

WHATCOM COUNTY HEARING EXAMINER

RE: Zoning Conditional Use Permit ) CUP2009-0014  
Application for )  
)  
*Mt. Baker Trailhead Group, Inc.* ) FINDINGS OF FACT,  
) CONCLUSIONS OF LAW,  
) AND DECISION

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**SUMMARY OF APPLICATION AND DECISION**

Application: The Applicant is requesting a Zoning Conditional Use Permit to construct sixteen condominium units, consisting of four 4-plex buildings, with associated parking.

Decision: The requested Zoning Conditional Use Permit is approved, subject to conditions.

**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: Mt. Baker Trailhead Group, Inc.

Property Address: 10257 Old Mt. Baker Highway  
Glacier, WA 98244

Legal Description: NW ¼ of Section 8, Township 39, Range 7E., W.M.

Assessor's Parcel Number: 390708 200510

Zone: Resort Commercial

Subarea: Foothills

Comprehensive Plan: Resort/Recreational Subdivisions

SEPA Review: Determination of Non-significance, issued on 10/01/2009

Shoreline Designation: N/A

Fire District: #19

School District: Mt. Baker School District #507

Water District: Glacier Water District

Sewage Disposal: On Site Sewage System

Neighboring uses: North: Residential  
South: Residential – National Forest  
East: Residential - Undeveloped  
West: National Forest Land

AUTHORIZING ORDINANCES AND POLICY:

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 Code Chapter 16.16, Critical Areas  
Whatcom County Code Title 20, Official Whatcom County Zoning Ordinance  
Whatcom County Code Title 24, Health Regulations

Legal Notices: Posted – October 4, 2009  
Mailed – October 2, 2009  
Published – June 25, October 1 [SEPA], and October 8, 2009

Hearing Date: October 21, 2009

Parties of Record:

Mt. Baker Trailhead Group, Inc.  
PO Box 28567  
Bellingham, WA 98228

Neil Latta  
WEB Engineering, LTD  
149 West Kellogg Road  
Bellingham, WA 98226

Russ and Maryann Angus  
2040 Superior Street  
Bellingham, WA 98228

Sanja Barisic  
Division of Engineering

Brenda Wilson  
Planning and Development Services

Exhibits:

- 1 Land Use Application
  - 1-1 Supplemental Application
  - 1-2 Letter dated November 20, 2007 from Treasurer's Office re: Parcel Numbers
  - 1-3 Customer Receipt
  - 1-4 Letter of Complete Application, dated June 22, 2009
  - 1-5 Form Memorandum to Tech Committee, dated June 25, 2009
  - 1-6 Form Letter to Property Owners, dated June 25, 2009
  - 1-7 Mailing Labels
  - 1-8 List of Property Owners/Addresses
  - 1-9 Statutory Warranty Deed
  - 1-10 Boundary Line Adjustment, recorded on 12/17/2004
  - 1-11 Resultant Legal Description, dated February 10, 2009
  - 1-12 Resultant Legal Description No. 2, dated February 15, 2009
  - 1-13 Letter, dated April 15, 2009, from Glacier Water District to County PDS
  - 1-14 Preliminary Traffic Information
  - 1-15 PDS Inspection form letter
- 2 Staff Report, dated October 15, 2009, with Agency Comments attached
- 3 Site Plan Packet
- 4 Soil Survey of Project Site Area
- 5 Aerial Map
- 6 Vicinity / Plat Maps
- 7 Zoning Map
- 8 On-Site Sewage System Permit Application
- 9 Traffic Impact Assessment, dated August 20, 2008 by Gibson Traffic Consultants

- 10 Pending Access Connection Permit Letter from DOT, dated November 13, 2007
- 11 Revocable Encroachment Permit Application
- 12 Preliminary Storm Water Proposal
- 13 DNS, dated October 1, 2009
- 14 Legal Notice, dated June 25 and SEPA Notice dated October 1, 2009
- 15 Certificate of Mailing, dated October 2, 2009
- 16 Certificate of Posting, dated October 4, 2009
- 17 Legal Affidavit, dated October 8, 2009
- 18 Letters of Support and Concern
- 19 Large Maps of Site Plans

**II.**

The Land Use Services Division of Whatcom County Planning and Development Services recommended approval of the requested Zoning Conditional Use Permit, subject to conditions. The Findings of Fact and Conclusions of Law of the Division are set forth in a Staff Report, Exhibit #2, dated October 15, 2009, a copy of which is attached hereto and incorporated herein by this reference.

The Applicant indicated there were no factual inaccuracies in the Staff Report. The Applicant indicated no objection to any of the Conditions of Approval requested by Staff. Public comment on this matter at the public hearing was in support of the proposed development.

**III.**

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.**

The proposed construction of a sixteen unit condominium development, consisting of four 4-plex buildings and associated parking can be approved if it is consistent with the Zoning Conditional Use Criteria of WCC 20.84.220 (2 through 8). Subject to the Conditions of Approval attached to the granting of this permit, the proposal is consistent with the Conditional Use Criteria. A Zoning

Conditional Use Permit should be granted, subject to conditions.

## **II.**

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**

*A Zoning Conditional Use Permit is hereby granted to Mt. Baker Trailhead Group, Inc. for the proposed construction of a 16-unit condominium development, consisting of four 4-plex buildings with associated parking to be located on Assessor's Parcel No. 390708 200510, 10257 Old Mt. Baker Highway, Glacier, Washington, subject to the following conditions:*

1. The use and location on the site as approved by this permit shall not be amended or changed in any way without further approval of the Hearing Examiner.
2. The Applicant shall comply with the conditions of the Division of Engineering, memorandum, dated July 21, 2009, unless modified by the Division of Engineering or appealed to the appropriate agency.
3. The Applicant shall comply with the conditions of the Whatcom County Plans Examiner, memorandum, dated July 9, 2009, unless modified by the Plans Examiner or appealed to the appropriate agency.
4. The Applicant shall comply with the conditions of the Whatcom County Health Department, memorandum, dated October 14, 2009, unless modified by the Health Department or appealed to the appropriate agency.
5. The Applicant shall comply with the conditions of the Whatcom County Fire Marshal's Office, memorandum, dated July 6, 2009, unless modified by the Fire Marshal's Office or appealed to the appropriate agency.
6. The Applicant shall comply with the conditions of the Whatcom County Geologist, memorandum, dated July 8, 2009, unless modified by the County Geologist, or appealed to the appropriate agency.
7. The Applicant shall obtain and complete the requirements for a commercial building Permit.
8. The Applicant shall provide a final parking plan that meets the requirements of WCC20.80.500 at the time of building permit application.
9. The Applicant shall provide a landscape plan which meets the requirements of WCC20.80.300.

10. Any lights used to illuminate the parking lot shall be so arranged as to direct the light away from the adjoining property and the public road.
11. All trash and/or garbage collection and storage areas must be screened from view from adjacent streets and properties using a solid fence or wall a minimum of six feet high.
12. Should archaeological materials (e.g. shell midden, faunal remains, stone tools) or human remains be observed during project activities, all work in the immediate vicinity shall stop, and the area shall be secured. The State Office of Archaeology and Historic Preservation (360-586-3065) and the Lummi Nation Tribal Historic Preservation Office (360-384-2298) shall be contacted immediately in order to help assess the situation and determine how to preserve the resource(s). Compliance with all applicable laws pertaining to archaeological resources is required.
13. The Applicant shall comply with the conditions of the Whatcom County Critical Areas Review, as outlined in the memorandum, dated October 19, 2009, unless modified by Critical Areas Staff or appealed to the appropriate agency.
14. The Applicant shall obtain approval of the proposed Boundary Line Adjustment depicted on the plans for the Conditional Use Permit.
15. 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 24 (twenty-four) 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 or 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 & Development Services before granting any extension.

#### 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 26<sup>th</sup> day of October 2009.

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Michael Bobbink, Hearing Examiner

October 15, 2009

WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES

STAFF REPORT

The application of <b>Mt. Baker Trailhead Group Inc.</b> for a Zoning Conditional Use Permit	<b>CUP2009-00014</b>   FINDINGS, CONCLUSIONS,   <u>AND RECOMMENDATIONS</u>
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**I. SUMMARY OF APPLICATION AND RECOMMENDATIONS**

Application: The applicant is requesting a zoning conditional use permit to allow the construction of sixteen condominium units consisting of four 4-plex buildings with associated parking.

Recommendation: Staff recommends approval of the request, subject to the attached conditions.

**II. PRELIMINARY INFORMATION**

Applicant: Mt. Baker Trailhead Group

Property Address: 10257 Old Mt. Baker Hwy.  
Glacier, WA. 98244

Legal Description: NW ¼ of Section 8, Township 39, Range 7E., W.M.

Assessor's Parcel Number: 390708200510

Zone: Resort Commercial

Subarea: Foothills

Comprehensive Plan: Resort/Recreational Subdivisions

SEPA Review: Determination of Nonsignificance issued on 10/01/09

Shoreline Designation: N/A

Fire District: #19

School District: Mt. Baker School District #507

Water District: Glacier Water District

Sewage Disposal: On Site Sewage System

Neighboring uses: North: Residential  
South: Residential – National Forest  
East: Residential - Undeveloped  
West: National Forest Land

AUTHORIZING ORDINANCES AND POLICY:

1. Whatcom County Comprehensive Land Use Plan.
2. Whatcom County Code Chapter 15, Building Code
3. State Environmental Policy Act (SEPA). Washington Administrative Code Chapter 197-11
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. FINDINGS**

In order for the Conditional Use permit to be approved, the proposal must satisfy the criteria of WCC 20.84.220 (1 through 8). In summary, these criteria state that the proposal must: be harmonious and in accordance with the general and specific goals and policies of Whatcom County's Comprehensive Plan and zoning regulations, 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, will not be hazardous or disturbing to existing or future neighboring uses, be serviced adequately by essential 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, 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, not involve uses, activities, processes, materials, equipment and property, or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare or odors, have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets, and not result in destruction, loss or damage of any natural, scenic or historic feature of major importance.

**Applicable Codes and Policies:**

Condominiums with more than 8 units are conditionally permitted in the Resort Commercial zone per, WCC 20.64.152

The following goal and policy of The Whatcom County Comprehensive Plan are applicable to the subject site:

**GOAL 3C:** Create opportunity for a broad range of housing types and encourage mixed affordability,

**Policy 3C-1:** Support lot clustering, varied lot sizes, small scale multi-family dwellings, accessory housing and reductions in infrastructure requirements for subdivisions as incentives for development of housing obtainable by purchasers with the greatest mix of household incomes.

WCC20.84.220(1) through (8) sets forth the criteria that must be satisfied in order for the request for a conditional use permit is granted.

If applicable, conditions are established in order to ensure the criteria are satisfied and potential impacts are mitigated. These conditions are set forth in the Conditions of Approval Section of this report.

### **Zoning Review:**

Building Height: Maximum building height in the Resort Commercial (RC) zone is 35-feet, per WCC20.64.401 and the applicant is proposing a height of approximately 28 feet measured pursuant to the definition of building height set forth in the zoning ordinance.

Lot coverage: Maximum lot coverage in the Resort Commercial (RC) zone is 35%, per WCC20.64.452. The proposed lot coverage equals approximately 27% of the site.

Open Space: WCC 20.64.500 requires that a minimum of 40% of the site be reserved as open space. Open space is defined as "...any area not covered by structures, hard surface parking areas and other impervious surface areas...", per WCC 20.97.275. The applicant has designed 73% of the site for open space.

Site Design: WCC20.64.660 requires "any two adjacent buildings on the same site shall be separated from each other by a distance not less than one-half the height of the taller building. Building configuration may be staggered as well as angled to follow contours and street alignment. This spacing requirement does not preclude the possibility of ground level connection between neighboring structures". The proposed building height is approximately 28 feet. Therefore the required distance between adjacent buildings in this case is 14 feet. The proposed distance between the buildings is 20 feet; therefore the proposed site design meets this requirement.

Density: Pursuant to WCC 20.64.260, "Where public water service is provided but public sewer is not provided, the maximum density for dwelling units, or dwelling unit equivalent as determined by the Whatcom County Health Department, shall be two per acre unless the health department finds that conditions require a lower density." Per the Whatcom County Health Department the applicant has a proposed on-site sewage permit with a capacity for 32 bedrooms. The proposed number of dwelling units is 16 (2 bedrooms per unit). Inherent in the Whatcom County Health Department approval of the design of the on-site sewage system is the recognition of the "dwelling unit equivalent" of 16 dwelling units. Therefore, with the approval of the on-site sewage system design the proposal of 16 units meets the "dwelling unit equivalent" maximum density requirement.

Building Setbacks: Pursuant to WCC20.64.353, "An additional five feet shall be added to each side yard and rear yard for each 10 feet of building height, or fraction thereof, in excess of 15 feet." The side yard setback requirement in the Resort Commercial zone is five feet. The proposed building height is approximately 28 feet. Therefore, the side yard setback requirement is approximately 13 feet. The proposed building sites are at a minimum of 20 feet from the side property lines. Therefore, the proposal meets this requirement. SR 542 is a State Highway and requires a 30 foot setback. The proposed setback is approximately 130 feet. The proposed setback from Old Mt. Baker Highway is 85 feet. The USDA Forest Service owns the land devoted to this right of way.

Parking: Multifamily dwellings require three parking spaces for each 2 units, per WCC 20.80.580 (38); therefore, the subject proposal would require 24 residential parking spaces for the 16 units. The applicant's site plan provides for 24 spaces; in compliance with the above requirements.

Landscaping: A detailed landscaping/ buffering plan designed in accordance with the requirements of WCC 20.80.300 shall be submitted at the time of building permit application. Pursuant to WCC 20.80.375, all required landscaping/buffering shall be installed per the approved plan or bonded for 125% of the cost of labor and materials for installation prior to issuance of a Certificate of Occupancy. In addition, a maintenance bond for 10% of the cost of labor and materials for installation shall be submitted prior to issuance of a Certificate of Occupancy. This maintenance bond shall be released in two years provided that the landscaping is maintained in a healthy growing condition and any dead or dying plants have been replaced.

Signage: No signs were requested as part of this application. However, any sign proposed for the site shall comply with the requirements of WCC 20.80.440 (1 through 6). In addition, proposed signs for the site shall not be located closer than 10-feet to any right-of-way, per WCC 20.80.410 (1). A building permit is required for any such sign prior to installation.

**Conditional Use Criteria (WCC 20.84.220):**

Before approving an application for a conditional use permit, the hearing examiner shall ensure that any specific standards of the use districts 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.

**Discussion:**

The proposed construction of the 16 condominium units are an allowed use with a Conditional Use Permit pursuant to WCC20.64.152. The conditions set forth in the "Conditions of Approval" section of this report establish compliance, harmony and accordance with the parking, landscaping, screening and buffering provisions in the Whatcom County Zoning Code. Compliance with these requirements as well as the setback, building height, lot coverage, open space, site design and density provisions of the Resort Commercial zone will provide compatibility with existing surrounding land uses; thereby establishing harmony and accordance with the general and

specific objectives of the Whatcom County Zoning Ordinance and the proposed conditional use at the proposed location.

**Conditions are established to mitigate potential impacts and provide compatibility with existing, surrounding land uses in order to provide harmony and accordance with the general and specific objectives and requirements of zoning regulations.**

The proposed conditional use is in accordance with the Whatcom County Comprehensive Plan as stated above.

**(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.

**Discussion:**

**Design and construction:** The proposed condominiums are designed and constructed in a manner that is harmonious and appropriate in appearance with the existing and intended character of the general vicinity because the proposed design has the appearance of an alpine style aesthetic which will blend well with the Mt. Baker-Snoqualmie National Forest recreation theme.

**Operation and maintenance:** The owners will provide regular maintenance in order to maintain the essential character of the area. Landscaping conditions to ensure compatibility with the existing and intended character of the general vicinity are established in the Conditions section of this report.

**Essential character:** The proposed 16 unit condominium project will not change the essential character of the area. The project is designed to "fit in" with the existing character of the Glacier area. Landscaping, and lighting conditions are established in the Conditions section of this report.

**(3)** Will not be hazardous or disturbing to existing or future neighboring uses?

**Discussion:**

The proposed use is not hazardous and will not be disturbing to existing or future neighboring uses. The landscaping, screening, buffering and lighting requirements will help to mitigate disturbing impacts to 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?

**Discussion:**

The site is serviced adequately by necessary public facilities. Police protection is provided by the Whatcom County Sheriff's Office. Fire protection is provided by Fire District #19. Refuse disposal is provided by the private sector. Potable water is provided by the Glacier Water District and the Whatcom County Health Department has a proposed on-site sewage permit for the proposed use on the subject parcel. In addition, certified As-Built drawings for the drainage system installed on the site is required for review by Engineering Services prior to the issuance of the Certificate of Occupancy.

**(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?

**Discussion:**

The proposed improvements will not create excessive additional requirements at public cost. The proposed project is and will be the result of private sector investment and will be a benefit to the economic welfare of the community as a result of this investment.

**(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?

**Discussion:**

The activities associated with the condominium project will involve normal long term uses however will not be detrimental to persons, property, or the general welfare due to the conditions placed on the proposed use of the property which will serve to mitigate potential impact. Building lights will be placed to avoid the glare produced by such lights. No fumes or odors are anticipated as a result of this proposal. Traffic, noise and glare impacts will be mitigated by the imposition of conditions on the use of the land for the condominium units.

**(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?

**Discussion:**

The proposed access is via Old Mt. Baker Highway. Whatcom County Engineering Services has required the applicant to obtain a FLPMA permit (Forest Land Planning and Management Act Easement) from the USDA Forest Service prior to issuance of any building permits. (A copy of the emails from Sanja Barasic and Forrest Shoemaker, of the US Forest Service regarding improvements and requirements are attached.

In addition, Engineering Services has required the applicant to contact the Washington State Department of Transportation for any requirements they may have.

(8) Will not result in the destruction, loss or damage of any natural, scenic or historic feature of major importance?

**Discussion:**

The proposed project will not result in the destruction, loss or damage of natural, scenic or historic feature of major importance.

**IV. PUBLIC NOTICE AND COMMENT**

Requirements for public notice are contained in WCC 2.33.

Notice of Application: The Notice of Application for this proposal was published on June 25, 2009. Notice was also mailed to property owners within 1000 feet of the site.

- Public Input: During the public comment period for the Notice of Application, the County received three written comments. Two comments were in support of the application and the one comment addressed the following concerns. These comments and staff response are summarized as follows:
- Traffic: Engineering Services has determined the development is exempt from Concurrency Evaluation because it will generate 9 or less new p.m. peak hour trips in one direction.
- "Trees being cut down": Only 27% of the site is proposed to be covered with impervious surfaces. Tree retention is also encouraged in the Landscaping provisions of the zoning ordinance by allowing existing vegetation to meet some of the landscaping requirements.

Notice of Public Hearing: The Notice of Public Hearing for this project was posted on the site. The notice was included in a one-time newspaper publication.

**STATE ENVIRONMENTAL POLICY ACT (SEPA)**

A Determination of Nonsignificance was issued on October 1, 2009.

**VI. AGENCY COMMENTS**

**Traffic, Drainage, and other Engineering Comments**

Sanja Barisic of Whatcom County Public Works Department, Engineering Services provided comment on July 21, 2009. See attached memo for entry into the Hearing Examiner File as an exhibit and condition of approval.

## **Fire Comments**

Bill Hewett, Fire Inspector of the Whatcom County Fire Marshal's Office provided comment on July 6, 2009. See attached memo for entry into the Hearing Examiner File as an exhibit and condition of approval.

## **Health Department Comments**

Charles Sullivan, Environmental Health Specialist for the Whatcom County Health Department provided comment on October 14, 2009. See attached memo for entry into the Hearing Examiner File as an exhibit and condition of approval.

## **Building Services Comments**

Larry Kwiatkowski, Whatcom County Plans Examiner provided comment on July 9, 2009. See attached memo for entry into the Hearing Examiner file as an exhibit and condition of approval.

## **Critical Areas Review**

Lyn Morgan-Hill, Senior Planner, Critical Areas provided comment on October 19, 2009. See attached memo for entry into the Hearing Examiner file.

## **Geologist Review**

Doug Goldthorp, Whatcom County Geologist provided comment on July 8, 2009 See attached memo for entry into the Hearing Examiner File as an exhibit and condition of approval.

## **VII. RECOMMENDATION**

Planning and Development Services recommends approval of the Zoning Conditional Use Permit application subject to the following conditions:

## **VII. CONDITIONS OF APPROVAL**

- 1) 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 shall comply with the attached conditions of the Division of Engineering's memo dated July 21, 2009; unless modified by the Division of Engineering or appealed to the appropriate agency.
- 3) The applicant shall comply with the conditions of the attached Whatcom County Plans Examiner's memo dated July 9, 2009; unless modified by the Plans Examiner or appealed to the appropriate agency.

- 4) The applicant shall comply with the attached conditions of the Whatcom County Health Department memo dated October 14, 2009; unless modified by the Health Department or appealed to the appropriate agency.
- 5) The applicant shall comply with the attached conditions of the Whatcom County Fire Marshal's Office memo dated July 6, 2009; unless modified by the Fire Marshal's Office or appealed to the appropriate agency.
- 6) The applicant shall comply with the attached conditions of the Whatcom County Geologist memo dated July 8, 2009; unless modified by Planning and Development Services or appealed to the appropriate agency.
- 7) The applicant shall obtain and complete the requirements for a commercial building Permit.
- 8) The applicant shall provide a final parking plan which meets the requirements of WCC20.80.500 at the time of building permit application.
- 9) The applicant shall provide a landscape plan which meets the requirements of WCC20.80.300.
- 11) Any lights used to illuminate the parking lot shall be so arranged as to direct the light away from the adjoining property and the public road.
- 12) All trash and/or garbage collection and storage areas must be screened from view from adjacent streets and properties using a solid fence or wall a minimum of six feet high.
- 13) Should archaeological materials (e.g. shell midden, faunal remains, stone tools) or human remains be observed during project activities, all work in the immediate vicinity shall stop, and the area shall be secured. The State Office of Archaeology and Historic Preservation (360-586-3065) and the Lummi Nation Tribal Historic Preservation Office (360-384-2298) shall be contacted immediately in order to help assess the situation and determine how to preserve the resource(s). Compliance with all applicable laws pertaining to archaeological resources is required.
- 14) The applicant shall comply with the attached conditions of the Whatcom County Critical Area review memo dated October 19, 2009; unless modified by Critical Areas Staff or appealed to the appropriate agency.
- 15) The applicant shall obtain approval of the proposed Boundary Line Adjustment depicted on the plans for the Conditional Use Permit.

Report prepared in coordination with the Technical Review Committee by:  
Brenda Wilson  
Senior Planner

