

WHATCOM COUNTY HEARING EXAMINER

Shoreline Substantial Development)	SHR01-0025
Zoning Conditional Use)	CUP01-0028
Permits for)	
)	Lead Agency: Whatcom County
<i>Cedar Meadow Properties</i>)	
<i>"Wildwood Resort"</i>)	Date Received: December 5, 2001
)	Date Approved: March 26, 2002

Pursuant to WCC Chapter 90.58, a permit is hereby granted to

Cedar Meadow Properties, dba Wildwood Resort

to undertake the following development: permit, repair, and maintain four existing (un-permitted) docks that are part of an established, legally nonconforming, marina and camping resort on Lake Whatcom

Property Description: 990 South Lake Whatcom Boulevard

Legal Description: Within the SE ¼ of the SE ¼ of Section 20, Township 32N, Range 4E, W.M.
Assessor's Parcel No: 370420-440088

within the shoreline area of Lake Whatcom and/or its associated wetlands.

The project will be located within a Shoreline of Statewide Significance.

The following Shoreline Master Program provisions are applicable to the development:

SMP 23.20	Goals and Objectives
SMP 23.30.43	Rural Shoreline Area
SMP 23.40	Shorelines of Statewide Significance
SMP 23.90	General Policies & Regulations
SMP 23.100.80	Marinas and Launch Ramps

Development undertaken through this permit shall be subject to the following conditions:

1. The use, location and size of the proposed improvements on the site as indicated on the revised

site plan shall not be modified or changed in any way without further approval of the Whatcom Hearing Examiner.

2. The property owner shall contact the Whatcom County Building Services Division and apply for a building permit prior construction of the proposed maintenance and repairs to the docks.
3. The property owner shall clearly post rules relating to boating regulations on Lake Whatcom on all moorage facilities at Wildwood Resort. The signage should clearly identify the required speed limits as well as the penalties associated with violations. The signs should also provide information relating to the fact that Lake Whatcom is the primary source of drinking water for the City of Bellingham. Prior to issuance of a building permit for maintenance and repair of the docks the design, size, and location of the signs shall be reviewed and approved by the Whatcom County Shorelines Administrator. The required signage may not be posted on the site until the signs have been reviewed and approved by the Whatcom County Shorelines Administrator.
4. The applicant shall provide adequate garbage or litter receptacles at each moorage facility. The property owners of Wildwood Resort or their designated operator shall maintain the garbage facilities.
5. Fail safe facilities and procedures for receiving, storing, dispensing, and disposal of oil or hazardous products, as well as recovery of spilled products, shall be provided at the Wildwood Resort Marina. A plan must be submitted to the Whatcom County Shorelines Administrator and Fire Marshal, for review and approval, demonstrating compliance with this requirement prior to issuance of a building permit for the proposed maintenance and repairs to the docks. Implementation of the approved plan must be demonstrated prior to issuance of final occupancy for the expanded marina facilities.
6. The project shall comply with the setback and bulk regulations outlined in SMP 23.90.60 for the Rural Shoreline Designation as well as the remaining dimensional and design criteria for Pier and Dock Development outlined in SMP23.100.100.32 unless a variance is approved.
7. The project shall comply with all applicable Federal, State and local laws and regulations.
8. Washington State Department of Ecology Water Quality Standards shall be maintained.
9. Materials required for construction of the dock shall not be treated with creosote, pentachlorophenol or other similarly toxic materials that will adversely affect water quality or aquatic plants and animals over the long term. Piling shall be untreated.
10. Effective erosion control measures shall be installed and employed throughout the duration of the project.
11. All pier and dock development shall be marked with reflectors, or otherwise identified as to prevent unnecessarily hazardous conditions for water surface users. The exterior finish of the

dock shall be generally non-reflective.

12. The applicant shall contact the Washington State Department of Fish and Wildlife and obtain a Hydraulics Project Approval (HPA; RWC 75.20, WAC 220-110) and any other required permits and/or approvals associated with the proposed dock development as determined by the Washington State Department of Fish and Wildlife.
13. The applicant shall contact the Washington State Department of Ecology and obtain all required permits and/or approvals associated with the proposed development as determined by the Washington State Department of Ecology.
14. The applicant shall contact the Washington State Department of Natural Resources and obtain all required permits, leases and/or approvals associated with the proposed dock development as determined by the Washington State Department of Natural Resources.
15. The applicant shall comply with all of the requirements of the Whatcom County Chief Plans Examiner outlined in the January 29, 2002 memorandum unless modified by the Whatcom County Chief Plans Examiner or appealed to the appropriate agency.
16. The applicant shall comply with all of the requirements of the Whatcom County Fire Marshal as outlined in the March 8, 2002 memorandum unless modified by the Whatcom County Fire Marshal or appealed to the appropriate agency.
17. The docks shall be constructed and maintained so that no part of the development creates hazardous conditions or damages other shore property or natural features.
18. Moorage slips and docks shall not be used for year round moorage. Overnight use of the slips and docks shall be limited to overnight guests at Wildwood Resort. The limitation on year round moorage does not apply to year round residents (owners/employees) of the Resort.
19. Construction and demolition debris shall be wholly removed from water/shoreline. Disposal shall occur in accordance with all applicable agencies' laws and regulations, including Whatcom County Planning and Development Services, DOE and Northwest Air Pollution Authority.
20. Construction shall commence within two years of the effective date of the Shoreline Substantial Development Permit and Shoreline Variance as defined by WAC 173-27-090 (3), provided that the Whatcom County Hearing Examiner may authorize a single extension for a period not to exceed one year based on reasonable factors if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology. Permit authorization to construct the dock shall terminate five years after the effective date of the Shoreline Substantial Development Permit and Shoreline Variance as defined by WAC 173-27-090 (3), provided that the Whatcom County Hearing Examiner may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed

extension is given to parties of record and the Department of Ecology.

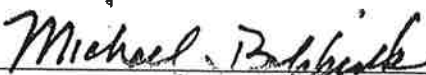
NOTICE

In addition to incurring civil liability under Shoreline Management Program Section 23.80.20 and RCW 90.58.210, pursuant to RCW 90.58.220 any person found to have willfully engaged in activities on shorelines of the state in violation of the provisions of the act or the Shoreline Management Program or other regulations adopted pursuant thereto shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than \$25 or more than \$1,000 or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment; provided that the fine for the third and all subsequent violations in any five year period shall not be less than \$500 nor more than \$10,000.

Any person who willfully violates any court order, regulatory order or injunction issued pursuant to the Shoreline Management Program shall be subject to a fine of not more than \$5,000, imprisonment in the county jail for not more than 90 days, or both. This approval does not release the applicant from any regulations and procedures required of any other public agency, or any County requirements other than the requirement to obtain a Shoreline Substantial Development Permit and Shoreline Conditional Use Permit. This permit may be rescinded pursuant to RCW 90.58.140(8) in the event the permittee fails to comply with the terms or conditions thereof. Pursuant to Whatcom County Shoreline Management Program Section 23.60.151 this permit shall expire within two years of the date of its approval and a new permit will be required, if the permittee fails to make substantial progress toward completion of the project for which it was approved. Pursuant to Section 23.60.152 it shall expire if the project is not completed within five years of the date of the approval, unless the permittee has requested a review, and upon good cause shown, been granted an extension of the permit.

THIS PERMIT IS NOT VALID (AND NO CONSTRUCTION NOR OPERATION AUTHORIZED BY THIS PERMIT SHALL BEGIN) UNTIL THIRTY (30) DAYS AFTER THE DATE OF FILING AS DEFINED BY RCW 90.58.140(6) AND WAC 197-14-090, OR UNTIL ALL REVIEW PROCEEDINGS INITIATED WITHIN THIRTY DAYS FROM THE DATE OF SUCH FILING HAVE TERMINATED; EXCEPT AS PROVIDED IN RCW 90.58.140(5)(A)(B)(C).

DATED this 26th day of March 2002.



Michael Bobbink, Hearing Examiner

THIS SECTION FOR DEPARTMENT USE ONLY IN REGARD TO A SHORELINE

CONDITIONAL USE AND/OR SHORELINE VARIANCE.

Date received by Department _____

Approved _____ Denied _____

This Shoreline Variance/Conditional Use is approved/denied by the Department pursuant to Chapter 90.58 RCW. Development shall be undertaken pursuant to the following additional terms and conditions:

DATED _____

Signature of Authorized Department Official

INQUIRY BY NAME

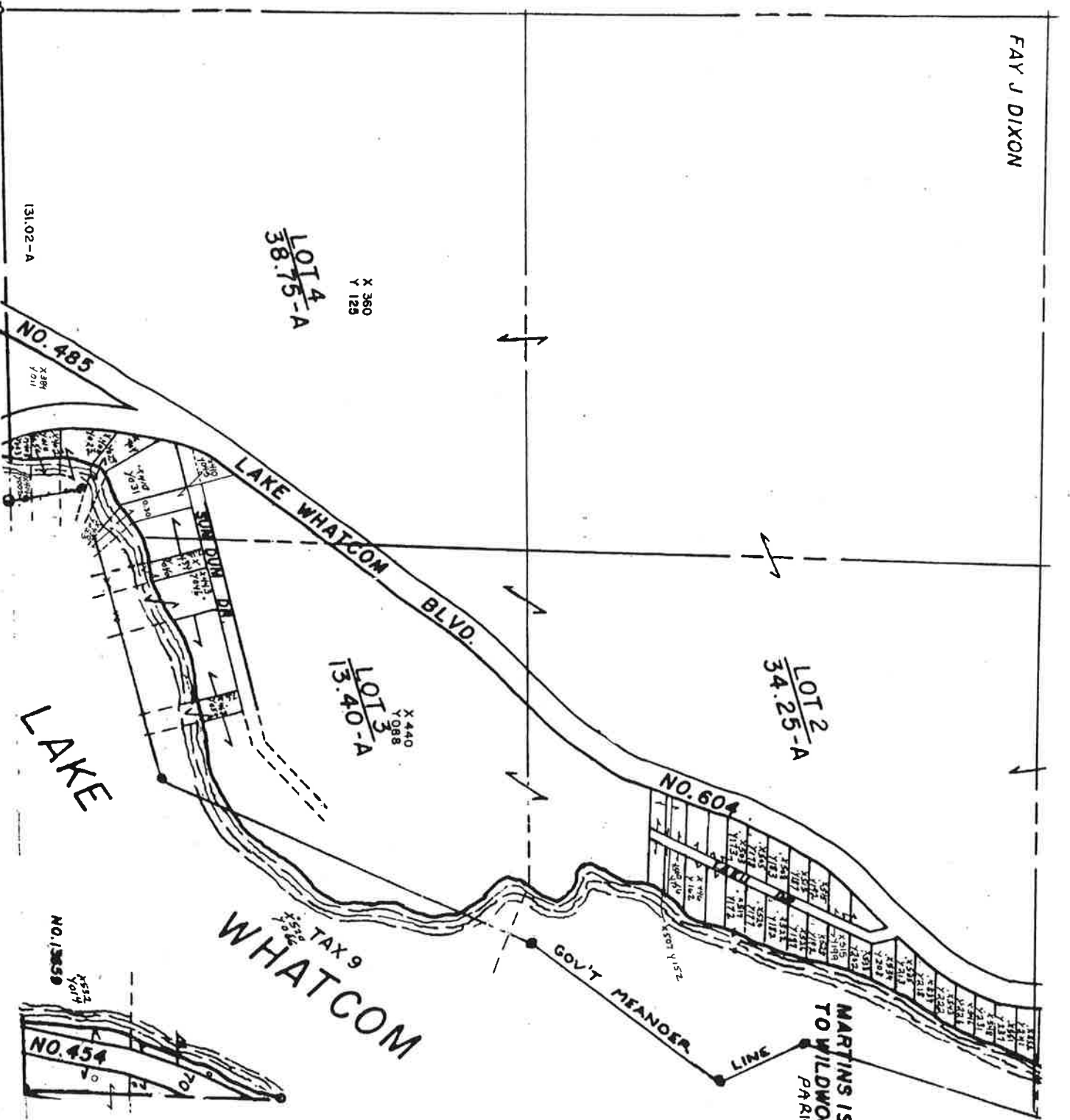
Name Cd WILD9000 WILDWOOD DEVELOPMENT INC

1285 QUEENS AVE
W VANCOUVER BC
CANADA, V7S 2K4

1 RP 380317 411197 0000 TR IN SE 1/4 BEING W 20 ACRES OF TR 100,000 T
DAF-NW SE-THAT PTN OF E 1/2 SE LY NWLY 9130 DL

Inquiry Type VL Select Line # 00 -or- Search for Parcel
END OF DATA CMD 7 for EOJ HELP key Allowed

FAY J DIXON



TOWNSHIP

37

MARTINS 1ST ADD
TO WILDWOOD
PARK

RANGE

4 E

SECTION

20

MAP NO.

05

SCALE

1"=200'

DATE

7/27/62

TAX 9
WHATCOM

NO. 454

NO. 13859

LOT 4
38.75-A

X 360
Y 125

LOT 3
13.40-A

X 440
Y 088

LOT 2
34.25-A

NO. 485

X 186
Y 111

NO. 604

THIS MAP IS FOR
RECORDING IN
THE PUBLIC RECORDS
AND IS UNLITLED
AND UNLITLED
AND UNLITLED
AND UNLITLED

From: "Roger Woods" <Roger@faberconstruction.com>
To: "Robert Mulrooney" <RMulroon@co.whatcom.wa.us>
Date: 10/12/2005 2:43:11 PM
Subject: RE: Wildwood Resort

NO ADDRESS 990 LK WHATCOM ISLVD.

I am enclosing the Tax Parcel #'s 370420434040, 370420443046, 370420463050 and 370420440088 I have ROS AF # 20101100897. Let know if you need more information or time.

Thanks
Roger

NO ADDRESS ON FILE

-----Original Message-----

From: Robert Mulrooney [mailto:RMulroon@co.whatcom.wa.us]
Sent: Wednesday, October 12, 2005 7:52 AM
To: Roger Woods
Subject: Re: Wildwood Resort

Hello Roger,

Could you send me the parcel numbers and/or street address for this site so that I can pull the appropriate files for you to review. Thank You.

Rob

Robert Mulrooney
Planner II
Whatcom County

>>> "Roger Woods" <Roger@faberconstruction.com> 10/11/2005 2:15:31 PM

>>>

Rob,

I would like to set up a time on Friday to use your micro - fish to look for permits on this site. Is 1:30 Pm. Open? I would also like to thank you for taking the time to talk with us yesterday.

Roger A. Woods

General Manager

Faber Brothers Construction

(360) 354-3500

WHATCOM COUNTY HEARING EXAMINER

RE: SHORELINE SUBSTANTIAL DEVELOPMENT)	SHR01-0025
ZONING CONDITIONAL USE PERMIT)	CUP01-0028
Application for)	
)	
<i>Cedar Meadow Properties</i>)	FINDINGS OF FACT,
<i>"Wildwood Resort"</i>)	CONCLUSIONS OF LAW,
)	AND DECISION

SUMMARY OF APPLICATION AND DECISION

Application: The applicant is requesting a Shoreline Substantial Development Permit and Zoning Conditional Use Permit to permit, repair, and maintain four existing (un-permitted) docks that are part of an established, legally nonconforming, marina and camping resort on Lake Whatcom.

Decision: The requested permits are granted, subject to conditions.

FINDINGS OF FACT

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted herein and evidence presented at the public hearing.

I.

PRELIMINARY INFORMATION

Applicant:	Wildwood Resorts
Property Location:	990 South Lake Whatcom Boulevard
Legal Description:	Within the SE ¼ of the SE ¼ of Section 20, Township 32N, Range 4E, W.M. Assessor's Parcel No: 370420-440088
Adjacent Water Body:	Lake Whatcom
Shoreline Designation:	Rural/Aquatic

Shoreline of Statewide Significance: Yes

Zoning: Rural one unit per 2 acres (R2A)

Comprehensive Plan: Rural

Subarea: Lake Whatcom

<u>Authorizing Ordinances:</u>	SMP 23.70.40	Hearing Examiner
	SMP 23.50	Applicability
	WCC 20.92	Hearing Examiner
	WCC 20.32	Rural Residential
	WCC 20.84.220	Zoning Conditional Use Permits
	WCC 20.83.020	Expansion of Nonconforming Uses

<u>Shoreline Program Provisions:</u>	SMP 23.20	Goals and Objectives
	SMP 23.30.43	Rural Shoreline Area
	SMP 23.40	Shorelines of Statewide Significance
	SMP 23.90	General Policies & Regulations
	SMP 23.100.80	Marinas and Launch Ramps

SEPA Review: Determination of Non-significance (DNS) issued January 29, 2002

Legal Notices: Published – December 19, 2001 and February 28, 2002
Posted – February 28, 2002
Mailed – February 21, 2002

Hearing Date: March 13, 2002

Parties of Record:

Mark Jeseritz
Cedar Meadow Properties, dba Wildwood Resort
990 South Lake Whatcom Blvd.
Sedro Woolley, WA 98284

Jon Sitkin
1500 Railroad Avenue
Bellingham, WA 98225

Jeff Chalfant
Planning and Development Services

Exhibits:

- 1 Application for Land Use Permit
- 2 SEPA, DNS, dated January 29, 2002
- 3 Certificate of Mailing, dated February 21, 2002
- 4 Staff Report, dated March 7, 2002
- 5 Legal Notice, dated February 28, 2002
- 6 Certificate of Posting, dated February 28, 2002
- 7 Letter, dated November 26, 2001, from Jon Sitkin
- 8 Vicinity Map
- 9 Zoning Map
- 10 Aerial Photo
- 11 Site Plan
- 12 Letter from Jon Sitkin, dated March 12, 2002
- 13 Petition request No Wake Zone in South Bay Area on Lake Whatcom
- 14 Legal Notice, December 19, 2001

II.

Cedar Meadow Properties, dba Wildwood Resort, is requesting a Shoreline Substantial Development Permit and a Zoning Conditional Use Permit to permit, repair, and maintain four existing (un-permitted) docks that are a part of an established, legally nonconforming, marina and camping resort on Lake Whatcom.

III.

The applicant has indicated that the Staff Report is factually correct. The applicant also stated no objection to the Conditions of Approval recommended by staff. There was no public comment on this matter at the hearing. The Findings of Fact and Conclusions of Law of the Shoreline Planner of the Land Use Services Division of Whatcom County Planning and Development Services, as set forth in the Staff Report, Exhibit #4, dated March 7, 2002, a copy of which is attached hereto, are adopted and incorporated herein by this reference.

The Hearing Examiner requested a condition be added to the Conditions of Approval that there will be no year round moorage and use of the slips and docks will be limited to overnight guests of the campground. The applicant and staff agreed to this condition.

IV.

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.

Whatcom County Shoreline Planner has recommended approval of the requested shoreline permits to permit, repair, and maintain four existing (un-permitted) docks that are part of an established, legally nonconforming, marina and camping resort on Lake Whatcom. Findings of Fact and Conclusions of Law are set forth in the Staff Report, Exhibit #4, dated March 7, 2002. Subject to the Conditions of Approval recommended by staff and amended by the Hearing Examiner, the Hearing Examiner also concludes that the proposal is consistent with the Goals, Policies, and Purpose of the Shoreline Management Act, RCW 90.58, and with the Goals and Policies of the Whatcom County Shoreline Management Program. The Conclusions of Law adopted by staff in the Staff Report are incorporated herein as Conclusions of Law.

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 Shoreline Substantial Development Permit and a Zoning Conditional Use Permit are hereby granted to Cedar Meadow Properties, dba Wildwood Resort, to permit, repair, and maintain four existing (un-permitted) docks that are part of an established, legally nonconforming, marina and camping resort on Lake Whatcom. The property in question is located on Assessor's Parcel No. 370420-440088, 990 South Lake Whatcom Blvd, Sedro Woolley, Washington. The permits are granted subject to the following conditions:

1. The use, location and size of the proposed improvements on the site as indicated on the revised site plan shall not be modified or changed in any way without further approval of the Whatcom Hearing Examiner.
2. The property owner shall contact the Whatcom County Building Services Division and apply for a building permit prior construction of the proposed maintenance and repairs to the docks.
3. The property owner shall clearly post rules relating to boating regulations on Lake Whatcom on all moorage facilities at Wildwood Resort. The signage should clearly identify the required speed limits as well as the penalties associated with violations. The signs should also provide information relating to the fact that Lake Whatcom is the primary source of drinking water for the City of Bellingham. Prior to issuance of a building permit for maintenance and repair of the

docks the design, size, and location of the signs shall be reviewed and approved by the Whatcom County Shorelines Administrator. The required signage may not be posted on the site until the signs have been reviewed and approved by the Whatcom County Shorelines Administrator.

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gross misdemeanor and shall be punished by a fine of not less than \$25 or more than \$1,000 or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment; provided that the fine for the third and all subsequent violations in any five year period shall not be less than \$500 nor more than \$10,000. Any person who willfully violates any court order, regulatory order or injunction issued pursuant to the Shoreline Management Program shall be subject to a fine of not more than \$5,000, imprisonment in the county jail for not more than 90 days, or both.


NOTICE OF ADMINISTRATIVE 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 opponent 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 26th day of March 2002.



Michael Bobbink, Hearing Examiner