

WHATCOM COUNTY HEARING EXAMINER

RE: Zoning Conditional Use Permit ) CUP2011-0004  
Application for )  
 )  
 *Guy Seeklus* ) 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 operate a full service horse boarding and training facility on a 41.84 acre parcel. The facility will include boarding for up to 28 horses and will also be available for rent once a month by groups such as the 4-H Club.

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: Guy Seeklus

Site Location/Address: 5435 Sand Road  
Bellingham, Washington

Legal Description: A tract of land lying within the southeast quarter of Section 30, Township 39, Range 4 East, W.M., Whatcom County, WA. (Please see the deed for a complete legal description.)

Assessor's Parcel Number(s): 390430 410147

Zoning: Rural (R5A)

Comprehensive Plan: Rural

Subarea: Lynden/Nooksack Valley

Total Acreage: Approximately 41.84 acres

Roads: Sand Road (Public)

Water Supply: Future Class B Water System

Sewage Disposal: Future On-Site Sewage System (OSS)

Fire Protection: Whatcom County Fire District No. 1

Law Enforcement: Whatcom County Sheriff's Office

Public Schools: Mt. Baker School District No. 507

Topography: The parcel is relatively flat with the exception of an ~8% slope where the property slopes downward (south and southeast) to Anderson Creek.

Vegetation: The site consists of pasture grass, alders, maples, cedars and fir trees.

Adjacent Land Uses: North: R5A - Single-family residences  
East: R5A - Single-family residences  
South: R5A - Single-family residences  
West: R5A - Heavily treed - 38 acres site with SFR

Easements: A.F. #454165 - To Puget Sound Power and Light Co.  
A.F. #993025 - To Wahl Water Association

Authorizing Codes, Policies, Plans, and Programs

Whatcom County Comprehensive 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

Legal Notices: Posted – July 6, 2011  
Mailed – May 26 and June 15, 2011  
Published – May 26 and July 7, 2011

Hearing Date: July 20, 2011

Parties of Record:

Guy Seeklus  
Beldar Haven, LLC  
5439 Sand Road  
Bellingham, WA 98226

Jesse Stoner  
1629 Fruitland Drive  
Bellingham, WA 98226

Suzanne Bosman  
Planning and Development Services

Exhibits:

- 1 Land Use Application with attachments
  - 1-1 Project Proposal
  - 1-2 Fee Responsibility
  - 1-3 Agent Authorization
  - 1-4 Customer Receipt
  - 1-5 Labels
  - 1-6 Statutory Warranty Deed
  - 1-7 PDS Application Form
  - 1-8 Checklist, May 23, 2011
  - 1-9 Staff Emails
  - 1-10 Letter of Completeness, May 19, 2011
  - 1-11 Checklist, June 30, 2011
  - 1-12 Endangered Species Act Checklist
  - 1-13 PDS Forms: Agency Memo, May 26, 2011 and Property Owner Comment Form, May 26, 2011
  
- 2 Staff Report, June 30, 2011
  
- 3 Agency Comments
  - Natural Resources, May 31, 2011
  - Doug Goldthorp, June 2, 2011
  - Shoreline Management, May 23, 2011
  - Environmental Health, May 26, 2011
  - WA State DOE, Letter dated June 9, 2011 [Kurt Baumgarten and Mark Kaufman]
  - PW Engineering, June 6, 2011
  - Plans Examiner, June 16, 2011
  - Fire Marshal, June 27, 2011
  
- 4 Public Comments

Tyrel Haveman, May 30, 2011  
WA State DOE, June 2, 2011 [Kasey Ignac]  
Email from John Aspnes, June 8, 2011  
Denny Gibson, May 26, 2011

- 5 Zoning Map
- 6 Aerial Map
- 7 Vicinity Map
- 8 Surveyor's Map, dated April 2011
- 9 Enlarged Map showing buildings/proposal
- 10 Riding Arena Floor Plan
- 11 SEPA DNS, June 11, 2011, with attached SEPA Distribution, Tear-Sheet, dated May 26, 2011, and Checklist
- 12 Legal Notice, May 26, 2011
- 13 Certificate of Mailing, Notice of Application, May 26, 2011
- 14 Legal Notice of Public Hearing, July 7, 2011
- 15 Certificate of Mailing: Notice of Public Hearing, June 15, 2011
- 16 Certificate of Posting: Notice of Public Hearing, July 6, 2011

## **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 June 30, 2011, 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. A neighboring property owner, Robert Ferguson, spoke in favor of the proposal at the public hearing.

## **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 operation of a full service horse boarding and training facility business can be approved if it is consistent with the Zoning Conditional Use Criteria of WCC 20.84.220 (1 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 Guy Seeklus for the proposed operation of a full service horse boarding and training facility business to be located on Assessor's Parcel No.390430 410147, 5435 Sand Road, Bellingham, 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. Pursuant to WCC 20.80.500, the Applicant shall establish adequate parking. An approved parking plan shall be submitted to Planning and Development Services prior to issuance of the required commercial building permit.
3. 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 mark 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.
4. The facility shall be approved to operate Monday through Sunday from 7:00 AM to Dusk.
5. Special events subordinate to the approved use shall be permitted once a month and shall comply with the requirements outlined in the attached Staff Report. No more than 100 people shall be allowed at the event at any one-time.

6. Pursuant to WCC 20.80.523, any lights used to illuminate a parking lot shall be so arranged as to direct the light away from the adjoining property and the public road.
7. The Applicant is allowed one non-illuminated freestanding sign, visible from the road and not exceeding six feet in height. One additional non-illuminated sign may be attached to the building for a maximum total signage of 16 square feet. No portion of any sign shall extend above the lowest portion of the roof pursuant to WCC 20.36.161(3). A building permit is required for a sign.
8. The Applicant shall provide to Planning and Development Services Staff a landscape plan showing a buffer along a portion of the northwest property line running westerly which will be approved by Whatcom County prior to building permit issuance. The trees shall be at least six feet tall at the time of planting and shall be fast growing evergreens capable of creating a substantial buffer. The trees shall be installed prior to the issuance of a Certificate of Occupancy.
9. Pursuant to WCC 20.84.210, Conditional Use Permits shall be nontransferable unless further approved by the Hearing Examiner.
10. The keeping of livestock shall be administered pursuant to WCC 20.80.805 and WCC 20.97.015.
11. 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.
12. The Applicant shall contact the Whatcom Conservation District to discuss Best Management Practices and to ensure a Farm Plan is not required. The horses shall not have any access to any critical areas including Anderson Creek.
13. The County required the previous property owner to record an agreement stating that the barn and arena will be used for personal use only. This was filed under Whatcom County Auditor's File Number 2040303319. The property owner can have this agreement removed from the title.
14. If the proposed project will collectively withdraw in excess of the amounts allowed under water right G1-\*05568CWRIS or the Groundwater Permit Exemption, an additional water right from the Department of Ecology will be required. Contact DOE at (360) 715-5222 for more information regarding this condition.
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.

**B. Building Services Division**

1. A building permit is required for this proposal.
2. Due to the scope of the proposed project, the Applicant shall apply for a pre-application screening prior to building permit application submittal. At the Building Official's discretion, a pre-application meeting may be required.

**C. Critical Areas**

1. A *Notice on Title* is required which states the general presence of the critical areas and buffers located on the property. The *Notice of Title* form will be provided by Whatcom County. The Notice shall be recorded at the Whatcom County Auditor's office.

**D. Shoreline**

1. Additional shoreline review will be required for any future use of buildings within the SMP jurisdiction or if any future development activities of any kind are proposed within such jurisdiction.

**E. Fire Marshal**

1. Fire flow is required. A minimum 500 GPM @ not less than 20PSI shall be provided for 1 hour per International Fire Code. Hydrants, pumps, water supply, and pipes shall be designed by a Washington State Licensed Engineer.

**F. Public Works – Engineering Division**

1. All development shall comply with Whatcom County Development Standards.
2. An Engineered Stormwater Design Report shall be submitted for review and approval with the building permit application. Stormwater Report shall address water quality and

quantity.

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 Drawing-Record Drawing for the new drainage system/ facility must be provided to Engineering Services for permanent file record.
5. The proposed development may require a transportation concurrency evaluation, based on Preliminary Traffic Information that needs to be revised and resubmitted with the building permit application.
6. A commercial paved apron with minimum 50-ft radiuses is required for the driveway access point as per WC Development Standards. The Applicant shall obtain a Revocable Encroachment Permit from the Division of Engineering for said paved apron prior to the onset of any construction in County Right- Of- Way.
7. Existing gravel driveway shall have a minimum of three turnouts installed to accommodate two-way traffic. Turnout dimensions shall be a minimum 100-ft x 20-ft, as per FM road detail.

## **G. Health Department**

1. At the time of building permit application, the Applicant shall submit a Manure Management Plan to Whatcom County Health Department for review and approval, unless modified by the Health Department or appealed to the appropriate agency.

### 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 1<sup>st</sup> day of August 2011.

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Michael Bobbink, Hearing Examiner



WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES  
STAFF REPORT

Date: June 30, 2011  
Hearing Date: July 13, 2011

The application of <b>Beldar Haven, LLC, (Guy Seeklus)</b> for a Zoning Conditional Use Permit	CUP2011-00004 FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS
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**I. SUMMARY OF APPLICATION AND RECOMMENDATIONS**

Summary: The applicant is requesting zoning conditional use approval to operate a full service horse boarding and training facility on a 41.84 acre parcel. The facility will include boarding for up to 28 horses and will also be available for rent once a month by various groups such as the 4-H club.

Recommendation: The Technical Review Committee recommends approval of the proposed conditional use permit subject to the conditions in this document.

**II. PRELIMINARY INFORMATION**

**A. BACKGROUND INFORMATION**

Applicant: Beldar Haven, LLC  
Guy Seeklus  
5439 Sand Road  
Bellingham, WA 98226

Site Location/Address: 5435 Sand Road

Legal Description: A tract of land lying within the southeast quarter of Section 30, Township 39, Range 4 East, W.M., Whatcom County, WA. (Please see the deed for a complete legal description.)

Assessor's Parcel Number(s): 390430 410147

<u>Zoning:</u>	Rural (R5A)
<u>Comprehensive Plan:</u>	Rural
<u>Subarea:</u>	Lynden/Nooksack Valley
<u>Total Acreage:</u>	Approximately 41.84 acres
<u>Roads:</u>	Sand Road (Public)
<u>Water Supply:</u>	Future Class B Water System
<u>Sewage Disposal:</u>	Future On-Site Sewage System (OSS)
<u>Fire Protection:</u>	Whatcom County Fire District No. 1
<u>Law Enforcement:</u>	Whatcom County Sheriff's Office
<u>Public Schools:</u>	Mt. Baker School District # 507
<u>Topography:</u>	The parcel is relatively flat with the exception of an ~8% slope where the property slopes downward (south and southeast) to Anderson Creek.
<u>Vegetation:</u>	The site consists of pasture grass, alders, maples, cedars and fir trees.
<u>Adjacent Land Uses:</u>	North: R5A - Single-family residences East: R5A - Single-family residences South: R5A - Single-family residences West: R5A - Heavily treed - 38 acres site with SFR
<u>Easements:</u>	A.F. #454165 - To Puget Sound Power and Light Co. A.F. #993025 - To Wahl Water Association

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 applicant, Beldar Haven, LLC, has applied for a zoning Conditional Use Permit (CUP) to operate a full service horse boarding & training facility within the Rural zone district, pursuant to WCC 20.36.156.

The property owner, Guy Seeklus, who created the Limited Liability Corporation, Beldar Haven, is proposing to operate commercial horse stables from his property located at 5435 Sand Road, in Bellingham, Washington. The facility will offer horse boarding, training, riding lessons, and larger events such as horse shows and group lessons. In addition to the property owner there will be four on-site employees (a manager and three assistants) that will care for the animals, handle manure management, and do general ground maintenance.

Minimal construction will be required as a result of this proposal since many of structures already exist. Currently, the barn is 23,408 square feet and consists of two floors. The upper floor is divided into an 8,712 square foot area to be used for hay storage, a 2,420 square foot area to be used as a "man-cave" and an existing 572 square foot deck/balcony. The barn received a final inspection in 2004 through approval of a building permit (DET2002-00233). However, as stated at the pre-application meeting, this permit was issued for personal use only. Therefore, a change of use (building) permit will be required as a condition of the CUP approval.

The downstairs level of the barn consists of 11,704 square feet and is divided into 28 horse stalls, a 325 square foot tack room, a 162.5 square foot manager's office, and a 162.5 square foot feed/medicine room. A 169 square foot ADA accessible restroom is currently under construction through an issued building permit (DET2011-00058). The applicant is aware that if the Hearing Examiner approves the CUP, a change of use permit will be required for the conversion of the bathroom from personal use to commercial use.

In addition to boarding horses, the facility will offer horse training, riding lessons, and larger events such as horse shows and group lessons. The applicant intends to utilize an existing 16,356 square foot riding arena which has a 1,128 square foot viewing area for spectators to watch horse shows and events. A building permit (DET2004-00056) was obtained for the riding arena, however, it was approved for personal use only; not commercial. The applicant is aware that a change of use permit will be required as a condition of the CUP approval.

An approximate 726 square foot chip shed is located perpendicular to the barn beginning at the northwest corner. It will be used for storing bedding for the horse stalls. There is also a 780 square foot concrete manure storage bunker located approximately 100 feet south of the barn. The applicant has agreed to comply with all requirements from the Whatcom County Environmental Health Department regarding implementation of a manure management plan to deal with the animal waste.

The applicant is also proposing to rent out the arena on an hourly basis for subordinate activities by 4-H clubs, show clubs, search and rescue groups, etc. The applicant is proposing to rent out the arena no more than once a month with a maximum of 100 people attending a single event.

Staff is recommending that these monthly events be limited to a total of no more than 100 people. This includes participants, their friends, helpers, spectators, etc. The only way to really mitigate for this impact is to put a cap on entrees and to require pre-registration for all events.

If an event is not intended for spectators but is intended only for the trainers, then any advertising of this event must state that the event is not open to spectators.

However, in other events such as horse shows where spectators are likely, the applicant will be responsible to inform the lessee that an event is limited to 50 participants. This number was chosen based on the fact that most people who enter an event (such as a horse show) usually have a helper or one or more friends or family members watching the event. Limiting the participants to 50 would help curtail the total number of expected participants as well as spectators.

Furthermore, all events whereby posters, flyers or other forms of advertising intended to promote participants and/or spectators shall state that pre-registration is required and spectators are limited. Either someone needs to be accountable for counting spectators at the entrance, or they'll need to limit the number of over-all participants as mentioned above. Limiting the participants of an event to 50 entrees would allow for two spectators per participant. The rationale behind this condition is that the owner and his lessee will ultimately be responsible for the number of spectators and participants at the facility.

The facility is served by a 15 foot wide gravel driveway that runs west off of Sand Road. The road is approximately 1600 feet long. During the pre-application meeting, staff discussed their concerns regarding the size of trucks & trailers and the need for there to be an adequate turn-around area to accommodate them. The applicant is aware that a paved apron will be required and at least three (3) turn-outs will be required along the driveway.

The applicant has proposed a 60' X 300' parking area which will be located to the East of the barn and arena. This location will easily accommodate 50 cars and up to 10 trucks with horse trailers. The applicant is also proposing to have a small area available to those patrons who rent from him, so that their horse trailers can be stored on-site. There is an adequate gravel area to the West of the barn and arena to handle up to 5 permanently stored trailers.

#### **IV. SITE DESCRIPTION**

The subject property is located north of E. Smith Road and west of Sand Road in Bellingham, Washington. The site address is 5435 Sand Road, which lies within a tract of land lying within the southeast quarter of Section 30, Township 39, Range 4 East, W.M., Whatcom County, WA.

The ~41.84 acre site is located approximately 1600 feet down a private gravel driveway west off of Sand Road. The property is accessed from a gate requiring a security access code to enter. The site is mostly level with the exception of a small 0-8% slope which leads to Anderson Creek at the northwest corner of the property.

Anderson Creek has a shoreline environmental designation of Rural and Conservancy. In addition, the site is in an area inundated by 100 year flooding. All three Natural Resource Specialists for Whatcom County have stated that the proposed commercial use will be conducted within existing structures that are outside of the floodway and not within the jurisdiction of the Shoreline Management Program (SMP) or the Shoreline Management Act (SMA). Therefore, there are no shorelines, critical areas, geohazard, or flood concerns regarding this proposal.

All properties surrounding the subject site are zoned Rural (R5A). A majority of the surrounding parcels are made up of residential sites within cluster short plats. Some properties are in open space agriculture. The contiguous 26.16 acre parcel to the Southwest is also owned by Mr. Seeklus and it's where he resides.

#### **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 May 26, 2011. The fifteen (15) day comment period ended on June 10, 2010.

Pursuant to WCC 20.84.235(2), Notices were mailed on May 26, 2011 to property owners whose boundaries lie within 1,000 feet of the subject property.

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 three (3) written and one (1) telephone comment regarding the proposal including one comment from a state agency in regards to SEPA. A summary of these concerns and staff's responses are outlined below:

1. A party of record is concerned that there is not enough acreage to accommodate 28 horses at this facility.

The commercial stable will be on 41.84 acres in the Rural zone district. If the applicant elected not to operate a business but have his own horses on his property he would be permitted to do so pursuant to the livestock regulations outlined in WCC 20.36.655, WCC 20.80.805 and WCC 20.97.015.

Pursuant to WCC 20.97.015, an "animal unit" means 1,000 pounds of livestock live weight. Waste production from livestock is expressed in pounds per day per 1,000 pounds of livestock live weight. The Whatcom County livestock regulations (WCC 20.80.805(4)) allows for one animal unit of 1,000 pounds (live weight) per one-half acre of land area in which a property owner has excess of one acre.

The average "riding" horse is between 1,000 to 1,200 pounds. Since Mr. Seeklus has 41.84 acres of land he would be permitted to have 83.68 animal units or 83,680 pounds of live weight (livestock). Using the larger weight of 1,200 pounds per horse, Mr. Seeklus would be permitted to have up to 69.73 horses (70) on his property for personal use.

A 41.84 acre parcel is more than adequate per the Whatcom County Code to handle twenty-eight (28) horses.

2. Concerns were raised regarding how quickly horses can trample, eat, and destroy pasture grasses leaving nothing but mud which can later run into ditches which can flow to Anderson Creek and other waterways.

The horses will be kept primarily in their stable attached to an individual paddock (run area). Boarders will come to the facility to exercise their horses or take them out for trail rides. Upon returning, the horses would be cooled down and then returned to their stables.

Pasture land will be made available to the horses but it won't be on a regular basis. The pasture will also be sectioned off so that the horses have access to only one portion of the pasture at a time. This rotation allows the grass to grow so that it doesn't become trampled.

The proposal was reviewed by our critical areas staff and they determined that the horses would not have an impact on any known critical areas on the site. However, the applicant was required to record a *"Notice on Title of Critical Areas and Restriction On Use Or Alteration"*. This notice on title was also required for the adjoining parcel owned by Mr. Seeklus. Therefore, the Notice on Title was recorded for both parcels on February 23, 2011 under Whatcom County Auditor's File Number 2110202662.

The fenced pasture area will be nowhere near Anderson Creek. It is proposed to run west of the barn/arena area and run parallel to the easement towards the westerly property line near Sand Road.

If in the future Mr. Seeklus wishes to extend his horse pasture to allow more access to the 41.84 acres, then Whatcom County should review the fence locations in regard to the proximity to Anderson Creek. If required by County staff, Mr. Seeklus may need to establish a farm plan through the Whatcom Conservation District. The district works with landowners and farmers to manage natural resources in Whatcom County to help foster a healthy, sustainable relationship between people and the environment. The District has a wealth of information concerning water quality issues, management of small and large farming operations, and implementation of best management practices (BMP's). A farm plan will help ensure animal waste cannot mix with stormwater and drain into any known waterways.

3. A complainant is also concerned about the increase in traffic on Sand Road and the possibility of more accidents at the intersection of Smith Road and Sand Road.

The commercial stable will be a full service horse boarding and riding facility. This means that there will be employees that will feed the horses in the day and in the evening. This will reduce the impact of 28 renters coming to the facility twice a day to feed their horses.

The proposal was reviewed by Whatcom County Public Works, Division of Engineering based upon a preliminary traffic report.

The Engineering Services Division of the Whatcom County Public Works Department has determined that the public roadways are designed to meet the traffic requirements associated with the proposed use.

4. Another party of record expressed their concern regarding the potential odor and the waste handling of the horse manure particularly considering the potential number of horses involved.

The Whatcom County Health Department is requiring that a manure management (solid waste) plan be submitted at the time of the commercial building permit. The applicant has agreed to this requirement and will employ this plan once approved by the Health Department. As stated by the applicant "there will be an approved manure management plan in place in order to control odors and runoff."

5. Staff also received a verbal comment regarding the maintenance of a ditch on site.

The drainage ditch appears to be located entirely on Mr. Seeklus's property. Staff was unable to find a recorded maintenance agreement that would require the applicant to maintain the ditch. As such, staff verbally informed the complainant that Whatcom County PDS would not enforce the maintenance of the ditch. However, staff did inform the applicant that if a maintenance agreement was in place that the applicant would need to abide by its written agreement.

## **VI. STATE ENVIRONMENTAL POLICY ACT (SEPA)**

The State Environmental Policy Act (SEPA) requires applicants to disclose potential impacts to the environment unless the proposal is categorically exempt from SEPA threshold review.

The Whatcom County SEPA Official has reviewed the completed SEPA checklist submitted by the applicant, and has made a determination that with proper mitigation and by compliance with applicable codes and requested conditions, no significant adverse impacts to the environment would be likely to occur as a result of approving the proposed zoning conditional use.

The Optional DNS process was utilized and a Determination of Non-significance (DNS) was issued on June 11, 2011. During the SEPA comment period, staff received one comment from the Washington State Department of Ecology (DOE) regarding water resources. If this CUP proposal is approved, the comments from DOE will be included under the "Conditions of Approval" within this document. The appeal period for this DNS ended on June 21, 2011. No appeals to this determination were filed.

## **VII. FINDINGS OF FACT and CONSISTENCY WITH REGULATIONS**

### **A. Whatcom County Comprehensive Plan**

Zoning regulations of a specific use district are meant to implement the goals and policies of the County's Comprehensive Plan. Conditional uses are those uses that may be approved within a zoning district if it is determined that the specific use requested is consistent with the general and specific objectives of the Whatcom County Comprehensive Plan. The proposed use that is the subject of this report has been reviewed for consistency with the following goals and policies of the Whatcom County Comprehensive Plan:

**Goal 2FF:** Provide employment opportunities in the rural parts of Whatcom County.

**Policy 2FF-1:** Support small businesses, cottage industries, home occupations, resource-based and other appropriate light industry in the rural areas of Whatcom County.

Whatcom County County-Wide Planning Policies:

**Goal # 8** – Economic development should be encouraged that: a) does not adversely impact the environment; b) is consistent with community values; c) encourages development that provides jobs to county residents d) addresses industries for a more diversified economic base; e) promotes reinvestment in the local economy; and f) supports retention and expansion of existing businesses.

The Technical Review Committee finds that the application for a conditional use permit to allow for a full service commercial horse boarding and riding facility in the Rural zone district is consistent with the goals and policies of the Whatcom County Comprehensive Plan.

**B. Official Whatcom County Zoning Ordinance (Title 20, WCC)**

The purpose of the Rural zone district is to implement the Rural designation of the appropriate subarea Comprehensive Plan which calls for the maintenance of rural character and environmentally fragile areas by allowing a variety of low intensity uses that are compatible and complementary with the conservation of agricultural, forestry and related uses.

**C. 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.**

Many residents in rural Whatcom County depend on cottage industries, home occupations, small businesses, and natural resource-based jobs for their livelihood. These types of businesses support the local economy and are compatible with the rural lifestyle desired by county residents.

Chapter Seven of the Whatcom County Comprehensive Plan encourages locally owned and operated businesses to re-invest profits and wages in the local community. Policy 7F-1 of this Chapter states, "Support existing local business as the major contributors of job creation and regeneration and afford them every opportunity to continue their success in the community".

The purpose of the Whatcom County Comprehensive Plan, Rural Designation, is to provide opportunities for a variety of low-density residential development including cluster development. It is meant to provide flexibility to practice farming or forestry, operate home occupations and cottage industries and still retain a sense of community. The rural character and lifestyle is described as open space areas that are quiet and offer privacy. These rural areas offer a lower density population where there is less noise and congestion than urban areas. The rural designation also provides for agricultural uses.

Whatcom County finds that operating a commercial horse stable on 41.84 acres in the rural zone district will be harmonious and in accordance with the general and specific objectives of Whatcom County's Comprehensive Plan and zoning regulations.

**(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 property owner resides on an abutting parcel to the southwest. The residence on the neighboring parcel was built in the 1920's and has a beautiful farm home character. The property owner takes great pride in his residence and the grounds are maintained and nicely landscaped.

The same homeowner pride exists with the stables and surrounding structures. Approval of this conditional use permit will not result in any changes to the character of the general vicinity as the barn, arena, and associated out-buildings already exist. The proposed horse riding facility will maintain the rural character of the area and will continue to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.

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

The proposed use will not be hazardous or disturbing to existing or future neighboring uses if properly buffered along a portion of the northern property line.

The subject site is situated on 41.84 acres and the closest residence to the east is across the Sand Road nearly 2,000 feet away from the barn and the arena. The closest residence to the South is more than 700 feet away, and the parcel to the far east is a 37.99 acre parcel which is heavily treed.

The residents that may have a potential impact are those neighbors located in the "Foundation No. 2 Cluster Short Plat". These residents are situated to the north near the northwest corner of the existing structures. The closest residence is approximately 145 feet from the northwest corner of the riding arena. There is a natural buffer along the easement but many of these trees appear to be deciduous. Although, horses are a natural portrait in a rural zone district, the proposed monthly events could impact neighbors to the north with the sound of the trucks and trailers going over the gravel driveway and possibly creating dust in the summer months.

As a condition of approval staff will require a buffer along a portion of the northwest property line where the driveway parallels the neighbor's private drive (Murphy Place). A landscape buffering plan shall be provided for review by Whatcom County prior to building permit issuance. The Zoning Technical Advisor shall conduct a site inspection and determine how many trees shall be planted and for what distance. Staff believes that as conditioned, the impacts from monthly events will decrease substantially with an evergreen buffer. Therefore, the proposal as conditioned will not be disturbing to existing or future property owners.

In addition, horse shows are typically quiet events with only a slight amount of applause occurring at the end of each class when the equestrian riders receive their ribbons.

Lastly, the applicant has stated that there will be a manure management plan in place to deal with the animal waste. The Whatcom County Health Department will review the manure management plan at the time of building permit review. The manure management area will be covered to prevent odors and to prevent stormwater from mixing with the waste and leaching into the ground.

**(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 site is serviced adequately by necessary public facilities. The level of service for access, fire, and police will remain the same as noted below:

Roads:

The proposed facility will be served by Sand Road which is a public right-of-way classified as a Rural Local Road. No signs, signals or improvements to the road will be required as a result of this proposal.

Police and Fire Protection:

Emergency Services are provided by Whatcom County Fire District #1 and the Whatcom County Sheriff's Department.

The Notice of Application was routed to the Whatcom County Fire Marshal's office for review. The proposal was reviewed in accordance with the International Fire Code and the fire inspector approved the proposal subject to the conditions listed in Section IX, "*Conditions of Approval*" on Page 24 of this document.

Public Water is required for this proposal. The applicant is in the process of creating a Group B - Public Water System which will be approved by the Whatcom County Health Department prior to issuance of a building permit for the change of use.

An approved On-site Sewage System (OSS) will also be required as further conditioned in this report.

**(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.**

Approving the conditional use application for a full service horse boarding and training facility will not create additional public costs. The proposal 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 proposed use will not be detrimental to persons, property, or the general welfare of the public. The proposed business will take place in existing structures which have already been approved for personal use. The greatest and only impact maybe from the proposed monthly events. However, these events will only occur once a month, will occur during daylight hours, and should not cause smoke, fumes, glare or odors. There may be minimal noise

from spectators, and traffic will be mitigated as listed in Section IX, "*Conditions of Approval*" on Pages 24-25 of this document.

However, this parcel is located in the Rural (R5A) zone district in which odors, tractors and other similar agricultural uses may be a nuisance. Since the subject site is in the Rural zone, Whatcom County required the property owner to sign and record a "Right-to-Farm Disclosure Statement & Agreement". This disclosure pertains to the use of natural resources in Whatcom County pursuant to WCC, Title 14. The language in the recorded document states that the subject property is within or near designated agriculture lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. You may be subject to inconveniences or discomforts arising from such operations, including but not limited to noise, odors, flies, fumes, dust, smoke, the operation of machinery of any kind during any 24-hour period (including aircraft), the storage and application of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. Whatcom County has determined that the use of real property for agricultural operations is a high priority and favored use and will not consider to be a nuisance those inconveniences or discomforts arising from farm operations, if such operations are consistent with commonly accepted good management practices and otherwise comply with local, state, and federal laws.

As a condition of CUP approval (CUP2010-00014) for Mr. Seeklus' home based internet business located to the southwest of the subject site, Whatcom County required this document to be recorded. Therefore, the property owner referenced both his parcel numbers and it was recorded with the Whatcom County Auditor's Office on February 23, 2011 under Auditor's File Number 2110202663.

**(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.**

Whatcom County Public Works, Division of Engineering verified the vehicular approaches to the property and have determined that there will be no interference with traffic on Sand Road.

Sand Road is a Rural Local Road with 708 Average Daily Trips (ADT's) and a speed limit of 35 mph. If approved, a condition will be placed on the CUP requiring the applicant to obtain a Revocable Encroachment Permit to install the required paved apron off Sand Road.

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

The Notice of Application for this proposal was routed to the Whatcom County natural resources team for review of impacts to critical areas, geo-hazards and for shoreline review. It also received a flood review. A determination was made that there are no shoreline, critical areas, geohazard or flood concerns regarding this proposal.

#### **D. WCC Title 20.36 – Rural Use and Site Requirements**

The Whatcom County Zoning Ordinance, Title 20, allows for commercial kennels and stables intended for the boarding or training of domestic animals (WCC 20.36.156).

WCC 20.97.191 defines a “kennel: as a commercial establishment in which five or more dogs, cats, or other household pet is housed, groomed, bred, boarded, trained or sold for a fee or compensation.

The customary definition of a “stable” is a building, usually consisting of stalls, for the lodging of horses or other livestock.

It is staffs opinion that the proposed horse boarding & training facility meets the zoning criteria specified in WCC 20.36.156 which allows for the boarding or training of domestic animals.

If approved, compliance with the following Whatcom County Zoning Ordinance criteria will be required:

##### **20.36.350 - Building Setback Criteria:**

Building setbacks shall be administered pursuant to WCC 20.80.200.

Whatcom County Public Works, Division of Engineering has classified Sand Road as a Rural Local Road (also referred to as a Local Access Street). Although, the structures already exist, the front yard setback for any new structures shall be a minimum of twenty-five (25) feet and the side and rear yard setbacks shall be a minimum of five (5) feet.

Pursuant to WCC 20.80.210(5)(a)(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.”

##### **WCC 20.36.400 - Height Limitations:**

Maximum height shall be limited to thirty-five (35) feet. Height of structures shall also conform, where applicable, to the general requirements of WCC 20.80.675.

**WCC 20.36.450 - Lot Coverage:**

No structure or combination of structures, including accessory buildings, shall occupy or cover more than 2,500 square feet or 35 percent, whichever is greater of the total area.

**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 Agriculture, Rural, Commercial Forestry or Rural Forestry or within 300 feet of an area designated as Mineral Resource Lands in the Whatcom County Comprehensive Plan, or 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.

**WCC 20.36.653 – Landscaping:**

Landscaping requirements for this proposal are except pursuant to WCC 20.80.315(1).

**20.37.653 - Parking Requirements:**

Parking shall conform to the requirements of WCC 20.80.500.

The applicant has shown preliminary parking on the site plan. However, the applicant shall submit a parking plan to Whatcom County Planning & Development Services for approval prior to building permit issuance. The parking spaces shall comply with the standards specified in WCC 20.80.

**20.80.523 – Lighting Criteria:**

Any parking area which is intended to be used primarily during non-daylight hours shall be properly illuminated to avoid accidents. Any lights used to illuminate a parking lot shall be so arranged as to direct the light away from the adjoining property and the public road.

The applicant did not propose operating the horse boarding facility in the evening. The hours of operation shall be from 7:00 AM to dusk.

**WCC 20.36.655 – Livestock Regulations:**

The keeping of livestock shall be administered pursuant to WCC 20.80.800.

**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 submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

**WCC Chapter 20.78 - Transportation Concurrency:**

WCC Chapter 20.78 gives authority to ensure adequate transportation facilities are available or provided concurrent with development.

The Engineering Division determined that an Engineered Traffic Study would not be required since the proposed project does not generate over 400 Average Daily Trips. However, the proposed development may require a transportation concurrency evaluation, based on the preliminary traffic information that must be revised and resubmitted with the building permit application.

**E. WCC Chapter 12.08 – Roads and Bridges**

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, Division of Engineering, reviewed the proposal and submitted their comments to staff in a memo dated June 6, 2011. The following is a list of their comments:

The following requirements apply to the proposed project:

1. All development shall comply with Whatcom County Development Standards.
2. An Engineered Stormwater Design Report shall be submitted for review and approval with the building permit application. Stormwater Report shall address water quality and quantity.
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 Drawing for the new drainage system/ facility must be provided to the Engineering Services for permanent file record.
5. The proposed development may require a transportation concurrency evaluation, based on Preliminary Traffic Information that needs to be revised and resubmitted with the building permit application.
6. A commercial paved apron with min. 50ft radiuses is required for the driveway access point as per WC Development Standards. The applicant shall obtain a Revocable Encroachment Permit from the Engineering for said paved apron and prior to the onset of any construction in County Right Of Way.
7. Existing gravel driveway shall have min. 3 turnouts installed to accommodate two-way traffic. Turnout dimensions shall be min. 100'x20', as per FM road detail.

*The Technical Review Committee has determined that the project meets the requirements of WCC Chapter 12.08.*

#### **F. WCC Title 15 – Fire Code**

WCC Title 15 adopts and amends the applicable building, mechanical, plumbing 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 Whatcom County Fire Marshal's Office submitted a memo dated June 27, 2011 with the following comments:

1. Fire flow is required. A minimum 500 GPM @ not less than 20PSI shall be provided for 1 hour per International Fire Code. Hydrants, pumps, water supply, and pipes shall be designed by a Washington State Licensed Engineer.
2. A fire sprinkler system is required. Plans and specification shall be submitted to the Fire Marshal's Office for review and permitting. Fire sprinkler system is required because of the reduction in fire flow. See "other" if owner does not want to provide fire sprinkler system.

3. A fire alarm system is required. Plans and specification shall be submitted to the Fire Marshal's Office for review and permitting.
4. Fire extinguisher sizes shall be 2A10BC and the locations shall be approved by the Fire Marshal.
5. Fire department access shall meet the requirements of the Whatcom County Development standards for roads.
6. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County. Any overlooked hazardous condition and/or violation of applicable code does not imply approval of such condition or violation.
7. Other: If owner does not want to provide a fire sprinkler system then fire flow shall be 3500 GPM for one hour. Storage shall be 210,000 gallons, pump shall be 3500 GPM at no less than 20 PSI. Hydrants, pumps, water supply, and pipes shall be designed by a Washington State Licensed Engineer.

The applicant shall comply with all of the conditions of the Whatcom County Fire Marshal unless modified by the Whatcom County Fire Marshal's Office or appealed to the appropriate agency.

*The Technical Review Committee has determined that, as conditioned, the project meets the requirements of WCC Title 15.*

#### **G. WCC Title 16 – Critical Areas**

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.

Information for the full service horse boarding & riding facility was routed to Critical Areas staff for review in conformance with WCC 16.16, Critical Areas Ordinance. A memo dated May 31, 2011 was provided to staff with the following comments:

Because critical areas (Habitat Conservation Area, Frequently Flooded Area, potential wetlands) have been identified on the above parcel, per WCC 16.16.245(B), a Notice on Title must be recorded at the Auditor's office and a copy returned to critical areas staff prior to final critical area approval.

The Whatcom County Geologist also reviewed this proposal and approved the project for compliance with the geo-hazard section of WCC, Title 16.16.

The applicant shall comply with all of the conditions by the Technical Administrators of the CAO unless modified by Whatcom County Natural Resources or appealed to the appropriate agency.

*The Technical Review Committee has determined that, as conditioned, the project meets the requirements of WCC Chapter 16.16.*

#### **H. WCC Title 23 – Shoreline Management Program**

WCC Title 23 contains standards that regulate development within the shorelines of the state pursuant to the State of Washington Shoreline Management Act (SMA). The purpose and intent of the Whatcom County Shoreline Management (SMP), Title 23, is to promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of Whatcom County shorelines; and to manage shorelines in a positive, effective, and equitable manner.

The proposal was routed to the Whatcom County Shoreline Administrator for review. Based upon the memo submitted to staff dated May 23, 2011, Anderson Creek is a shoreline of the state pursuant to the State of Washington Shoreline Management Act (SMA) and Whatcom County Shoreline Management Program (SMP). The jurisdiction of the SMA and SMP extends 200-feet landward from the ordinary high water mark (OWHM) of Anderson Creek in this case which is located on the western portion of the subject property.

The covered storage/pump house structure and the “T-shaped” barn shown on the site plan for “Personal Use Only” are located within SMP and SMA jurisdiction; however are not proposed for use in association with the commercial horse boarding operation. As such, no use or development is proposed with SMP and SMA jurisdiction and no additional review is required at this time.

It shall be noted in the CUP decision that additional shoreline review will be required for any future use of buildings within SMP jurisdiction or if any future development activities of any kind are proposed within such jurisdiction.

The applicant shall comply with all of the conditions by the Technical Administrator of the SMP unless modified by Whatcom County Natural Resources or appealed to the appropriate agency.

*The Technical Review Committee has determined that, the proposed project meets the requirements of WCC Chapter 23.*

## **I. WCC Title 17 – Flood Hazard Area**

Whatcom County Code, Title 17 contains standards that regulate development within a flood hazard area as established in WCC 17.04.050. The proposal was routed to the Technical Administrator for flood review and it was determined that the existing structures to be used for the commercial facility are outside of the flood zone. proposal is outside.

*The Technical Review Committee has determined that, the proposed project meets the requirements of WCC Title 17.*

## **J. WCC Title 24 – Health Code**

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 submitted a memo dated May 26, 2011 with the following comments.

### **Water:**

Public water is required. The applicant is proposing to create a Group B Public Water System.

### **Sewer:**

An approve on-site sewage permit is required.

### **Solid Waste:**

The applicant has stated that there will be a manure management plan in place to deal with the animal waste. The Whatcom County Health Department will review the plan at the time of building permit review.

The applicant shall comply with all of the conditions by the Whatcom County Health Department unless modified by them or appealed to the appropriate agency.

*The Technical Review Committee has determined that, as conditioned, the project meets the requirements of WCC Title 24.*

## **K. Title 15 - Building Code**

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 Whatcom County Plans Examiner submitted a memo dated June 16, 2011 with conditions of approval for this proposal. Due to the scope of this project, these comments do not address any specific requirements. Specific requirements will be discussed at time of application of each individual building pre-application meeting and or submittal when more detailed plans are available. The following are general comments are not intended to be the final comments or requirements for any one project. The following comments were submitted:

1. A building permit is required for this proposal.
2. Due to the scope of the proposed project, the applicant must apply to the Building Official for a pre-application screening prior to building permit application submittal. At the Building Official's discretion a pre-application meeting may be required.
3. Applicable code references for this project proposal are the 2009 International Building Code (IBC); the 2009 International Fire Code (IFC); the 2009 International Mechanical Code (IMC); the 2009 International Fuel Gas Code (IFGC); the 2009 Uniform Plumbing Code (UPC); all applicable code referenced manuals and standards; all applicable Washington State Amendments to the above referenced codes; the 2009 Washington State Non-residential Energy Code (NREC) and Ventilation & Indoor Air Quality Code per 2009 IBC.
4. An Engineers observation report on the existing structures may be required if original documents are not provided to verify the class, and loadings under which each building was designed, (personal, agricultural reduction, commercial use, etc.). If no documents are provided a Washington State Professional Engineer shall engineer the proposed buildings. The engineer shall perform a complete structural analysis for the proposed building(s).
5. If required the engineer shall provide analysis for any special loads such as those imposed by an automatic sprinkler system, mechanical equipment, concentrated loads, impact loads, cranes, hay storage etc. The engineer should also include any required anchorage of non-building structures (signs, tanks, storage racks, equipment, etc.) to resist seismic loads.

6. A Washington State registered architect may required to design and stamp plans for all "non-exempt" structure of 4,000 square feet or greater in size.--- A Washington State licensed architect may be required by the Building Official to prepare plans and construction documents. (IBC Section 106.1, RCW 18.08.410) Plans prepared by a WA State licensed architect must be stamped and signed by the architect. (RCW 18.08.410[9])
7. (REQUIRED) Provide a code data summary sheet on the plan drawing submittals. List all applicable code data specific to the proposed project, including but not limited to types of occupancy, type(s) of construction, allowable height and area justification, occupant loads, egress path and travel distance, required exits and widths, non-separated or separated use, mixed occupancy, incidental and or accessory uses, fire protection systems, building design criteria, plumbing fixture counts, etc.
8. A design professional of record (licensed architect or engineer of record) shall be designated on the permit submittal documents and drawings where appropriate. The design professional of record shall be responsible for reviewing and coordinating all submittal documents prepared by others, including deferred submittal items, for compatibility with the design of the building. (IBC Section 106.3.4)
9. Occupancy separation may be required between the (man cave) and the rest of the building depending on use of the area. Occupancy separation shall be constructed as required per the current adopted edition of the International Building Code (IBC). Depending on use sprinklers may also be required.
10. Exits shall meet the requirements of Chapter 10 of the International Building Code. (upper levels, public viewing areas, etc.)
11. The proposal shall meet the barrier-free, handicap accessible requirements of the International Building Code, Chapters 10 & 11; IBC Appendix E; ICC/ANSI A117.1-03; applicable sections of the Washington State Amendments, per WAC 51-50. Accessibility design details shall be indicated on the plan drawings and submitted with the building permit.
12. Heating, cooling, ventilation and/or lighting (interior and exterior) of the building shall require compliance with the current adopted edition of the Washington State Nonresidential Energy Code (NREC) and Ventilation and Indoor Air Quality Code per 2009 IBC.

13. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County.
14. If sprinkler systems are required the sprinkler system and fire alarm system submittals shall be applied for at the same time as the building permit, unless otherwise approved by the Fire Marshal.
15. Required plans for this project shall include but not be limited to. (Suggested scales)
  - a. Site plan (1/10th scale)
  - b. Foundation plan (1/4" = 1' scale)(where applicable)
  - c. Floor plan (plan views) (1/4" = 1' scale)
  - d. Elevation plans (1/4" = 1' scale)
  - e. Structural plans (1/4" = 1' scale)(where applicable)
  - f. Section views (1/2" = 1' scale)
  - g. Details (special construction and or connections) (1/2" = 1' scale) Prior to application for a building permit, a special inspection of the existing facility shall be conducted by the Building Inspector and/or Deputy Fire Marshal

The applicant shall comply with all of the conditions of the Plans Examiner's unless modified by the Whatcom County Plans Examiner or appealed to the appropriate agency.

*The Technical Review Committee has determined that as conditioned, the proposal meets the requirements of Title 15, Whatcom County Code.*

### **VIII. RECOMMENDATION**

The Technical Review Committee has determined that the proposed conditional use permit for a full service horse boarding & riding facility complies with applicable Whatcom County regulations, including WCC 20.80.200 and WCC 20.84.220. Staff recommends the Hearing Examiner approve the proposal subject to the following conditions:

### **IX. CONDITIONS OF APPROVAL**

#### **A. Planning Division**

1. Permit Changes or Modifications: 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. Parking: Pursuant to WCC 20.80.500, adequate parking shall be established. An approved parking plan shall be submitted prior to issuance of the required commercial building permit.
3. Setbacks for Manure Management: 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.
4. Business Hours: No hours of operation were proposed. Therefore, the facility shall be approved to operate Monday through Sunday from 7:00 AM to Dusk.
5. Special Events: Special events subordinate to the approved use shall be permitted once a month and shall comply with the requirements outlined in this staff report. No more than 100 people shall be allowed at the event at any one-time.
6. Lighting: Pursuant to WCC 20.80.523; any lights used to illuminate a parking lot shall be so arranged as to direct the light away from the adjoining property and the public road.
7. Signage: The applicant did not propose a sign for the facility. Whatcom County will allow one non-illuminated freestanding sign, visible from the road and not exceeding six feet in height. One additional non-illuminated sign may be attached to the building for a maximum total signage of 16 square feet. No portion of any sign shall extend above the lowest portion of the roof pursuant to WCC 20.36.161(3). A building permit is required for a sign.
8. Buffer Requirements: A landscape plan showing a buffer along a portion of the northwest property line running westerly shall be approved by Whatcom County prior to building permit issuance. The trees shall be at least six feet tall at the time of planting and shall be fast growing evergreens capable of creating a substantial buffer. The trees shall be installed prior to the issuance of a Certificate of Occupancy.
9. CUP Nontransferable: Pursuant to WCC 20.84.210, Conditional Use Permits shall be nontransferable unless said transfer is further approved by the hearing examiner.
10. Livestock Requirements: The keeping of livestock shall be administered pursuant to WCC 20.80.805 and WCC 20.97.015.

11. Right to Farm: 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.
12. Animal Access to Anderson Creek: The property owner shall contact the Whatcom Conservation District to discuss Best Management Practices and to ensure a Farm Plan is not required. The horses shall not have any access to any critical areas including Anderson Creek.
13. Removal of Agreement from Deed: The County required the previous property owner to record an agreement stating that the barn and arena will be used for personal use only. This was filed under Whatcom County Auditor's File Number 2040303319. If the CUP is approved, the property owner can have this agreement removed from the title.
14. Department of Ecology: If the proposed project will collectively withdraw in excess of the amounts allowed under water right G1-\*05568CWRIS or the Groundwater Permit Exemption, an additional water right from the department of Ecology will be required. Contact DOE at (360) 715-5222 for more information regarding this condition.

## **B. Building Services Division**

1. A building permit is required for this proposal.
2. Due to the scope of the proposed project, the applicant must apply to the Building Official for a pre-application screening prior to building permit application submittal. At the Building Official's discretion a pre-application meeting may be required.

## **C. Critical Areas**

1. A *Notice on Title* is required which states the general presence of the critical areas and buffers located on the property. The *Notice of Title* form will be provided by Whatcom County. The Notice shall be recorded at the Whatcom County Auditor's office.

## **D. Shoreline**

1. Additional shoreline review will be required for any future use of buildings within the SMP jurisdiction or if any future development activities of any kind are proposed within such jurisdiction.

#### **E. Fire Marshal**

1. Fire flow is required. A minimum 500 GPM @ not less than 20PSI shall be provided for 1 hour per International Fire Code. Hydrants, pumps, water supply, and pipes shall be designed by a Washington State Licensed Engineer.

#### **F. Public Works – Engineering Division**

All development shall comply with Whatcom County Development Standards.

1. All development shall comply with Whatcom County Development Standards.
2. An Engineered Stormwater Design Report shall be submitted for review and approval with the building permit application. Stormwater Report shall address water quality and quantity.
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 Drawing for the new drainage system/ facility must be provided to the Engineering Services for permanent file record.
5. The proposed development may require a transportation concurrency evaluation, based on Preliminary Traffic Information that needs to be revised and resubmitted with the building permit application.
6. A commercial paved apron with min. 50ft radiuses is required for the driveway access point as per WC Development Standards. The applicant shall obtain a Revocable Encroachment Permit from the Engineering for said paved apron and prior to the onset of any construction in County Right Of Way.

7. Existing gravel driveway shall have min. 3 turnouts installed to accommodate two-way traffic. Turnout dimensions shall be min. 100'x20', as per FM road detail.

#### **G. Health Department**

1. A manure Management Plan shall be submitted with the building permit application to be reviewed and approved by the Whatcom County Health Department. The plan shall comply with the setback criteria listed above for manure management.

Report prepared for the Technical Review Committee by:

Suzanne Bosman,  
Senior Planner