

# ASSOCIATED PROJECT CONSULTANTS, INC., P.S.

PROFESSIONAL CONSULTING ENGINEERS • LAND USE • CONSTRUCTION AND DEVELOPMENT CONSULTANTS

May 12, 2011

Whatcom County Planning Commission

RE: Comments regarding the Birch Bay Watershed Action Plan; changes to Title 20 and Title 16.

Dear Commission,

I have performed a review of the proposed code and am fearful that before any changes can be made to Whatcom County Code that you consider the following key points. I recommend that you table this matter until after the issues raised at the hearing tonight can be fully detailed and County staff presents new proposals. I would argue that the Staff report and Findings and Conclusions do not demonstrate that this program for water quality and habitat protection is ready for adoption.

Issues of concern:

1. This plan and respective code amendment is a "development regulation"\*. Without the background documents, no one can truly review the impact of such a plan. There is no LID Manual for Birch Bay that outlines what the techniques for best management practices would be for presenting storm drainage systems that actually work in Birch Bay. The February LID Manual has been apparently pulled for consideration since it is not a "technical manual" according to the *BBWARM Annual Reports*. The Department of Ecology has been working on an LID Manual for Western Washington for several years and proposes to have a draft available in September of 2011. The Commission should wait for final adoption of a properly reviewed and approved LID manual before proposing any changes in the code.
2. This plan does not provide options to fill wetlands and is only concerned with buffers yet fully accepts approval to fill wetlands by state and federal agencies. The Commission should fully explore adding a program that allows mitigation banking for wetland fills. This would be a real incentive for participation in the plan.
3. The Conservation District / BBWARM started collecting fees for impervious surface drainage since 2009 for water quality projects, approximately \$750,000 per year. A consultant was hired on April 1<sup>st</sup>, 2011 (see attached) for \$156,000 to study the north central storm water sub area (8%) to determine how storm water will be managed using the 2007 Characterization Study and no LID manual. This consultant has to rely on the code you are reviewing at this hearing in order to complete their work. This is a pilot program to be complete by 2012 and it will be used for all other sub areas in Birch Bay in the future. The Commission should wait for the code to be revised or adopted before any conclusive storm water

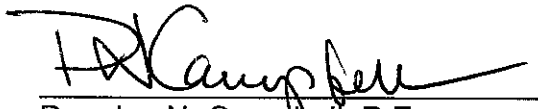
management plan can be started for this watershed. The Commission should also get a private and independent peer review of the 2007 Characterization Study since there are several conclusions that lead the reader to believe land will be taken out of service for development. The Commission should send notice to property owners within the watershed that will be removed from the area for development.

4. It is not clear in the plan who would maintain the LID systems and how that would be documented and recorded. Public Works has gone on record saying they are not involved. I would request the Commission seek input from Whatcom County Public Works as to the means for maintenance of BBWARM projects proposed for Birch Bay as well as those proposed by property owners.
5. The incentives outlined in the plan are weak and not easy to interpret. Without the LID Manual, an analysis by a qualified land use professional or engineer cannot be completed. If real and tangible incentives, to use the watershed plan, are the goal then, as projects are implemented on private property, the property owner should receive a credit from the Conservation District/BBWARM program for fees paid due to their respective impervious surface fee/tax. Paying for wetland buffer mitigation at \$150,000 per acres looks like double taxation without relief from the storm water fee. The Commission should explore real incentives to participation in the plan by providing fee/tax relief.

I recommend that you table this matter until after the issues raised at the hearing tonight can be fully detailed and County staff presents new proposals.

Thank you for your consideration.

Sincerely,



Douglas N. Campbell, P.E.  
Principal

Encl: Contract for services in Birch Bay

\*"Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

**WHATCOM COUNTY COUNCIL AGENDA BILL**

NO. 2011-137

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
K. Olason Originator:	KO	3/29/11	<b>RECEIVED</b>  <b>APR 05 2011</b>  <b>WHATCOM COUNTY COUNCIL</b>	4/12/11	Finance/Council
K. Christensen Division Head:	KNC	3/29/11			
F. Abart Dept. Head:	FA	3/31/11			
D. Gibson Prosecutor:	DG	03/31/11			
B. Bennett Purchasing/Budget:	bb BB	3/24/11			
P. Kremen Executive:					

**TITLE OF DOCUMENT:**  
  
 Birch Bay Characterization and Watershed Planning Pilot—Urban Stormwater Subwatershed Master Plan

- ATTACHMENTS:**
1. Memo
  2. Contract Information Sheet
  3. Contract and related exhibits

SEPA review required? ( ) Yes ( <input checked="" type="checkbox"/> ) NO SEPA review completed? ( ) Yes ( ) NO	Should Clerk schedule a hearing? ( ) Yes ( <input checked="" type="checkbox"/> ) NO Requested Date:
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**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

This contract with Tetra Tech, Inc., will result in a subwatershed stormwater master plan for the Central North Subwatershed. This plan will serve as a prototype for BBWARM to apply to the other subwatersheds within the Birch Bay Watershed. The primary tasks in this contract include:

- Inventory of existing stormwater systems and hydrologic and hydraulic analysis of flows within those systems.
- Identification and evaluation of system constraints and needed capital improvement projects.
- Evaluation of future land use scenario impacts on stormwater rates of flow and water quality.
- Development of a capital improvement phasing and financing plan.
- Public information through general public and stakeholder meetings.
- Completion of a subwatershed stormwater master plan.

The project total of \$ 156,458 will be funded through the BBWARM District budget (cost center 169250) of which approximately \$107,000 in grant funds will be contributed through reimbursements from the Environmental Protection Agency Puget Sound Watershed Management Assistance Program (Contract #201007013 with Whatcom Conservation District).

<b>COMMITTEE ACTION:</b>	<b>COUNCIL ACTION:</b>
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Related County Contract #: 201007013	Related File Numbers:	Ordinance or Resolution Number:
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**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).