development (HUD) Very Low Income Levels which are modified each year. It also changes the Needs Based ticket sales location from the Whatcom County Treasurer’s Office to the Whatcom County Public Works Administration Building. These changes will occur within sixty (60) calendar days from the adoption date of the ordinance.

**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](http://www.co.whatcom.wa.us/council).
MEMORANDUM

TO: The Honorable Jack Louws, Whatcom County Executive, and Honorable Members of the Whatcom County Council

FROM: Frank M. Abart, Director

RE: An Ordinance to Amend WCC 10.34, Ferry Rates

DATE: June 26, 2013

Requested Action:
Consideration of the attached ordinance that amends Whatcom County Code 10.34 paragraphs K and L. Both paragraphs concern the Needs Based ticket program. This ordinance amends the income limits from a set amount to the Dept. of Housing and Urban Development (HUD) Very Low Income Levels which are modified each year. It also changes the Needs Based ticket sales location from the Whatcom County Treasurer’s Office to the Whatcom County Public Works Administration Building.

These changes will occur within sixty (60) calendar days from the adoption date of the ordinance.

Background and Purpose:
The intended purpose is to amend the income levels from a set amount to the Dept. of Housing and Urban Development (HUD) Very Low Income Levels which are modified each year.

For example, the following is the HUD Very-Low Income Limits for 2013:

- $46,100 or less for a family of eight
- $43,300 or less for a family of seven
- $40,500 or less for a family of six
- $37,700 or less for a family of five
- $34,900 or less for a family of four
- $31,450 or less for a family of three
- $27,950 or less for a family of two
- $24,450 or less for an individual
Other Information:
The Opportunity Council has been selected as the Reviewing Authority for the applications because of their expertise in performing HUD related evaluations. The Citizens' Task Force for the Lummi Island Ferry recommended using the Opportunity Council to perform the screening in their report (Item number 23). The financial impact will be a charge of $50.00 per application submitted to the Opportunity Council regardless of whether the application is approved or not. The amount of applications processed each year will be dependent upon the constraints of the Ferry Operations budget for each year. The budget for this program is currently $2051.00 for 2013 and $2038.00 for 2014.

However, it should be noted that there may be more applications submitted than the budgeted amount for this program. This may cause a need for a mid-year supplemental budget request.

If approved, this Ordinance will also change where the special needs tickets will be sold. Currently the tickets can only be sold at the Whatcom County Treasurer's Office. However, once this ordinance is adopted, the tickets will only be sold at the Whatcom County Public Works Administration Building in Bellingham.

If you have any questions please call Frank Abart at extension 50678. Thank you.

Enc.
ORDINANCE NO. ________

AMENDING WHATCOM COUNTY CODE CHAPTER 10.34 FERRY RATES

WHEREAS, Chapter 10.34 of the Whatcom County Code addresses administration of the special Needs Based discount for Lummi Island residents; and

WHEREAS, the Public Works Department would like to change the income levels to the Department of Housing and Urban Development (HUD) Very Low Income Levels; and

WHEREAS, the sales location of the Needs Based tickets requires a change from the Whatcom County Treasurer’s Office to the Whatcom County Public Works Administration Office; and

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Whatcom County Code 10.34 is hereby amended as shown in Exhibit A to this ordinance, and

BE IT FURTHER ORDAINED these changes will occur within sixty (60) calendar days from the adopted date of the ordinance.

ADOPTED this ____ day of __________, 20____.

ATTEST:

Dana Brown-Davis, Clerk of the Council

Kathy Kershner, Council Chair

APPROVED AS TO FORM:

Jack Louws, County Executive

( ) Approved   ( ) Denied

Date Signed: ____________________
EXHIBIT A

Chapter 10.34 FERRY RATES

Sections:
10.34.005 Definitions.
10.34.010 Effective date for ferry user fees.
10.34.020 Interpretation of rate schedule.
10.34.030 Use of ferry user fee revenues.

10.34.005 Definitions.

A. "Ferry system" means all physical elements of the Lummi Island ferry operations, including both the Gooseberry Point and Lummi Island vehicle and pedestrian staging areas, vehicle parking areas, and ferry docks, and any and all boats utilized for transport purposes.

B. "Operating cost" means all actual daily running expenses and all actual regular and routine maintenance and administrative expenses associated with the use and operation of all physical elements of the ferry system.

C. "Capital cost" means all capital expenditures, including financing and depreciation expenses applied to the replacement, expansion, or creation of ferry system physical elements.

D. "Fare box recovery rate" means the calculated percentage of total revenue generated through ferry user fees in comparison to total actual operating costs for the same period of time minus any revenue from the motor vehicle fuel tax meant for ferry operations, or from interest.

E. "Ferry user fees" means the rates and charges required of and collected from any and all users of the ferry system, as established and periodically amended in the Unified Fee Schedule.


10.34.010 Effective date for ferry user fees.
Ferry user fees are set forth in the Whatcom County Unified Fee Schedule and become

10.34.020 Interpretation of rate schedule.

The following provisions should be observed in application of the ferry rate schedule:

A. Trailers shall include, but not be limited to, ball hitches, military hitches, fifth wheel in bed of pickup, dump trailers, recreation trailers and mobile homes.

B. Special trips are a surcharge in addition to the applicable fare.

C. A weekly run limited to fuel trucks, charged at the regular rate, shall be scheduled by the public works department and published appropriately.

D. Trucks and tow vehicles with trailers shall be charged a rate based on length and weight. Heavy machinery and motor homes shall be charged at the corresponding vehicle rate.

E. All trucks shall be charged regular round-trip rates based on legal license capacity.

F. Over-width vehicles or trailers occupying more than one lane shall be charged a 50 percent surcharge. In addition, vehicles towing over-width trailers shall also be charged a 50 percent surcharge.

G. Student multi-ride cards shall be sold to full-time post-high school students only. Proof of post-high school enrollment shall be required at time of purchase. No special student discount is available for drivers of vehicles.

H. Children 12 to under 19 (nineteen) years of age will receive free passenger and pedestrian passage all year round. No special child discount is available for drivers of vehicles.

I. County employees on official county business shall be exempt from fares. All county employee trips exempt from fares will be tracked, and $.10.00 per trip will be credited toward the fare box recovery rate each year.

J. Enrolled members of the Lummi Indian Tribe who are issued appropriate identification cards by the tribe, or current fishing cards, licenses, or Lummi Indian Business Council ID cards and who have legitimate tribal business upon Lummi Island, as indicated by the Lummi Indian Tribe, shall have free foot passage upon and across the ferry operated by Whatcom County between Gooseberry Point and Lummi Island.

K. A special needs-based discount is provided for Lummi Island residents who meet the very low income levels listed below set annually by the Dept. of Housing and Urban Development (HUD). The current year’s levels will be posted on the Whatcom County Public Work’s Ferry web page. The Reviewing Authority will screen all applicants to determine eligibility. The number of needs-based applications processed annually, regardless of
approval, will depend on the constraints of the Ferry Operations budget for each year. These special needs based tickets will only be sold at the Whatcom County treasurer's office Public Works Administration Building in Bellingham and will require proof of income and family size: a valid voucher issued from the Reviewing Authority and valid ID. Eligibility will be reviewed at least annually by the Reviewing Authority. Forms and procedures will be developed by the Whatcom County treasurer's office, Whatcom County Public Works and the Reviewing Authority. These changes will take place within sixty (60) calendar days of the adopted date of the ordinance.

1. Family of four or more with less than $40,000 total annual income;
2. Family of three with less than $30,000 total annual income;
3. Family of two with less than $20,000 total annual income;
4. Individual with less than $10,000 total annual income.

L. Eligibility for a special "senior/disabled" discount is available to all Lummi Island residents who currently hold property tax exemptions or deferral as defined under RCW 84.36.381 and 84.38.030 and WAC 458-16-020 and 458-18020, and as these may be hereafter amended. Eligibility for a special "senior/disabled" discount is also available to all Lummi Island residents that also qualify for medical assistance within the Medicaid Program. These special needs based tickets will only be sold at the Whatcom County Public Works Administration Building in Bellingham and will require valid ID. These changes will take place within sixty (60) calendar days of the adopted date of the ordinance.

M. Intentionally left blank.

N. All children under the age of 12 years when traveling on the Whatcom County ferry must be accompanied by an adult. An exception to this policy will be made only if the adult parent or guardian signs a waiver exempting Whatcom County from all liabilities for any and all injuries, loss of life, etc., while the child is traveling on the ferry.

10.34.030 Use of ferry user fee revenues.

Beginning January 1, 2006, a 55 percent fare box recovery rate shall be applied and evaluated continuously from that time forward. An annual review of ferry system services, actual and projected operating costs, and actual and projected revenue from ferry user fees shall occur in order to verify the 55 percent fare box recovery rate is being achieved.

In any given year the actual fare box recovery rate exceeds 55 percent, the excess revenue shall be retained in the ferry system fund and applied only to future operating costs.

In any given year the actual fare box recovery rate is below 55 percent, the difference shall be recovered in a future ferry user fee increase unless there is adequate excess ferry user fee revenue remaining in the ferry system fund collected during prior years.
Beginning January 1, 2007, any interest income or income from state motor vehicle fuel tax for ferry operation will be deducted from the actual operating costs before the actual 55 percent fare box recovery rate is calculated. (Ord. 2012-016 Exh. A; Ord. 2010-054, Exh A; Ord. 2008-052 Exh. A; Ord. 2008-017 Exh. A; Ord. 2007-001 Exh. A; Ord. 2005-090 Exh. A; Ord. 2002-012; Ord. 2001-064).

Prior legislation: Ord. 89-103
EXHIBIT A

Chapter 10.34 FERRY RATES

Sections:

10.34.005 Definitions.

10.34.010 Effective date for ferry user fees.

10.34.020 Interpretation of rate schedule.

10.34.030 Use of ferry user fee revenues.

10.34.005 Definitions.

A. "Ferry system" means all physical elements of the Lummi Island ferry operations, including both the Gooseberry Point and Lummi Island vehicle and pedestrian staging areas, vehicle parking areas, and ferry docks, and any and all boats utilized for transport purposes.

B. "Operating cost" means all actual daily running expenses and all actual regular and routine maintenance and administrative expenses associated with the use and operation of all physical elements of the ferry system.

C. "Capital cost" means all capital expenditures, including financing and depreciation expenses applied to the replacement, expansion, or creation of ferry system physical elements.

D. "Fare box recovery rate" means the calculated percentage of total revenue generated through ferry user fees in comparison to total actual operating costs for the same period of time minus any revenue from the motor vehicle fuel tax meant for ferry operations, or from interest.

E. "Ferry user fees" means the rates and charges required of and collected from any and all users of the ferry system, as established and periodically amended in the Unified Fee Schedule.


10.34.010 Effective date for ferry user fees.
Ferry user fees are set forth in the Whatcom County Unified Fee Schedule and become

10.34.020 Interpretation of rate schedule.

The following provisions should be observed in application of the ferry rate schedule:

A. Trailers shall include, but not be limited to, ball hitches, military hitches, fifth wheel in bed of pickup, dump trailers, recreation trailers and mobile homes.

B. Special trips are a surcharge in addition to the applicable fare.

C. A weekly run limited to fuel trucks, charged at the regular rate, shall be scheduled by the public works department and published appropriately.

D. Trucks and tow vehicles with trailers shall be charged a rate based on length and weight. Heavy machinery and motor homes shall be charged at the corresponding vehicle rate.

E. All trucks shall be charged regular round-trip rates based on legal license capacity.

F. Over-width vehicles or trailers occupying more than one lane shall be charged a 50 percent surcharge. In addition, vehicles towing over-width trailers shall also be charged a 50 percent surcharge.

G. Student multi-ride cards shall be sold to full-time post-high school students only. Proof of post-high school enrollment shall be required at time of purchase. No special student discount is available for drivers of vehicles.

H. Children 12 to under 19 (nineteen) years of age will receive free passenger and pedestrian passage all year round. No special child discount is available for drivers of vehicles.

I. County employees on official county business shall be exempt from fares. All county employee trips exempt from fares will be tracked, and $10.00 per trip will be credited toward the fare box recovery rate each year.

J. Enrolled members of the Lummi Indian Tribe who are issued appropriate identification cards by the tribe, or current fishing cards, licenses, or Lummi Indian Business Council ID cards and who have legitimate tribal business upon Lummi Island, as indicated by the Lummi Indian Tribe, shall have free foot passage upon and across the ferry operated by Whatcom County between Gooseberry Point and Lummi Island.

K. A special Needs Based discount is provided for Lummi Island residents who meet the very low income levels set annually by the Dept. of Housing and Urban Development (HUD). The current year’s levels will be posted on the Whatcom County Public Work’s Ferry web page. The Reviewing Authority will screen all applicants to determine eligibility. The number of needs-based applications processed annually, regardless of approval, will depend on the
constraints of the Ferry Operations budget for each year. These special needs based
tickets will only be sold at the Whatcom County Public Works Administration Building in
Bellingham and will require a valid voucher issued from the Reviewing Authority and valid
ID. Eligibility will be reviewed at least annually by the Reviewing Authority. Forms and
procedures will be developed by the Whatcom County Public Works and the Reviewing
Authority. These changes will take place within sixty (60) calendar days of the adopted
date of the ordinance.

L. Eligibility for a special "senior/disabled" discount is available to all Lummi Island
residents who currently hold property tax exemptions or deferral as defined under RCW
84.36.381 and 84.38.030 and WAC 458-16-020 and 458-18020, and as these may be
hereafter amended. These special needs based tickets will only be sold at the Whatcom
County Public Works Administration Building in Bellingham and will require valid ID. These
changes will take place within sixty (60) calendar days of the adopted date of the
ordinance.

M. Intentionally left blank.

N. All children under the age of 12 years when traveling on the Whatcom County ferry
must be accompanied by an adult. An exception to this policy will be made only if the adult
parent or guardian signs a waiver exempting Whatcom County from all liabilities for any
and all injuries, loss of life, etc., while the child is traveling on the ferry.

10.34.030 Use of ferry user fee revenues.

Beginning January 1, 2006, a 55 percent fare box recovery rate shall be applied and
evaluated continuously from that time forward. An annual review of ferry system services,
actual and projected operating costs, and actual and projected revenue from ferry user fees
shall occur in order to verify the 55 percent fare box recovery rate is being achieved.

In any given year the actual fare box recovery rate exceeds 55 percent, the excess
revenue shall be retained in the ferry system fund and applied only to future operating
costs.

In any given year the actual fare box recovery rate is below 55 percent, the difference
shall be recovered in a future ferry user fee increase unless there is adequate excess ferry
user fee revenue remaining in the ferry system fund collected during prior years.

Beginning January 1, 2007, any interest income or income from state motor
vehicle fuel tax for ferry operation will be deducted from the actual operating
costs before the actual 55 percent fare box recovery rate is calculated. (Ord.
2001-064).

Prior legislation: Ord. 89-103
### 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>
</tr>
</thead>
<tbody>
<tr>
<td>Originator:</td>
<td>ABC</td>
<td>6/26/13</td>
<td></td>
<td>7/9/13</td>
<td>Intro</td>
</tr>
<tr>
<td>Division Head:</td>
<td></td>
<td></td>
<td></td>
<td>7/23/13</td>
<td>Finance Committee; Council</td>
</tr>
<tr>
<td>Dept. Head:</td>
<td></td>
<td></td>
<td>WHATCOM COUNTY COUNCIL</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prosecutor:</td>
<td></td>
<td>7/11/13</td>
<td></td>
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<tr>
<td>Purchasing/Budget:</td>
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<td>7/11/13</td>
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<td></td>
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<tr>
<td>Executive:</td>
<td></td>
<td>7/11/13</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TITLE OF DOCUMENT:** 2013 Supplemental Budget Request #8

**ATTACHMENTS:** Ordinance, Memoranda & Budget Modification Requests

<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>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( X ) 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.)

Supplemental #8 requests funding from the General Fund:

1. To appropriate $115,409 in Non-Departmental to fund Opportunity Council public service projects from CDBG grant proceeds.
2. To appropriate $15,000 in Parks & Recreation to fund Nesset Farm tractor and mower purchase from donation proceeds.
3. To appropriate $1,000 in the Sheriff’s Office to fund first aid training equipment from donation proceeds.
4. To appropriate $6,720 in the Sheriff’s Office to fund reimbursable overtime at the Northwest Washington Fair Conservation Futures Fund.
5. To appropriate $40,000 in Non-Departmental to fund additional land surveying and closing costs for the Lake Whatcom Reconveyance.

In addition, Supplemental #8 requests to close 1 FTE Planner position in Planning and Development Services.

### 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>

831
ORDINANCE NO.
AMENDMENT NO. 8 OF THE 2013 BUDGET

WHEREAS, the 2013-2014 budget was adopted November 20, 2012; and,
WHEREAS, changing circumstances require modifications to the approved 2013-2014 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 2013-2014 Whatcom County Budget Ordinance #2012-048 is hereby amended by adding the following additional amounts to the 2013 budget included therein:

<table>
<thead>
<tr>
<th></th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-Departmental</td>
<td>115,409</td>
<td>(115,409)</td>
<td>-</td>
</tr>
<tr>
<td>Parks &amp; Recreation</td>
<td>15,000</td>
<td>(15,000)</td>
<td>-</td>
</tr>
<tr>
<td>Sheriff</td>
<td>7,720</td>
<td>(7,720)</td>
<td>-</td>
</tr>
<tr>
<td>Total General Fund</td>
<td>138,129</td>
<td>(138,129)</td>
<td>-</td>
</tr>
<tr>
<td>Conservation Futures Fund</td>
<td>40,000</td>
<td>-</td>
<td>40,000</td>
</tr>
<tr>
<td>Total Supplemental</td>
<td>178,129</td>
<td>(138,129)</td>
<td>40,000</td>
</tr>
</tbody>
</table>

In addition, Exhibit B to the 2013-2014 Budget Ordinance entitled “Authorized Positions” should be amended to provide for the following FTE change:

- Reduce 1 FTE Planner position in Planning & Development Services

ADOPTED this ___ day of __________________, 2013.

ATTEST:

Dana Brown-Davis, Council Clerk

Kathy Kershner, Chair of the Council

APPROVED AS TO FORM:

Civil Deputy Prosecutor

( ) Approved ( ) Denied

Jack Louws, County Executive

Date: ______________________
## WHATCOM COUNTY

### Summary of the 2013 Supplemental Budget Ordinance No. 8

<table>
<thead>
<tr>
<th>Department/Fund</th>
<th>Description</th>
<th>Increased Expenditure (Decrease)</th>
<th>(Increased) Revenue</th>
<th>Net Effect to Fund Balance (Increase) Decrease</th>
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</thead>
<tbody>
<tr>
<td><strong>General Fund</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-Departmental</td>
<td>To fund Opportunity Council public service projects from CDBG grant proceeds.</td>
<td>115,409</td>
<td>(115,409)</td>
<td>-</td>
</tr>
<tr>
<td>Parks &amp; Recreation</td>
<td>To fund Nesset Farm tractor and mower purchase form donation proceeds.</td>
<td>15,000</td>
<td>(15,000)</td>
<td>-</td>
</tr>
<tr>
<td>Sheriff</td>
<td>To fund first aid training equipment from donation proceeds.</td>
<td>1,000</td>
<td>(1,000)</td>
<td>-</td>
</tr>
<tr>
<td>Sheriff</td>
<td>To fund Reimbursable overtime at the Northwest Washington Fair.</td>
<td>6,720</td>
<td>(6,720)</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total General Fund</strong></td>
<td></td>
<td>138,129</td>
<td>(138,129)</td>
<td>-</td>
</tr>
<tr>
<td>Conservation Futures Fund</td>
<td>To fund additional land surveying and closing costs for the Lake Whatcom Reconveyance.</td>
<td>40,000</td>
<td>-</td>
<td>40,000</td>
</tr>
<tr>
<td><strong>Total Supplemental</strong></td>
<td></td>
<td>178,129</td>
<td>(138,129)</td>
<td>40,000</td>
</tr>
</tbody>
</table>
MEMORANDUM

To: Whatcom County Council Members
From: Jack Louws
Subject: Budget Supplemental, Opportunity Council Grant
Date: June 24, 2013

The attached supplemental request for $115,409 is for the purposes of establishing budget authority in order to pass-through an available grant from the Washington State Department of Commerce to the Opportunity Council. This grant was applied for and authorized by the County Council in March, and has been granted for the delivery of direct services by the Opportunity Council as the local community action agency.

This grant is a HUD formula grant, issued annually, and passed through Dept. of Commerce for Community Development Block Grant Programs, for which Opportunity Council qualifies for this financial assistance. Whatcom County has been designated by the Dept. of Commerce as the grantee for the purpose of contracting with the Opportunity Council as a subrecipient for this grant award of $115,409.00.

This funding is intended to support new or increased levels of service to low- and moderate-income level homeowners and residents in Whatcom, Island and San Juan Counties for a one year period.

Whatcom County has executed a contract with the State Department of Commerce for this funding. Council’s authorization for this supplemental request will result in the execution of a Subrecipient Agreement with the Opportunity Council to implement the designated services noted herein.
Supplemental Budget Request

Executive

Supp'l ID # 1558  Fund 1  Cost Center 4272  Originator: Suzanne Mildner

Expenditure Type: One-Time  Year 1  2013  Add'l FTE  □  Add'l Space  □  Priority 1

Name of Request: OppCo Public Services Grant

X  6/24/13

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>
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</thead>
<tbody>
<tr>
<td>4333.1422</td>
<td>HUD-CDBG</td>
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<td>($115,409)</td>
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<tr>
<td>6610</td>
<td>Contractual Services</td>
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<td>$115,409</td>
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<tr>
<td>Request Total</td>
<td></td>
<td></td>
<td>$0</td>
</tr>
</tbody>
</table>

1a. Description of request:

This request is for a Community Development Block Grant from the Washington State Department of Commerce, which grant will be passed through to the Opportunity Council as subrecipient. This grant is a Public Services Grant issued annually for delivery of direct services to low- and moderate-income residents in Whatcom, San Juan and Island Counties. The services provided include community outreach, resource referral, client housing education, energy conservation education and other housing services.

1b. Primary customers:

Low and moderate-income residents of Whatcom, Island and San Juan Counties

2. Problem to be solved:

In order for Opportunity Council to access this formula grant for public services dollars, they require the local jurisdiction to act on their behalf as grantee. This CDBG grant is intended to support new or increased levels of services for eligible clients. Following the Council's approval of the application submission (in March, 2013), the grant contract has been awarded. Next, the County will enter into a subrecipient agreement with Opportunity Council, who will complete the project scope of work and adhere to the requirements of the grant contract.

3a. Options / Advantages:

None

3b. Cost savings:

N/A

4a. Outcomes:

Accomplish HUD's objective of increasing the availability and accessibility of services to achieve the objective of creating suitable living environments. This is an annual formula grant, with a one year contract which expires on June 30, 2014.

4b. Measures:

Opportunity Council will be required to submit ongoing reports, both fiscal and narrative, regarding the services delivered to the 3-county area. The grant closeout and final report will occur only after evidence of all grant requirements having been met. A final public hearing will be conducted at grant closeout.

5a. Other Departments/Agencies:

Opportunity Council, and 3 community resource centers in San Juan County

5b. Name the person in charge of implementation and what they are responsible for:

Dave Finet is Director of Opportunity Council and is responsible for overseeing the services associated

Tuesday, June 25, 2013
with this grant funding.

6. **Funding Source:**

   Federal grant from Housing and Urban Development (HUD) through the State Department of Commerce's CDBG Program.
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Michael McFarlane, Director
RE: Budget Supplemental #1557 Nesset Farm Tractor and Mower Purchase
DATE: June 21, 2013

- **Background and Purpose**
  This budget supplemental requests funding to purchase a replacement mower and tractor for the Nesset Farm. We are proposing to purchase a heavy duty 4WD lawn tractor and mower which is better suited for the site. A small trailer will also be purchased to help facilitate the maintenance of the property.

- **Funding Amount and Source**
  We are requesting $15,000 to purchase the tractor, mower and trailer. This purchase has been approved for reimbursement by the Nesset Foundation.

Please contact Michael McFarlane at extension 32072, if you have any questions
Supplemental Budget Request

Parks & Recreation

Fund 1  Cost Center 6003 6328  Originator: Michael McFarlane

Expenditure Type: One-Time  Year: 2013  Add'l FTE □  Add'l Space □  Priority: 1

Name of Request: Nessel Farm Tractor and Mower Purchase

X  6-25-13

Department Head Signature (Required on Hard Copy Submission)  Date

<table>
<thead>
<tr>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
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</thead>
<tbody>
<tr>
<td>4357.1000</td>
<td>Donations</td>
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<tr>
<td>7410</td>
<td>Equipment-Capital Outlay</td>
<td>$15,000</td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td>$0</td>
</tr>
</tbody>
</table>

1a. Description of request:
Purchase of a heavy duty tractor, mower and trailer to be used for general maintenance purposes at the Nessel Farm.

1b. Primary customers:
Park visitors.

2. Problem to be solved:
This request is to purchase a heavy duty tractor, mower and trailer for the Nessel Farm. This equipment is required to maintain the park grounds and for general maintenance purposes on site. The current lawn mower is nearing the end of its useful service and will be maintained as a backup for light duty work on the property.

3a. Options / Advantages:
Having our resident caretaker maintain the grounds is the most cost effective method to maintain this park area. This requires having the proper equipment as proposed.

3b. Cost savings:
This purchase is being funded by the Nessel Foundation.

4a. Outcomes:
Purchase of the equipment.

4b. Measures:
N/A

5a. Other Departments/Agencies:
N/A

5b. Name the person in charge of implementation and what they are responsible for:
N/A

6. Funding Source:
Nessel Foundation. Funds from the Foundation will be used to reimburse the general fund for the purchase.

Tuesday, June 25, 2013
TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: June 24, 2013
SUBJECT: Supplemental Budget ID #1553
First Aid Training Equipment - 2013

The attached Supplemental Budget requests budget authority to use donation from Bellingham Elks Lodge #194 for first aid training equipment.

**Background and Purpose**
The Bellingham Elks Lodge #194 donated $1,000 in June 2013 to supplement the Sheriff’s Office first aid training and supply needs. The Sheriff’s Office requests budget authority to use these funds to purchase equipment such as CPR mannequins and AED training machines to use for first aid training for Sheriff’s Office and Corrections deputies.

**Funding Amount and Source**
Donation of $1,000 from the Bellingham Elks Lodge #194.

Please contact Undersheriff Jeff Parks at extension 50418 if you have any questions.

Thank you.
# Supplemental Budget Request

**Status:** Pending

<table>
<thead>
<tr>
<th>Sheriff</th>
<th>Administration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund 1</td>
<td>Cost Center 2940</td>
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**Expenditure Type:** One-Time  
**Year:** 2013  
**Add'l FTE:** [ ]  
**Add'l Space:** [ ]  
**Priority:** 1

**Name of Request:** First Aid Training Equipment - 2013

**Department Head Signature:** [Signature]  
**Date:** 6/24/13

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<thead>
<tr>
<th>Costs:</th>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
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</thead>
<tbody>
<tr>
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<td>Donations</td>
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</tr>
<tr>
<td>6510</td>
<td>Tools &amp; Equip</td>
<td></td>
<td>$1,000</td>
</tr>
</tbody>
</table>

**Request Total:** $0

1a. Description of request:
The Bellingham Elks Lodge #194 donated $1,000 in June 2013 to supplement the Sheriff's Office first aid training and supply needs. The Sheriff's Office will use these funds to purchase equipment such as CPR mannequins and AED training machines to use for first aid training.

1b. Primary customers:
Sheriff's Office patrol and corrections deputies.

2. Problem to be solved:
The Sheriff's Office needs budget authority to purchase additional first aid training equipment using $1,000 donation received from the Bellingham Elks.

3a. Options / Advantages:

3b. Cost savings:
Cost savings of $1,000.

4a. Outcomes:
Additional first aid training equipment will be purchased.

4b. Measures:

5a. Other Departments/Agencies:
N/A

5b. Name the person in charge of implementation and what they are responsible for:
N/A

6. Funding Source:
$1,000 donation from Bellingham Elks Lodge #194.

*Monday, June 24, 2013*
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: June 24, 2013
SUBJECT: Supplemental Budget ID #1555
Reimbursable OT – Northwest Washington Fair 2013

The attached Supplemental Budget requests budget authority (revenue and expenditure) to provide additional law enforcement services during the Northwest Washington Fair.

Background and Purpose
The Northwest Washington Fair has requested the Sheriff’s Office to provide 96 hours of additional law enforcement services at the 6-day fair event in 2013 to enhance visibility and security for the safety of fair attendees.

Funding Amount and Source
Funding will be provided by the NW WA Fair at the established overtime reimbursement rate of $70 per hour in accordance with the Whatcom County Unified Fee Schedule for an estimated total of $6,720.

Please contact Undersheriff Jeff Parks at extension 50418 if you have any questions.

Thank you.
Supplemental Budget Request

<table>
<thead>
<tr>
<th>Sheriff</th>
<th>Administration</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Status: Pending</td>
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</tbody>
</table>

**Supp ID # 1555 | Fund 1 | Cost Center 2965 | Originator: Dawn Pierce**

**Expenditure Type: One-Time | Year 1 2013 | Add'l FTE | Add'l Space | Priority 1**

**Name of Request: Reimbursable OT - Northwest Washington Fair 2013**

<table>
<thead>
<tr>
<th>Department Head Signature (Required on Hard Copy Submission)</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Signature]</td>
<td>6/24/13</td>
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**Costs:**

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<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
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<tbody>
<tr>
<td>4342.1012</td>
<td>Off Duty Overtime</td>
<td>($6,720)</td>
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<tr>
<td>6110</td>
<td>Regular Salaries &amp; Wages</td>
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<tr>
<td>6140</td>
<td>Overtime</td>
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<td>6210</td>
<td>Retirement</td>
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<td>Social Security</td>
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<td>6259</td>
<td>Worker’s Comp-Interfund</td>
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<tr>
<td><strong>Request Total</strong></td>
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<td><strong>$0</strong></td>
</tr>
</tbody>
</table>

1a. **Description of request:**

The Northwest Washington Fair (NW WA Fair) has requested the Sheriff's Office to provide additional law enforcement at the 2013 fair event to enhance visibility and security for the safety of fair attendees.

1b. **Primary customers:**

NW Wa Fair attendees.

2. **Problem to be solved:**

Additional budget authority (revenue and expenditure) is needed to provide the requested 96 hours of law enforcement services at the 6-day event.

3a. **Options / Advantages:**

3b. **Cost savings:**

Overtime costs will be paid by the NW WA Fair.

4a. **Outcomes:**

Law enforcement services will be provided by Sheriff’s Office deputies on off-duty overtime during the operational periods of the NW WA Fair for the safety of fair attendees.

4b. **Measures:**

5a. **Other Departments/Agencies:**

N/A

5b. **Name the person in charge of implementation and what they are responsible for:**

N/A

6. **Funding Source:**

Funding will be provided by the NW WA Fair at established overtime reimbursement rate of $70 per hour in accordance with the Whatcom County Unified Fee Schedule.

Thursday, June 20, 2013

Rpt: Rpt Suppl Regular
Supplemental Budget Request

Non-Departmental

Supp1 ID # 1554  Fund 175  Cost Center 17530  Originator: Mike McFarlane/Tawni Helm

Expenditure Type: One-Time  Year 1 2013  Add'l FTE  Add'l Space  Priority 1

Name of Request: Lake Whatcom Reconveyance - land surveying

X

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>2910.1000</td>
<td>Fund Balance</td>
<td>($40,000)</td>
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</tr>
<tr>
<td>7210</td>
<td>Intergov Prof Svcs</td>
<td>$40,000</td>
<td></td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td>$0</td>
<td></td>
</tr>
</tbody>
</table>

1a. Description of request:
This budget supplemental is to allow for the increased cost for land surveying and closing expenses for the Lake Whatcom Reconveyance as described in the interagency agreement between Whatcom County and the Washington State Department of Natural Resources (Whatcom County Contract #200911007).

1b. Primary customers:
The area to be transferred to County ownership will be used by the public for recreation, habitat preservation and water quality. The land survey and monumentation will inform staff and easement users of property ownership.

2. Problem to be solved:
The Lake Whatcom Reconveyance is a Council initiative to provide additional protection to the Lake Whatcom Watershed and enhanced recreational opportunities to Whatcom residents by transferring approximately 8,800 acres of State trust lands to County ownership pursuant to RCW 7.22.300. The County entered into an agreement with the State of Washington Department of Natural Resources in late 2008. At that time the State estimated that transaction costs would not exceed $291,000. Since 2008 the configuration of trust lands to be transferred has been finalized. The State now estimates an additional $30,000 is required to complete a land survey and to monument all road crossings between state and county lands. An additional $10,000 for DNR staff to update and review title and prepare easement legal descriptions, deed and other closing preparations and documents is also being requested.

3a. Options / Advantages:
DNR prefers to use its own staff for surveying to maintain quality control and consistency with its lands management program. Local units of government are required to pay the costs of transferring trust lands per reconveyance.

3b. Cost savings:
N/A

4a. Outcomes:
Transfer by deed of approximately 8,800 acres of state trust lands to Whatcom County per the reconveyance proposal and completion of the land survey of the boundary between county and state lands to include marking of all road crossings.

4b. Measures:

5a. Other Departments/Agencies:
This land transfer is being facilitated by the State of Washington Department of Natural Resources.

5b. Name the person in charge of implementation and what they are responsible for:

Tuesday, June 18, 2013  Rpt: Rpt Suppl Regular
Supplemental Budget Request

Non-Departmental

Supp' ID # 1554  Fund 175  Cost Center 17530  Originator: Mike McFarlane/Tawni Helm

Michael McFarlane, director Whatcom County Parks & Recreation - Contract and project management
Julie Sandberg, Asset Division Manager (DNR) - Contract and project management

6. Funding Source:
Conservation Futures Fund
Memorandum

TO: Jack Louws, County Executive
FROM: J.E. "Sam" Ryan, PDS Director
DATE: February 22, 2013
SUBJECT: PDS Expenditure Plan to Reduce County Funding

In your memo dated February 4, 2013, the savings target set for PDS is:
- $80,989 for 2013, and
- $89,073 for 2014.

To help meet these targets, we will eliminate a 1 FTE position (#1150) after June 30, 2013; her last day with the county. This position has a total budget of:
- $88,080 in 2013, and
- $91,711 in 2014.

So for 2014, the elimination of this position covers the $89,073 savings target.

Since she is here for half of 2013, we have combined the elimination of this position with other 2013 personnel cost savings to meet the $80,989 savings target for 2014. See the breakdown below:

- Position #1150 Cost Summary (1 FTE) from 2013 Budget
  - Wage 64,040
  - SS 4,899
  - Workers Comp 728
  - Retirement 5,251
  - Med/Dent/Vis/Life 13,131
  - EAP 31
  - TOTAL 88,080

- We will save the following because she will be leaving the county after 6 months
  - Wage 32,020
  - SS 2,449.50
  - Workers Comp 364
  - Retirement 2,625.50
  - Med/Dent/Vis/Life 6,565.50
  - EAP 15.50
  - TOTAL SAVINGS 44,040
• Of the $32,020 wages she will be here for, she only works a .8 FTE schedule, so additional savings:
  o .2 of Wages 
  o Benefits related to .2 
  o TOTAL SAVINGS 
    6,404
    1,088
    7,492

• TOTAL amount that we will not spend out of the $88,080 2013 budget for Position #1150:
  o 44,040
  o 7,492
  o <5,139>
  o $46,393

TOTAL SAVINGS in 2013 from eliminating position #1150
(from only working 6 months)
(from only working .2)
(less estimated cash-out)

Other savings to go towards the 2013 savings target:
• Position #1050 has been open January, February, and we plan on re-hiring in March
  o $87,798/year - 2 month’s savings = $14,633
• Position #1060 has been open since mid-October 2012. It was re-hired in February
  o $91,111/year - 1 month’s savings = $7,593
• Position #1240 will remain unfilled in February
  o $72,167/year - 1 month’s savings = $6,014
• Position #1020 is budgeted at 1 FTE, but only works .8 FTE, as agreed upon at the close of each year 2010, 2011, & 2012.
  o $108,007/year - .2 savings = $21,601

*All figures above are total personnel costs (with benefits included)

TOTAL SAVINGS IN 2013 OUTLINED ABOVE:

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<th>Savings</th>
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<td>#1150</td>
<td>$46,393</td>
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<tr>
<td>#1050</td>
<td>$14,633</td>
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<tr>
<td>#1240</td>
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<tr>
<td>#1020</td>
<td>$21,601</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$96,234</strong></td>
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As you see, these savings of $96,234 are more than $15,000 beyond the savings target requested for 2013. I wanted to point out that we recently filled the Planner I position at the front counter with an internal applicant from a different union. We hired him at a rate one step above what was budgeted. This equals a dollar amount of $1 more per hour, so about $2400 more a year. This extra $15,000 in savings more than covers this new hire.

Please let me know if you have any questions.

Thank you.
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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TITLE OF DOCUMENT:
AMENDMENT No. 1 TO ORDINANCE No. 2013-003 ESTABLISHING A PROJECT FUND FOR THE NEW JAIL PROJECT 2013-2014

ATTACHMENTS:

1. Memo to County Executive and County Council
2. Ordinance Amendment
3. Exhibit “A” Jail Planning Supplemental Services Supplemental Budget Request

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.)

Amendment No. 1 to the New Jail Project 2013-2014 budget requests additional planning phase budget authority of $100,000 for a new total Project Based Budget amount of $544,902.

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: Whatcom County Council Members
From: Tawni Helms, Administrative Services Coordinator
RE: New Jail Project Budget Amendment #1
Date: June 28, 2013

Background and Purpose:

Other expenses connected with necessary analysis of the preferred jail property site have arisen and there is adequate funding or these expenses in the New Jail Project 2013-2014 Fund. Additional analysis of the preferred site requires supplemental services not included in the original scope of work. Further assessment of the site includes a Geotech study and Environmental Site Assessment (ESA) Phase II at a cost that exceeds the contract’s 10% contingency.

It is critical the County proceeds expeditiously with this work, as outlined in Attachment A in order to complete the Supplemental Environmental Impact Statement. If problems are identified with the site as a result of these studies the County will have the option to assess the viability of the preferred site before expending additional resources. Therefore, the Administration recommends approval of this budget supplemental to allow for adequate budget authority to complete the necessary analysis on this time sensitive project.

Administration is requesting additional budget authority in the amount of $100,000 to increase the original project budget amount from $444,902. to $544,902.

Funding Amount and Source:

Funding source for supplemental services related to the Jail Planner work is the Jail Project 2013-2014 Fund. Cost Center 345100.
ORDINANCE NO.
AMENDMENT No. 1 TO ORDINANCE No. 2013-003 ESTABLISHING A PROJECT FUND FOR THE NEW JAIL PROJECT 2013-2014

WHEREAS, the planning phase of the New Jail Project 2013-2014 budget was initially adopted on January 29, 2013 with an expenditure amount of $444,902 and a revenue amount of $1,000,000 from a General Fund transfer, and

WHEREAS, the $444,902 was the amount budgeted to cover the DLR planning contract, and

WHEREAS, other expenses connected with necessary analysis of the preferred jail property site have arisen as described in Exhibit A, and

WHEREAS, there is adequate funding for these expenses in the New Jail Project 2013-2014 Fund,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council, that Ordinance No. 2013-003, associated with the project based budget of the New Jail Project 2013-2014 is hereby amended by adding an additional amount of $100,000 of expenditure authority to the original project budget amount of $444,902 for a total project budget expenditure amount of $544,902.

ADOPTED this ____ day of _____, 2013.

ATTEST: WHATCOM COUNTY COUNCIL

Dana Brown-Davis, Council Clerk WHATCOM COUNTY, WASHINGTON

Kathy Kershner, Chair of the Council

APPROVED AS TO FORM: ( ) Approved ( ) Denied

Chief Civil Deputy Prosecutor

Jack Louws, Executive

Date: ___________________________
Supplemental Budget Request

Non-Departmental

Supp ID # 1559  Fund 345  Cost Center 345100  Originator: Jack Louws

Expenditure Type: One-Time  Year 1 2013  Add’l FTE  Add’l Space  Priority 1

Name of Request: Jail Planning Supplemental Services

X

Department Head Signature (Required on Hard Copy Submission)  Date

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1a. Description of request:  
Supplemental Services not included in the Jail Planner contract with DLR Group are required to complete the necessary analysis on the preferred jail property site. Supplemental services include:

1. Traffic Study
2. Geotechnical Engineering Study
3. Phase II Environmental Site Assessment
4. Fiscal Analysis as requested by the City of Ferndale

1b. Primary customers:
Citizens of Whatcom County.

2. Problem to be solved:
Supplemental services not included in the original scope of work are necessary for a full and complete analysis of the preferred site. The supplemental services include a Traffic Study, Geotechnical study, Phase II Environmental Site Assessment and a Fiscal Impact Analysis as requested by the City of Ferndale. The City of Ferndale seeks to establish the probable fiscal impact that the construction and subsequent operations of a proposed Whatcom County Jail and Sheriff Offices (the facility) would have on the City of Ferndale and nearby private properties.

3a. Options / Advantages:
Jail Planner, DLR Group requested multiple quotes for pricing to complete Geo Tech and ESA studies. The best and most affordable agency was selected.

3b. Cost savings:
N/A

4a. Outcomes:
Final Traffic Study
Final Geo Tech Study Report
Phase II Environmental Site Assessment (ESA) Report
Fiscal Analysis Report

4b. Measures:
Receipt of final report on time for each of the supplemental services.

5a. Other Departments/Agencies:
Planning and Development Services and Facilities staff may need to interact with the subcontractor.

Monday, July 01, 2013
Supplemental Budget Request

Non-Departmental

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5b. Name the person in charge of implementation and what they are responsible for:
   Planning and Development Services - Tyler Schroeder
   Facilities - Mike Russell

6. Funding Source:
   New Jail Fund 2013 - 2014 (Cost Center - 345100)
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITILE OF DOCUMENT:** An Ordinance Establishing the Nesson Farm Restoration Project Fund and Establishing a Project Based Budget for the Nesson House Restoration Project.

**ATTACHMENTS:** Ordinance & Budget Modification Requests

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.)

To establish the Nesson Farm Restoration Project Fund and to appropriate $250,000 to fund the Nesson House Restoration Project.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:
ORDINANCE NO. __________

ESTABLISHING THE NESSET FARM RESTORATION PROJECT FUND AND
ESTABLISHING A PROJECT BASED BUDGET FOR THE NESSET HOUSE RESTORATION
PROJECT

WHEREAS, Whatcom County has acquired the Nessen Farm as a county park, and

WHEREAS, it is anticipated that the Nessen Farm will have various restoration projects that will
span several years, and

WHEREAS, the first project will be the Nessen House Restoration, and

WHEREAS, funding is available by donations from the Nessen Foundation;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that a new fund is
hereby established titled “Nessen Farm Restoration”. This fund shall be used to account for the
expenditures and revenues of the restoration projects, and,

BE IT FURTHER ORDAINED by the Whatcom County Council that the Nessen House
Restoration project is approved with an initial project budget of $250,000 as described in Exhibit
A.

ADOPTED this ___ day of _________________, 2013.

ATTEST:

Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Kathy Kershner, Chair of the Council

APPROVED AS TO FORM:

( ) Approved    ( ) Denied

Jack Louws, County Executive
Date: _______________
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Michael McFarlane, Director
RE: Budget Supplemental #1556 Nesset House Restoration
DATE: June 21, 2013

- **Background and Purpose**
  This budget supplemental requests funding to restore the historic Nesset House and several small out buildings located at the Nesset Farm. This house was constructed in 1888 and requires extensive restoration. When completed, the house and farm will be available to the public for educational tours and activities.

- **Funding Amount and Source**
  Funding for this project has been approved and will be provided through the Nesset Foundation. The estimated cost for this phase of the restoration is $250,000.

Please contact Michael McFarlane at extension 32072, if you have any questions or concerns regarding the terms of this agreement.
Supplemental Budget Request

Status: Pending

Parks & Recreation

Supp'l ID # 1556

Fund
Cost Center
Originator: Michael McFarlane

Expenditure Type: One-Time
Year 1  2013
Add'l FTE ☐ Add'l Space ☐ Priority 1

Name of Request: Nesset House Restoration

X 6-25-13

Department Head Signature (Required on Hard Copy Submission)

Date

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1a. Description of request:
The Nesset Foundation has provided funding for restoration of the Nesset House and several smaller outbuildings at South Fork Park. This historic house is in need of major restoration and will be open for public viewing when completed. Constructed in 1888, this project includes structural repairs, siding and roofing for the main house and several smaller out buildings.

1b. Primary customers:
Park visitors will be able to tour the entire homestead when completed.

2. Problem to be solved:
Whatcom County acquired the Nesset Farm in 1998 with the intent of restoring the property for public use as an educational and museum facility. The Nesset Foundation was formed to fund improvements to the property and structures. Other structures such as the barn have already been restored. The Nesset house was constructed in 1888 and requires extensive renovation due to age and condition. This project will restore the house to its original condition and allow for its intended public use. Concurrently, the Parks & Recreation Department is in the early stages of developing public access to the park. Restoration efforts should be completed by the time the park is ready for public use.

3a. Options / Advantages:
N/A

3b. Cost savings:
N/A

4a. Outcomes:
Restoration should be completed in 2015.

4b. Measures:
The house and outbuildings will be restored and in good condition.

5a. Other Departments/Agencies:
Permits will be required form WC Planning and Development Services for restoration. Department of Archeology and Historic Preservation guidelines will be incorporated into the restoration specifications.

5b. Name the person in charge of implementation and what they are responsible for:
N/A

6. Funding Source:
Nesset Foundation

Tuesday, June 25, 2013
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**
An Ordinance Authorizing an Interfund Loan to Finance Cash Flow for the Nesson Farm Restoration Project Fund.

**ATTACHMENTS:**
Ordinance

**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.)

The attached ordinance authorizes the Whatcom County Treasurer for make interfund loans for cash-flow purposes from Real Estate Excise Tax Fund II to the Nesson Farm Restoration Project Fund for up to three years and $100,000.

**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](http://www.co.whatcom.wa.us/council).
ORDINANCE NO. __________

AN ORDINANCE AUTHORIZING AN INTERFUND LOAN TO FINANCE CASH FLOW FOR THE NESSET FARM RESTORATION PROJECT FUND

WHEREAS, Whatcom County Parks and Recreation will be overseeing various multi-year restoration projects connected with the Nesset Farm, and

WHEREAS, these projects will be accounted for in a separate capital project fund, and

WHEREAS, funding for these projects will be on a cost reimbursement basis from the Nesset Foundation, and

WHEREAS, from time to time, due to the processing time required to receive the reimbursements, the Nesset Farm Restoration Project Fund will need a temporary loan for cash-flow purposes, and

WHEREAS, the Real Estate Excise Tax Fund II (REET II) is an appropriate source to provide cash-flow loans for park-related projects,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council: The Whatcom County Treasurer is hereby authorized to make inter-fund loans from the REET II Fund to the Nesset Farm Restoration Project Fund for cash-flow purposes. The loans shall not exceed $100,000 and shall not be for a term exceeding three years. No interest shall be charged on the loans.

BE IT FURTHER ORDAINED, a report of all new inter-fund loans from the REET II Fund will be provided to the County Council annually.

ADOPTED this ___ day of ____________________, 2013.

ATTEST:

Dana Brown-Davis, Council Clerk

Kathy Kershner, Chair of the Council

APPROVED AS TO FORM:

 Civil Deputy Prosecutor

( ) Approved    ( ) Denied

Jack Louws, County Executive
Date:______________
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

Title: Zoning amendment to allow Packinghouses in the Agriculture Zoning District

ATTACHMENTS:

1) Proposed Ordinance
2) Exhibit A – Proposed Code Amendments
3) Background Information #1: Map – Critical Aquifer Recharge Areas and Designated Agricultural Lands
4) Background Information #2: Comprehensive Plan Policy 2HH-3 regarding designation of new LAMIRDS
5) Background Information #3: Health Department Comment
6) Background Information #4: PowerPoint presentation from May 21st Planning and Development Committee

SEPA review required? (X) Yes ( ) NO Should Clerk schedule a hearing? (X) Yes ( ) NO
SEPA review completed? (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.)

To allow packinghouses of up to 10,000 square feet as an accessory use, or greater than 10,000 but less than 30,000 square feet as a conditional use. Review criteria include limits on livestock source, limitations on holding pens, adequate services by necessary facilities, waste management requirements, appropriate vehicular approaches, limits on, noxious emissions, requires avoidance of prime soils to the extent feasible, and a prohibition within Critical Aquifer Recharge Areas of High susceptibility, among other criteria.

COMMITTEE ACTION:

5/21/2013: Exhibit A amended and recommended for introduction at the next meeting (Joshua Fleischmann to provide an amended ordinance)
6/04/2013: Held in SCOTW
6/18/2013: Amended. Introduce amended ordinance in two weeks.

COUNCIL ACTION:

6/04/2013: Will be introduced at a later date
6/18/2013: Will be introduced July 9, 2013

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.
PROPOSED BY: __________
SPONSORED BY: __________
INTRODUCTION DATE: __________

ORDINANCE NO. __________

ZONING AMENDMENT TO ALLOW AGRICULTURAL SLAUGHTERING
FACILITIES IN THE AGRICULTURE ZONING DISTRICT

WHEREAS, an application has been submitted to amend the Agriculture (AG) zoning district to allow the small scale slaughter of local livestock; 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 amendment; 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 public hearing on the proposed amendment and considered all testimony; and

WHEREAS, the Whatcom County Planning Commission held 3 work sessions on the proposed amendment; 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 3 public hearing on the proposed amendment and considered all testimony; and

WHEREAS, the Whatcom County Council held 7 work sessions in the Planning and Development Committee; and

WHEREAS, The Whatcom County Council held 2 work session in the Special Committee of the Whole; and

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

FINDINGS

1. The proposal is to amend the Agriculture (AG) District portion of the Zoning Code (WCC 20.40), to allow for packinghouses.

2. The proposal has been posted to the County website.

3. Notice of the subject amendment was submitted to the Washington State
Department of Commerce on June 5, 2012.

4. Notice of the Planning Commission work session for the subject amendment was posted on the County’s website in May 2012.

5. In order to approve the zoning amendment, the County must find that it is consistent with the Growth Management Act. Additionally, the County must find that the zoning amendment is consistent with and implements the Whatcom County Comprehensive Plan.

6. The Growth Management Act includes a planning goal to “Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state’s natural resources, public services, and public facilities” (RCW 36.70A.020(5)).

This proposed zoning amendment would allow for new packinghouses within the agriculture zoning district. Presently, new packinghouses are prohibited within the agriculture zoning district. Staff recognizes the benefit to the agricultural industry this amendment would provide by allowing greater opportunities for farmers to get their product to the end user. The Growth Management Act allows for jurisdictions to implement innovative zoning techniques, which should be designed to conserve agricultural lands and encourage the agricultural economy. This proposed amendment would support planning goal RCW 36.70A.020(5) Economic Development.

7. The Growth Management Act also includes a planning goal to “Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses” (RCW 36.70A.020(8)).

This proposed zoning amendment would allow for new packinghouses within the agriculture zoning district. Staff recognizes the benefit to the agricultural industry this amendment would provide by allowing greater opportunities for farmers to get their product to the end user. This proposed amendment would support planning goal RCW 36.70A.020(8) Natural Resource Industries.

8. Consistent with RCW 36.70A.177, this amendment will allow packinghouses within the agricultural zone that will support the agricultural community by allowing production of value-added agricultural products and will not interfere with the overall agricultural use and character of the County’s designated agricultural lands of long-term commercial significance.

This proposed zoning amendment would allow for new packinghouses within the agriculture zoning district. Presently, Keizer Meats of Lynden, which operates the only USDA approved facility north of King County Seattle that is open to the general public, has received conditional approval to operate a facility at the location of their approved meat cutting and packing facility on Bob Hall Rd. Approval of this proposed amendment would allow other citizens within the agriculture zoning district to provide slaughtering services to Whatcom County farmers and allow greater opportunities for farmers to generate value-added products and get their product to the end user.

10. Policy 8B-2: Assist Whatcom County’s agricultural industry in the pursuit of its long-term economic potential. This should include the development of strategies and policies necessary to reach this potential, in terms of both production and diversity.

This proposed zoning amendment would allow for new uses not presently allowed in the agriculture zoning district. Allowing this use may increase production and diversity of livestock by providing greater opportunities for livestock owners to get their product to the end user.

11. Policy 8B-4: Support methods and strategies to market Whatcom County agriculture in ways which ensure that agricultural activities (such as dairying) and entities (such as processors) will remain here in the long term.

Allowing new packinghouses within the agriculture zoning district would provide for additional marketing of Whatcom County livestock, as there is presently only one permitted USDA approved facility within any Whatcom County jurisdiction that is open to the public.

12. County-Wide Planning Policy I-5: The county and the cities should include an economic development element in their Comprehensive Plans. Economic development elements should be consistent with the CEDS. Economic development shall be coordinated with environmental concerns to protect the quality of life. Planning efforts should address economic sustainability. As part of the comprehensive planning process and through implementation of the comprehensive plan, the County shall develop and adopt goals, policies and regulations that protect resource land industries and support and encourage resource-based industries.

Approval of this proposed amendment would allow citizens within the agriculture zoning district to provide slaughtering services to Whatcom County farmers and allow greater opportunities for farmers to get their product to the end user. By approving the proposed amendment, comprehensive plan goals and policies and their related development regulations that support and encourage resource-based industries would be implemented.

13. County-Wide Planning Policy I-9: The County and the cities recognize the
need for the protection and utilization of natural resources and resource
lands including agricultural, mineral, forestry and fishing. As part of a broad
based economy, productive timber, agriculture and fisheries industries should
be supported in a sustainable manner.

Approval of this proposed amendment would allow citizens within the
agriculture zoning district to provide slaughtering services to Whatcom
County farmers and allow greater opportunities for farmers to get their
product to the end user. Approval of this proposal would allow for an
increase to the economic base for agricultural products related to livestock.

14. Packinghouses within the Agriculture zone allow for a local, sustainable,
humanely raised food supply for the citizens of Whatcom County.

15. Limiting holding pens to that necessary to accommodate animals intended for
immediate processing would prevent packinghouse holding pens from
becoming feedlots, while allowing each facility the flexibility to adjust their
business accordingly.

16. The proposed amendment has not changed substantially from the initial staff
proposal that was reviewed through the State Environmental Policy Act
(SEPA). The previously issued SEPA Threshold Determination of
Determination of Nonsignificance (DNS) is still applicable.

17. The Rural Industrial Manufacturing (RIM) zone is the only zone presently in
Whatcom County that provides a permitting pathway to allow for
slaughtering facilities packinghouses and slaughterhouses. Applicability of
land within the RIM zone to a new agricultural slaughtering facility is limited
to the I-5 Rural Business RIM zone.

18. According to the 2007 USDA Census of Agriculture, Whatcom County has
95,500 cattle and calves.

19. Keizer Meats, the only USDA approved slaughtering facility in Whatcom
County, is limited to slaughtering 2,000 animals per year through their
Conditional Use Permit.

20. Both nationwide and locally, the percentage of livestock operations selling
product directly to consumers or retailers is much smaller than that of other
agricultural products (US Department of Agriculture. Slaughter and
Processing Options and Issues for Locally Sourced Meat. USDA Economic

21. Limited slaughter and processing capacity is often cited as a key barrier to
marketing of meat and poultry locally (US Department of Agriculture.
Slaughter and Processing Options and Issues for Locally Sourced Meat. USDA

22. The number of slaughter plants has decreased in recent years, both
nationwide and locally (US Department of Agriculture. Slaughter and
Processing Options and Issues for Locally Sourced Meat. USDA Economic
23. Nationwide 87 percent of federally inspected facilities combine to process just
over 1 percent of cattle slaughtered per year (US Department of Agriculture,
Slaughter and Processing Options and Issues for Locally Sourced Meat. USDA

24. Lack of nearby slaughter facilities can create logistical impediments to animal
slaughter, particularly in being able to transport animals/meat to and from
the slaughter plant in a financially practical way (US Department of
Agriculture. Slaughter and Processing Options and Issues for Locally Sourced

25. Nationwide Given the mismatch between smaller producers and larger
plants, many individual producers marketing their meat via niche marketing
arrangements must rely on smaller facilities, wherever they are located.
Small producers may prefer to use a smaller slaughter and processing facility
because a smaller plant is likely to be more flexible in satisfying the
producer’s individual processing requests (US Department of Agriculture,
Slaughter and Processing Options and Issues for Locally Sourced Meat. USDA

26. Nationwide Sales of food sold via direct-to-consumer marketing have more
than doubled over the last decade (USDA/NASS, 2007 Census of Agriculture).
However, direct-to-consumer and intermediated sales of livestock products
have not grown as rapidly as other food categories, despite apparent
demand. Local producers continue to perceive a lack of local slaughter
capacity as a hindrance in trying to meet growing demand (US Department
of Agriculture. Slaughter and Processing Options and Issues for Locally

27. Currently, the vast majority of livestock and poultry slaughter in the United
States is done in a relatively small number of very large facilities (US
Department of Agriculture. Slaughter and Processing Options and Issues for

28. New methods for animal slaughter and processing geared toward local
markets, for example, mobile slaughter units (MSUs), can help meet some of
the need for increased slaughter capacity in localized areas and enable the
growth of small livestock producers marketing products to consumers in their
region or community (US Department of Agriculture. Slaughter and
Processing Options and Issues for Locally Sourced Meat. USDA Economic

29. As part of the review process for the proposed amendments, Planning and
Development Services has read numerous background documents including,
but not limited to: USDA Layout Guide for Small Meat Plants; University of
Wisconsin-Cooperative Extension, Pollution Prevention for Small
Slaughterhouse and Meat-Packing Operations handout; USDA Slaughter and
Processing Options and Issues for Locally Sourced Meat; Siskiyou Slaughter
Facility Preliminary Feasibility Study & Action Plan; EPA Technical


30. Roughly 56% of agriculturally zoned land is within a Critical Aquifer Recharge Area (CARA) of high susceptibility, as identified by the Critical Areas Ordinance map.

**CONCLUSIONS**

1. The proposed amendments are consistent with the Whatcom County Comprehensive Plan.
2. The subject amendment serves the public interest by supporting the local agricultural industry.

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 __________, 20___.

ATTEST:

Dana Brown-Davis, Clerk of the Council

Kathy Kershner, Council Chair

APPROVED AS TO FORM:

Civil Deputy Prosecutor

Jack Louws, County Executive

( ) Approved   ( ) Denied

Date Signed: _____________________
EXHIBIT A

Chapter 20.40 AGRICULTURE (AG) DISTRICT
20.40.100 Accessory Uses

Packinghouses, which shall be located, designed, and operated so as to not interfere with the overall agricultural character of the area, provided the following criteria are met:

(1) The total allowable building area is no larger than 10,000 square feet.
(2) The facility processes at least 75 percent agricultural goods produced in Whatcom or Skagit County and that originate from uses permitted in WCC 20.40.051.
(3) Holding pens associated with packinghouses shall be limited to that necessary to accommodate animals intended for immediate processing.
(4) For purposes of public notice, the applicant shall submit stamped envelopes with typed addresses for each property owner within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor.
(5) The facility will be serviced adequately by necessary facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and wastewater treatment.
(6) The facility shall comply with solid waste handling standards as set forth in WAC 173-350, as administered by the Whatcom County Health Department as adopted by reference in WCC 24.06.
(7) An approved state waste discharge permit from the Washington State Department of Ecology that complies with WAC 173-216, WAC 173-226 industrial stormwater permit (general permits), and/or an NPDES Permit (RCW 90.48 and WAC 173-220), if required by the Washington State Department of Ecology.
(8) The facility will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.
(9) The building shall avoid prime agricultural soils to the extent feasible.
   Where the site is predominantly in prime soils and avoidance is not feasible, the applicant shall demonstrate that the buildings:
   a. Are sized to be as small as feasible; and
   b. Located to maximize the agricultural use of the remaining area; and
   c. Achieve the most suitable locations in terms of minimizing roads, impervious surfaces, and allowing for water availability and septic suitability.
(10) The packinghouse, as identified in WCC 20.97.282.1, shall emit no noxious emissions that are detectable, at or beyond the property line for the use concerned, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use of adjacent property.

(11) The packinghouse is not located in a Critical Aquifer Recharge Area of a High Susceptibility, as identified by the Critical Areas Ordinance map.

20.40.150 Conditional Uses

164 Packinghouses, which shall be located, designed, and operated so as to not interfere with the overall agricultural character of the area, provided the following criteria are met:

(1) The total allowable building area is larger than 10,000 square feet and no larger than 30,000 square feet.

(2) The facility processes at least 75 percent agricultural goods produced in Whatcom or Skagit County and that originate from permitted uses in WCC 20.40.051.

(3) Holding pens associated with packinghouses shall be limited to that necessary to accommodate animals intended for immediate processing.

(4) The facility will be serviced adequately by necessary facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and wastewater treatment.

(5) The facility shall comply with solid waste handling standards as set forth in WAC 173-350, as administered by the Whatcom County Health Department as adopted by reference in WCC 24.06

(6) An approved state waste discharge permit from the Washington State Department of Ecology that complies with WAC 173-216, WAC 173-226 industrial stormwater permit (general permits), and/or an NPDES Permit (RCW 90.48 and WAC 173-220), if required by the Washington State Department of Ecology.

(7) The facility will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.

(8) The building shall avoid prime agricultural soils to the extent feasible. Where the site is predominantly in prime soils and avoidance is not feasible, the applicant shall demonstrate that the buildings:

a. Are sized to be as small as feasible; and

b. Located to maximize the agricultural use of the remaining area; and

c. Achieve the most suitable locations in terms of minimizing roads, impervious surfaces, and allowing for water availability and septic suitability.
(9) The packinghouse, as identified in WCC 20.97.282.1, shall emit no noxious emissions that are detectable, at or beyond the property line for the use concerned, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use of adjacent property.

(10) The packinghouse is not located in a Critical Aquifer Recharge Area of a High Susceptibility, as identified by the Critical Areas Ordinance map.

Chapter 20.69 Rural Industrial Manufacturing (RIM)
20.69.130 Administrative approval uses
20.69.131 Slaughterhouses. Agricultural slaughtering facilities, if done in compliance with WAC Title 16 (Department of Agriculture) and RCW Title 16 (Animals and Livestock).

Chapter 20.80 Supplementary Requirements
20.80.200 Setback requirements
20.80.255 Agriculture District.
(1) The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds the new building or addition is located along the same building line(s) of existing structures and will result in no additional encroachment, the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.
(2) The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, packinghouses, or areas used to contain, house or feed animals or store manure or feed, shall be 300 feet. New farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed, shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor’s residence, and pastures are excluded from this section’s requirements.
(3) The minimum separation between packinghouses and schools shall be 500 feet.
(4) The minimum separation between packinghouses and adjacent property lines shall be 150 feet.

20.97.282.1 Packinghouse
"Packinghouse" means a plant that both slaughters animals and subsequently processes carcasses into cured, smoked, canned or other prepared meat products. Rendering and importation of animal by-products is strictly prohibited in
packinghouses. Packinghouses shall not slaughter poultry. Packinghouses exclude temporary, mobile or other on-farm, owner-raised poultry slaughtering operations regulated under WAC 16-170 and/or RCW 69.07 that do not require USDA inspection. Agricultural producers who raise poultry may slaughter up to one thousand (1,000) poultry raised on their own farm annually subject to the special poultry permit requirements of WAC 16-170. Agricultural producers who process between one thousand (1,000) and twenty thousand (20,000) poultry a year on their farm are subject to the food processor license requirements of RCW 69.07.

20.97.310 Poultry
“Poultry” means products derived from the slaughter and processing of broilers, other young chickens, mature chickens, hens, turkeys, capons, geese, ducks, small game fowl such as quail or pheasants, and small game such as rabbits.

20.97.343 Rendering
“Rendering” means the process or business of producing tallow, grease, and high-protein meat and bone meal from animal by-products.

20.97.343.1 Rendering Plant
“Rendering plant” means a plant that processes animal by-product materials for the production of tallow, grease, and high-protein meat and bone meal.

20.97.423.1 Slaughterhouse
“Slaughterhouse” means a facility that slaughters animals and has as its main product fresh meat as whole, half or quarter carcasses or small meat cuts.

20.97.424 Slaughtering
“Slaughtering” means the killing and processing of animals for human consumption.
BACKGROUND INFORMATION 1)
BACKGROUND INFORMATION 2)

Policy 2HH-3: Rural Business (Type III LAMIRD) designation criteria

A. Location Criteria. Rural Business may be designated on land that:
   1. Is not currently designated by the Comprehensive Plan as Urban Growth Areas (UGAs) or Resource Lands, and
   2. Consists of a lot or small group of lots that either:
      a. Contain nonresidential uses and is located within a commercial, manufacturing, or industrial zoning district at the time of original county-initiated designation, or
      b. Allow for new development of isolated cottage industries and isolated small scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents.

B. Additional Criteria
   1. A Rural Business designation on a lot or small group of lots containing nonresidential uses shall be separated from other LAMIRD designations, regardless of type, by no less than one-half mile by public road, except where the other LAMIRD is separated by a major physical feature such as a water body, freeway, major road, or other physical feature.
   2. In the event that the listed criteria result in the need to choose one proposed designation over another, preference is given to a proposed use that:
      a. Provides the greatest number of job opportunities for rural residents.
      b. Is located at a controlled public road intersection.
BACKGROUND INFORMATION 3)
To:
Subject:

From: Jeff Hegedus
Sent: Thursday, May 23, 2013 2:45 PM
To: Joshua Fleischmann
Cc: Mark Personius; John Wolpers
Subject: RE: Packinghouse waste language

Thank you Josh. As we have discussed, and as I have presented to committee, the Health Department has no legal jurisdictional authority or context to approve or disapprove a ‘waste management plan’ as referenced in the proposed ordinance. The Health Department will not approve or disapprove any such ‘plan’ that may be submitted, and again recommends that this requirement be deleted from the draft ordinance (State Waste Discharge Permit applications already require information regarding solid waste management from operations(WAC 173-216-110(c)). As we also discussed, and presented in committee, the Health Department WILL diligently enforce the requirements of WAC 173-350, Solid Waste Handling Standards, as adopted by reference in WCC 24.06, Solid Waste Rules. The Health Department will also provide technical assistance to applicants and facility operators, and respond to complaints filed regarding activities at these facilities. Please feel free to call if there are any questions. Thank you.

From: Joshua Fleischmann
Sent: Thursday, May 23, 2013 11:09 AM
To: Jeff Hegedus
Cc: Mark Personius
Subject: Packinghouse waste language

Hello Jeff,

Following your presence at the Planning and Development Committee meeting on April 9th, you and I collaborated on language regarding waste handling. The language that we developed was:

- The facility shall comply with solid waste handling standards as set forth in WAC 173-350, as administered by the Whatcom County Health Department as adopted by reference in WCC 24.06.

At the Planning and Development Committee meeting on May 21st, the language that the committee forwarded to the County Council for introduction was:

- The facility shall provide and implement a waste management plan, approved by the Whatcom County Health Department and an approved state waste discharge permit from the Washington State Department of Ecology that complies with WAC 173-216, WAC 173-226 industrial stormwater permit (general permits), and/or an NPDES Permit (RCW 90.48 and WAC 173-220), if required by the Washington State Department of Ecology.

The attached Exhibit A will be discussed at the County Council Special Committee of the Whole on the morning of June 4th. From there, the Exhibit A (including any changes made at committee) will be sent for introduction that evening. If you have any comments you would like to provide, please do. I will be providing the packet to Dana Brown-Davis on Tuesday, so if you would like to provide comment, that would allow the most time for the Council to consider it. If you cannot provide comment by Tuesday, I can still relay any comments you provide at the Special Committee of the Whole meeting.

Thank You,
Josh
BACKGROUND INFORMATION 4)
Packinghouses Review

Planning and Development Committee
May 21, 2013

Custom vs USDA

• Custom (Washington State Department of Agriculture)
  – Not for re-sale
  – 2 in Whatcom County (Columbia Valley Meats and Lynden Meats)

• USDA
  – Re-sale allowed
  – Each animal inspected
  – 1 in Whatcom County (Keizer Meats)
Regional Demand
2007 USDA Census of Agriculture

- 1,088,846 cattle statewide
- 308,957 Western Washington
  - 202,893 North Puget Sound (King, Snohomish, Skagit, Whatcom, San Juan, Island)
  - 95,500 Whatcom County (~31% of W. Wash.)

Regional Supply

- 14 USDA facilities statewide
  - 7 Eastern Washington
  - 7 Western Washington
    - 5 service independent producers
      - 2 cooperatives
      - 3 Public
        » 1 Halal; limited excess capacity
        » Pork only
        » Kelzer Meats; limited excess capacity
    - 4 located in N. Puget Sound (King, Snohomish, Skagit, Whatcom, San Juan, Island)
      - 1 not open to independent producers
      - 1 cooperative
      - 1 Halal; limited excess capacity
      - Kelzer Meats; limited excess capacity
Whatcom County Demand/Supply

- Demand:
  - 95,500 cattle/calves, 304 hogs/pigs, 547 lamb/sheep, 1209 goats, 430 misc. (2007, USDA)
  - ~115-120k cattle by other estimates
  - ~25-30k slaughtered/year
- Supply:
  - USDA Certified: Keizer Meats (permitted for 2,000 animals/year, though capacity limits to less)
  - Custom: Lynden Meats, Columbia Valley Meats (2012 slaughtered 889 cattle/calves, 325 hogs/pigs, 117 lambs)
- Roughly 90% of animals leave the county for slaughter

Figure 4
Counties with no small cattle slaughter facilities and 143 or more small cattle farms

1 143 is the median number of U.S. cattle farms per U.S. county. Small slaughter establishments are defined as having less than 500 employees. Small livestock/poultry farms are defined as having $250,000 or less in annual income from livestock sales. Note: Alaska and Hawaii are not shown as they have no counties with 143 or more small cattle farms and no small cattle slaughter facilities.
Source: USDA, Food Safety and Inspection Service (FSIS). Firm size is based on the 2007 Census of Agriculture, conducted by USDA National Agricultural Statistics Service. Slaughter establishment data are for 2010 from USDA/FSIS.
Cumulative Impacts

- According to one operator of a USDA approved facility in W. Washington, very real possibility of multiple facilities locating here

Accessory Use and Administrative Use

- No difference regarding water availability, waste, wastewater, fire flow, landscaping, parking, etc.
- Administrative approval allows comprehensive site review earlier in the process (ex: location of generators/holding pens)
- Administrative approval criteria in county code WCC 20.84.235 and 20.84.220
Administrative Approval approvals

- Since the year 2000, 393 administrative approval applications have been approved, while only 12 have been denied (97% approval decisions)
TITLE OF DOCUMENT:
Ordinance amending Whatcom County Code 12.20 Road Vacations

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 ordinance amends the Whatcom County Code to more clearly define the process for petitioning and processing a road vacation. The last time this process was updated was in 1994 and some of the language needed to be changed to reflect how vacations are currently processed.

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.
Chapter 12.20
ROAD VACATIONS

Sections:
12.20.010 Authority.
12.20.020 Scope and application.
12.20.030 Petition – Fees.
12.20.040 Petition – Format.
12.20.050 Engineer’s report.
12.20.060 Resolution requirements.
12.20.070 Payment of costs when.

12.20.010 Authority.
This chapter is enacted pursuant to authority contained in RCW 36.87.420. (Ord. 94-059 Exh. A; Ord. 93-080 Exh. P; prior code § 7.40.010).

12.20.020 Scope and application.
This chapter shall apply to all applications petitions to the Whatcom County council seeking vacation and abandonment of a Whatcom County road, or any portion thereof, initiated pursuant to Chapters 36.87 and 58.17 RCW. (Ord. 94-059 Exh. A; Ord. 93-080 Exh. P; prior code § 7.40.020).

12.20.030 Petition – Fees.
A. Every petition to the Whatcom County council for vacation and/or abandonment of any road or portion thereof shall conform to the requirements of the applicable state statute and shall be accompanied by an appraisal fee and application-petition fees as set forth in the Whatcom County Unified Fee Schedule.

B. The petition form, along with the full fees for application and appraisal shall be submitted to the Whatcom County public works department.

C. The portion of the petition fee pertaining to the appraisal fee may be refunded by the council at the recommendation of the county engineer if no appraisal has been carried out in connection with the road vacation petition. Said refund may be given only after the council makes its final decision in connection with the road vacation petition in question.

D. The portion of the application-petition fee designated for recording the final order of vacation may be reimbursed to the petitioner if the council denies the petition.

E. A portion of the application-petition fee, but no more than 30 percent of that application-fee, may be reimbursed to the petitioner by the council at the time the application-resolution to vacate is approved, if the vacation was granted pursuant to the Territorial Land Act of 1890. (Ord. 94-059 Exh. A; Ord. 93-080 Exh. P; prior code § 7.40.030).
12.20.040 Petition – Format.
A. Owners of the majority of the frontage on any county road or portion thereof may petition for the vacation and/or abandonment of that same county road or portion thereof by completing a form prepared by Whatcom County.

B. Included on the petition and submitted by the petitioner shall be the signatures and addresses of five persons owning property within a one-mile radius of the road to be vacated, as part of the public notification process, unless the petitioner can demonstrate to the transportation-public works department that fewer than five people own property within a one-mile radius of the road to be vacated; in which case the petitioner shall submit an affidavit stating the same, along with the signatures of as many people as do own property within a one-mile radius of the road to be vacated.

C. By signing the petition the property owners are acknowledging that they are notified of the petitioner's intent to seek vacation of the county road or portion thereof. They are not agreeing to become co-petitioners for the road vacation. (Ord. 94-059 Exh. A)

12.20.050 Engineer’s report and Resolutions.
A. The county road engineer shall examine and, if necessary, perform an appraisal of prepare a resolution to consider vacating the road proposed to be vacated; the engineer shall perfect the legal description of the road proposed to be vacated, and report upon such vacation and abandonment to the Whatcom County council. Said report shall be in the form of a resolution to consider vacating by which the Whatcom County council either authorizes or denies further consideration of the petition to vacate the county road. The petition shall be deemed to have been denied if a motion to approve the resolution to consider vacating fails, or if by other means a majority of the council denies approval of the resolution or petition.

B. If the resolution to consider vacating is approved by council, the engineer shall file investigate and report on the petition and prepare a resolution to vacate for consideration by the Whatcom County council upon completion of his/her report. The clerk of the council will schedule a public hearing on the resolution to vacate after its arrival in the council office, with public notice to be given as provided in Chapter 36.67.050 RCW.

C. After the public hearing, the Whatcom County council shall consider the petition in resolution form as the resolution to vacate. Action on the resolution will be the council's final action in the matter.

D. The petition shall be deemed to have been denied if a motion to approve of the resolution to vacate fails, or if by other means a majority of the council denies approval of the resolution or petition.
E. If the engineer recommends, by resolution, that a petition be denied and the council disagrees with the engineer's recommendation to deny, the council may amend the resolution to indicate that it is approving of the petition despite the engineer's recommendation.

F. If the Whatcom County council passes the resolution to vacate, the clerk of the council, or designee, will prepare a preliminary order of vacation. The preliminary order shall include the following information: petitioner's name, date petition was filed, pertinent facts from petitioner, date of council hearing, conditions of the vacation, total amount due from petitioner, date payment is due, legal description, date approved by council. If the approved resolution contains a provision seeking payment and there is a provision seeking if payment is required by the applicant of further costs or appraised value of the area being vacated, the clerk of the council shall notify the applicant that he/she has six calendar months in which to pay for such costs.

G. If the applicant pays such money as is submitted the total amount owed the county within the six calendar months after the date of passage of the resolution, or if upon passage of the resolution no money is owed the county by the petitioner, the clerk of the council, or designee, shall prepare an final order of vacation and have it, along with the resolution, recorded by the county auditor. If the applicant fails to make payment as required, the council's authorization of the vacation becomes null and void.

H. The vacation becomes official only after an final order of vacation and the resolution to vacate are recorded by the county auditor. (Ord. 94-059 Exh. A)

12.20.060 Resolution requirements.
The resolution to vacate shall contain the following information, in addition to the requirements of RCW 36.87.040:

A. The petitioner's name and mailing address, the date the petition was filed with the transportation-public works department, a statement that the application and report/petition fee has been paid, and a short description of the roads or portion of roads to be vacated;

B. A legal description of the roads or portions thereof to be vacated;

C. A statement that the applicant has six calendar months from the date the resolution is passed to pay any remaining fees to the Whatcom County council office, with checks made payable to the Whatcom County treasurer, prior to the vacation becoming effective, including but not limited to the appraised value of the area sought to be vacated;

D. A statement that the petitioner has met all of the petition requirements as set forth by this chapter, and by all other applicable laws;

E. The fair market value of the area sought to be vacated as determined by appraisal;
F. The classification of the road area and the nature of the county's interest therein, according to the following classification:

1. Class A. Public expenditure made,

2. Class B. No public expenditures made or non-ascertainable from records,

3. Class 1. No part thereof lies in any plat,

4. Class 2. Part or all lies within a platted subdivision,

5. Class 3. Did not remain unopened for public use for a period of five years after the authority was granted for opening it,

6. Class 4. Remained unopened for public use for five or more years after the order made or authority granted for opening it,

7. Class 5. Is contained within that portion of a plat which is to be re-platted,

8. Class 6. Abandoned in fact due to relocation of right-of-way,

9. Class 7. Informalities exist in the records of title which are construed to invalidate and divest the public of any right, title or interest in the right-of-way.

G. A statement that the vacation does not become effective until the fees are paid, and the final order and the resolution are recorded with the county auditor. (Ord. 94-059 Exh. A; Ord. 93-080 Exh. P; prior code § 7.40.060).

12.20.070 Payment of costs when.
Recompense in the amount of the appraised value and all certified costs and expenses incurred in the proceedings above and beyond those covered by the application and appraisal petition - fee shall be tendered within six months of the hearing on the petition for vacation; provided, however, that at the time of the hearing the county council may waive payment of the appraised value, or any portion thereof, if it finds that the granting of such vacation will be of some specific benefit to Whatcom County. Said waiver shall be included as a part of the resolution approving of the vacation. (Ord. 94-059 Exh. A; Ord. 93-080 Exh. P; Ord. 80-15 § 1; prior code § 7.40.070).