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Interim Policy / Procedure

Subject/Title: Watershed Review of Development on Parcels that are In Close Proximity to or Straddle Regulated Watershed Boundaries.

Number:

Effective Date: July 7, 2008

Submitted By: Oliver Grah

Reviewed By: Watershed Team

Approved By: David Stalheim 

Statement: There will be situations along the outer margin of a regulated watershed or surface water delineation where parcel boundaries straddle the watershed boundaries. Further, there may be legitimate questions as to whether such parcels physically fall within or outside of the regulated watershed. In order for the watershed Technical Administrator to make a well-informed decision about a proposed development action, uncertainties about the location of a parcel and/or inaccuracies in our watershed maps must be resolved in the process of reviewing the development application.

Rationale: The approximate location and extent of such watershed boundaries shall be based on the Surface Water Delineation Boundaries Map-Version 3, as adopted in the Water Resource Inventory Area 1 (WRIA-1) Watershed Management Plan, February 2005. Property owners, the director, and/or members of the public may use these maps as a general guide, but the maps do not provide a comprehensive accounting of areas subject to this title nor do they provide a definitive watershed boundary designation. Watershed boundaries shown on the county's maps are approximate. Field investigation, analysis by a qualified professional, and/or consideration of other sources of credible scientific information may be required to confirm watershed boundaries. The county shall update the maps by ordinance on a regular and consistent basis as new information becomes available.

Policy: The following policy will be applied when there is uncertainty as to the regulatory status of a parcel in regard to watershed regulations.

When a customer requests information on the regulatory status of a parcel relative to watershed regulations independent of a development application, staff must inform the applicant of our disclaimer associated with all use of our maps:

"USE OF WHATCOM COUNTY'S GIS DATA IMPLIES THE USER'S AGREEMENT WITH THE FOLLOWING STATEMENT:

Whatcom County disclaims any warranty of merchantability or warranty of fitness of this map for any particular purpose, either express or implied. No representation or warranty is made concerning the accuracy, currency, completeness or quality of data depicted on this map. Any user of this map assumes all responsibility for use thereof, and further agrees to hold Whatcom County harmless from and against any damage, loss, or liability arising from any use of this map."

This user's agreement should be brought to the attention of the customer whenever information is presented to them based on our maps. This is particularly important for inquiries unassociated with a development or building permit application.

Further, given the scale of resolution of our maps and the nature of topographic mapping, there is an inherent error in the location of watershed boundaries shown on our maps. Because of these map attributes, all development permit applications shall be routed to the Watershed Team for review when the subject parcel is within 500 feet of a mapped watershed boundary subject to WCC20.71, 20.80.636, and 20.80.735. The watershed Technical Administrator will determine what review, if any, will be required to determine the regulatory status of such parcels.

For such parcels upon which development is proposed and applied for, the Technical Administrator will inspect the subject parcel and make a determination as to whether the parcel falls totally within, partially within, or totally outside of a regulated watershed (or surface water drainage) boundary. Such site inspection will involve pooling all available information together including but not limited to aerial

photos, topographic maps, (Geographic Information System) GIS maps, Light Imaging Detection and Ranging (LIDAR) imagery, etc., and determining if the parcel falls within the watershed by recording observations on gradient, slope aspect, surficial topography such as swales and ridges, flow lines, and mineral stream channels or drainage channels.

If the applicant does not accept the Technical Administrator's determination, then the applicant may hire, at their expense, a qualified professional (see WCC16.16 Article 8, Definitions) to investigate the parcel, produce a technical report, and make an informed recommendation on the status of the parcel and/or the site of proposed development. This investigation may involve following flow lines down gradient from the proposed development site to the nearest mineral channel. The nearest mineral channel will be determined to be in or out of the regulated watershed based on existing mapping or by following the channel down to the nearest mapped channel. This policy does not give any third party the legal right to enter privately owned property without permission.

When a parcel is determined by the Technical Administrator to straddle a regulated watershed boundary, and the proposed development falls within the regulated watershed, the proposed development will be subject to the standard watershed regulations (WCC20.71, 20.80.636, and 20.80.735). When the proposed development is located on a portion of the parcel that is determined to fall outside of a regulated watershed boundary, as determined by the Technical Administrator, the development will be consistent with the standard development regulations.

There may be situations in which natural surface water flow lines have been altered on specific parcels to either direct surface water away from or into regulated watersheds. In the case where natural flow lines have been directed away from a development site and out of a regulated watershed, the development shall be subject to the watershed regulations (WCC20.71, 20.80.636, and 20.80.735) since the natural flow lines may be re-established to direct flow into the regulated watershed. An exception to this policy may apply, at the Technical Administrator's discretion, to developments that have had a County approved stormwater management plan implemented where the flowlines have been directed out of the regulated watershed. In the case where there is a Whatcom County Approved engineered stormwater plan that routes a significant quantity of the stormwater to a location outside of the regulated watershed, upon review, the Technical Administrator may exempt a parcel from all or part of the

watershed regulations if deemed consistent with Whatcom County Code.

In the case where natural surface water flow lines have been directed away from a development site and into a regulated watershed, but that naturally would flow out of a regulated watershed, the development shall also be subject to the watershed regulations unless the natural flow lines away from the watershed are re-established. This portion of the policy addresses the fact that if flow lines are directed into the regulated watershed, adverse impacts caused by development may occur within that watershed.

There are other cases when a determination of whether a parcel is inside or outside of the watershed has a large bearing on the ability of that proposal to proceed with County review. Ordinance# 2008-014 states that no short plat applications shall be accepted which propose to create lots, which are less than five (5) acres in the Lake Whatcom watershed. Thus, it is imperative that a determination be made as to the status of a lot proposed for subdivision within 500 feet of the watershed boundary. For all proposed short plat applications, the applicant shall provide an assessment provided by a qualified professional (WCC 16.16 Article 8, Definitions) to fully determine the status of the lot as geographically in or out of the Lake Whatcom watershed. If the qualified professional determines that the parcel is straddled by the watershed boundary, no lots less than 5 acres in size may be created within, or that straddle, the Lake Whatcom watershed

All boundary line adjustments on parcels within 500 feet of the watershed boundary shall be routed to the watershed staff for review. At this time, watershed staff will determine the watershed status of each lot and what requirements shall apply to those lots.

A determination made by the Technical Administrator may be appealed following standard appeal procedures.