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Peter Gill
Whatcom County Planning & Development Services
5280 Northwest Drive
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[via e-mail: pgill@co.whatcom.wa.us]

April 29, 2011

RE: Birch Bay LID

Dear Peter:

RE Sources North Sound Baykeeper Team advocates for and educates about water quality and habitat in Whatcom and Skagit Counties. We do this on the behalf of our approximately 700 members, most of who live in Whatcom County. It is in this spirit, that we offer comment on the proposed code for the Birch Bay Low Impact Development Overlay and Habitat Mitigation Fund.

RE Sources Baykeeper Team supports Whatcom County's efforts to achieve greater habitat benefit by using the overlay and mitigation structure. In our review of the code, we have found a few instances where greater clarity is needed or where the LID points accrued do not appear to be equal to the habitat benefit. We have outlined our concerns below.

In addition, we would ask that you conduct a review of the efficacy of this new approach after a 3-5 year trial period so that the public and Whatcom County government can see whether this approach has been successful. If so, it will deserve replication in other areas.

Thank you for your time and effort on this, and for responding to our concerns.

Sincerely,

Wendy Steffensen, Lead Scientist

20.50.130 Protective Measures 1a) To ensure that land designated “LID” lasts in perpetuity the notice on title is one mechanism used. It is not clear that this will be sufficient, because it requires both intake of information and willingness to comply. How will the County educate homeowners about their obligation, and enforce, if necessary?

20.50.220 Scoring Criteria. This section is very unclear. Please put more verbiage here so the reader understands how this is applied.

20.50.300 Protection of Wetlands, Streams, and Buffers. This criteria needs to be further refined. Language that gives equal points to altering the buffer and to altering a stream or wetland should be changed. A greater number of points should be subtracted from a project that alters or encroaches on the actual critical area versus one that alters only its buffer. Projects that encroach on Type 2 wetlands or Terrell Creek should not be allowed at all.

20.50.320 Scoring Criteria. The reference to “this section” is unclear.

20.50.510 Percentage of Property Revegetated with Native Trees and Shrubs. Obtaining points for as little as 2% revegetation seems too low. Please adjust this to at least 5%, and give a square footage number for those properties that are very large, where 2% could be considered significant.

20.50.515 Percentage of Degraded Wetland/Stream Buffer to be Revegetated. The ability to receive points for 0% degraded wetland/ stream buffer revegetated seems absurd. Please change this to a minimum of 5 or 10%.

20.50.610 Percent Area of Impervious Surface. Redevelopment that decreases the size of impervious surface gets 12 points regardless of the size of reduction. Please break this into 2 tiers to recognize small reductions (for example 1- 5% = 3 points) and greater reductions (> 5% = 12 points)

20.50.727, 20.50.736; Protection and Maintenance. Covenant for stormwater BMPs include a notice to future owners. As in section 20.50.130 Protective Measures, how will these covenants be communicated effectively and enforced?

16.16.970 Mitigation Fund Contribution Schedule. The justification for the base fee is absent; this should be provided. County residents need to know that the fee will be enough to compensate loss and to recreate habitat. As well, the buffer mitigation is said to be 1:1, however buffers are replaced on differing ratios depending on the category of wetlands/ streams they are buffering. The same buffer ratios should be used here.