

WHATCOM COUNTY HEARING EXAMINER

RE: Zoning Conditional Use Permit ) CUP2016-0009  
Application for )  
*Kinder Morgan* ) 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 construct a 1520 square foot storage building to be used for equipment, tools, and bulk carbon sacks at the existing pipe storage yard.

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: Kinder Morgan

Site Location/Address: 1009 East Smith Road  
Bellingham, Washington

Assessor's Parcel Number(s): 390333 167408

Zoning: Rural [R5A]

Comprehensive Plan: Rural

Subarea: Urban Fringe

Total Acreage: Approximately 64 acres

Water Supply: N/A

Sewage Disposal: N/A

Fire Protection: Fire District No. 4

Law Enforcement: Whatcom County Sheriff's Office

Adjacent Land Uses:  
North: E. Smith Road / Forest  
East: Forest  
South: Forest  
West: Residential / Forest

Authorizing Codes, Policies, Plans, and Programs

Revised Code of Washington (RCW) Chapter 36.70

Whatcom County Comprehensive Plan

Whatcom County Code, Title 2, Chapter 2.33 – Permit Review Procedures

Whatcom County Code, Title 20, Official Whatcom County Zoning Ordinance

Whatcom County Code, Title 14, Use of Natural Resources

Whatcom County Code Chapter 15, Building Code/Fire 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 12.08, Development Standards

Whatcom County Code Title 24, Health Regulations

Legal Notices:  
Mailed Notice of Application, October 4, 2016  
Published Notice of Application & Optional SEPA DNS, October 4, 2016  
Mailed Notice of Public Hearing, November 15, 2016  
Published Notice of Public Hearing, November 24, 2016  
Posted Notice of Public Hearing, November 16, 2016

Hearing Date: December 7, 2016

Parties of Record

Patrick A. Davis  
Kinder Morgan  
1009 East Smith Road  
Bellingham, Washington 98226

Charles Sullivan  
Planning and Development Services

## Exhibits

- 1 Land Use Application with attachments
  - 1-1 Address Mailing Labels
  - 1-2 Determination of Completeness, September 27, 2016
  - 1-3 Statutory Warranty Deed, March 19, 2956
  - 1-4 Revocable Encroachment Permit Application, September 21, 2016
  - 1-5 Whatcom County Land Disturbance Application Submittal Info, Fee Responsibility, Sept 21, 2016
  - 1-6 Preliminary Traffic & Concurrency Information, August 8, 2016
  - 1-7 Conditional Use Application, Intake Checklist, with 2015 Fee Schedule
  - 1-8 Customer Receipt, September 21, 2016
  - 1-9 NOA/Distribution Checklist, with Pre-Application Routing Memo
  - 1-10 PDS Hearing Examiner Checklist, October 21, 2016
  - 1-11 Authorized Representative Approval Memo, November 30, 2016
- 2 Staff Report, November 27, 2016
- 3 Agency Comments
  - Public Works Engineering, October 31, 2016
  - Plans Examiner II – Building Services, with General Conditions for Commercial Buildings, May 2, 2013 [sic]
  - Critical Areas, October 4, 2016
  - Fire Marshal, September 28, 2016
- 4 SEPA, DNS, dated October 4, 2016, Routing Checklist, Notice of Application for Optional Process: SEPA Determination, Planner Checklist, Distribution List, Environmental Checklist
- 5 Preliminary Stormwater Proposal, with attached Stormwater Pollution Prevention Plan: prepared for Trans Mountain Puget Sound LLC by Whatcom Environmental, August 10, 2015
- 6 Preliminary Topographic Drawing: Laurel Pump Station
- 7 Site Plan/Map
- 8 PDS Form Comment Letter, October 4, 2016
- 9 Certificate of Mailing, Notice of Application, October 4, 2016
- 10 Bellingham Herald Tear-Sheet, Notice of Application, October 4, 2016

- 11 Certificate of Mailing, Notice of Public Hearing, November 15, 2016
- 12 Certificate of Posting: Notice of Public Hearing, November 16, 2016
- 13 Legal Notice of Public Hearing, November 24, 2016

## 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 No.2, dated November 27, 2016. The Hearing Examiner finds that the factual findings set forth in the Staff Report, a copy of which is attached hereto, are supported by the record as a whole and are incorporated as Findings of Fact herein by this reference.

The Applicant's Representative, Dale McClary, 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. There was no public comment on this proposal.

## 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 Application to construct a storage building for tools, equipment, and bulk carbon sacks can be approved if it is consistent with the Zoning Conditional Use Criteria of WCC 20.84.220 (1 through 9). Subject to the Conditions of Approval attached to the granting of this Permit Decision, the proposal is consistent with the Conditional Use Criteria, as found by the Technical Review Committee in the attached Staff Report. A

Zoning Conditional Use Permit should be granted, subject to the Conditions of Approval recommended by the Technical Review Committee.

III.

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 Kinder Morgan for the construction of a 1520 square foot storage building, located on Assessor's Parcel No. 390333 167408, at 1009 East Smith Road, Bellingham, Washington, subject to the following conditions:*

**Planning Division**

1. The use and location on the site shall not be modified or changed in any way without further approval of the Hearing Examiner.
2. The Applicant shall limit onsite construction to the hours of 7AM to 6PM, Monday thru Friday.
3. The Applicant shall ensure that all equipment complies with the State Noise Level Standards under the Washington State Administrative Code (WAC) 173.6
4. Should archaeological materials (e.g. shell midden, faunal remains, stone tools) or human remains be observed during the scope of operations as approved, all work in the immediate vicinity shall stop, and the area shall be secured. The State Office of Archaeology and Historic Preservation (360-586-3065) and the Lummi Nation Tribal Historic Preservation Office (360-384-2298) shall be contacted immediately in order to help assess the situation and determine how to preserve the resource(s). Compliance with all applicable laws pertaining to archaeological resources is required.
5. CUP Nontransferable: Pursuant to WCC 20.84.210, Conditional Use Permits shall be nontransferable unless said transfer is further approved by the Hearing Examiner.

**Public Works Engineering Services**

6. The Applicant shall ensure that all development complies with the Whatcom County Development Standards.
7. The Applicant shall submit a Preliminary Stormwater Proposal with the building permit application clearly addressing runoff from the building roof.

## Building Services

8. A commercial building permit is required for each new building structure; for additions, change of use and/or change of occupancy to the existing buildings. Each permit shall be reviewed under the current adopted edition of the International Building Code [IBC]. The Applicant shall comply with all applicable Codes and Ordinances adopted by Whatcom County.
9. In order to determine submittal requirements, the Applicant shall complete a pre-application screening prior to submitting the commercial building permit.

### 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 13<sup>th</sup> day of December 2016.



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Michael Bobbink, Hearing Examiner

**WHATCOM COUNTY**  
Planning & Development Services  
5280 Northwest Drive  
Bellingham, WA 98226-9097  
360-676-6907, TTY 800-833-6384  
360-738-2525 Fax



**RECEIVED**  
NOV 30 2016  
J.E. "Sam" Ryan  
Director  
WHATCOM COUNTY  
HEARING EXAMINER

**WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES  
STAFF REPORT**

November 27, 2016

The application of <b>Kinder Morgan</b> for a Zoning Conditional Use Permit	CUP2016-00009 FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS
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**I. SUMMARY OF APPLICATION AND RECOMMENDATIONS**

Summary: The application is for a 1520 square foot storage building. The building is to be used to store equipment, tools and bulk carbon sacks at the existing pipe storage yard at 1009 E. Smith Road.

Recommendation: The Technical Review Committee recommends approval of the proposal

**II. PRELIMINARY INFORMATION**

**A. BACKGROUND INFORMATION**

Applicant: Kinder Morgan  
1009 E. Smith Road  
Bellingham, WA 98248

Property Owner: Kinder Morgan Pipelines  
1009 E. Smith Road  
Bellingham, WA 98226

Site Location/Address: Kinder Morgan Pipelines  
1009 E. Smith Road  
Bellingham, WA 98226

Assessor's Parcel Number(s): 390333 167408  
55000407 100

Zoning: R5A

Comprehensive Plan: Rural

**EXHIBIT**  
# 2

<u>Subarea:</u>	Urban Fringe
<u>Total Acreage:</u>	64 Acres
<u>Water Supply:</u>	N/A
<u>Sewage Disposal:</u>	N/A
<u>Fire Protection:</u>	Fire District #4
<u>Law Enforcement:</u>	Whatcom County Sheriff's Office
<u>Adjacent Land Uses:</u>	<u>North:</u> E. Smith Road/ Forest <u>East:</u> Forest <u>South:</u> Forest <u>West:</u> Residential/ Forest

#### **B. AUTHORIZING CODES, POLICIES, PLANS, AND PROGRAMS:**

1. Revised Code of Washington (RCW) Chapter 36.70
2. Whatcom County Comprehensive Plan
3. Whatcom County Code, Title 2, Chapter 2.33 – Permit Review Procedures
4. Whatcom County Code, Title 20, Official Whatcom County Zoning Ordinance
5. Whatcom County Code, Title 14, Use of Natural Resources
6. Whatcom County Code Chapter 12.08, Development Standards
7. Whatcom County Code Chapter 15, Building Code/Fire Code
8. State Environmental Policy Act (SEPA); Washington Administrative Code Chapter 197-11, Whatcom County Environmental Policy Administration Chapter 16.08
9. Whatcom County Code Chapter 16.16, Critical Areas
10. Whatcom County Code Title 24, Health Regulations

#### **III. APPLICATION PROPOSAL**

The application is for a 1520 square foot storage building. The building is to be used to store equipment, tools and bulk carbon sacks at the existing pipe storage yard at 1009 E. Smith Road. The site is presently is used for offices, fleet storage and maintenance in support of the Kinder Morgan Pipeline. The proposal represents an expansion to the facility that was permitted by CUP2007-00012. No modifications or expansions to the pipeline are being proposed.

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

The subject property is located at 1009 E. Smith road, which is in Section 33, Township 39, Range 03 East W.M. in Whatcom County, WA. The Kinder Morgan facility is located



on three separate tax parcels described by tax parcel numbers 390333168480, 390333167408 and 390333237410. The combined total acreage of the three lots is approximately 64 acres in size total. The site currently houses 2 large tanks and a variety of buildings including office buildings, pump houses and electrical buildings in support of the Kinder Morgan pipeline.

The site is generally flat. There is vegetation and landscaping around the perimeter of the site obstructing the view of the buildings and tanks from Smith Road and the adjacent properties. The Kinder Morgan runs North and South bisecting the site as well as westerly from the site.

## **V. PUBLIC NOTICE AND COMMENT**

Requirements for public notice are contained in Chapter 2.33 WCC.

Notice of Application: The Notice of Application and Optional SEPA intent to issue a DNS for this proposal was published on October 4, 2016. The fifteen (15) day comment period ended on October 19, 2016.

Pursuant to WCC 20.84.235(2), Notices were mailed on October 4, 2016 property owners whose property boundaries lie within 1000 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:

No public comments were received on this proposal.

## **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 proposed number of units exceeds the categorical exemption threshold in WAC 197-11-800 and SEPA review is required.

The Whatcom County SEPA Official reviewed the completed SEPA checklist submitted by the applicant, and 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.

A Determination of Non-significance (DNS) was issued on November 1, 2016 after utilizing the Optional DNS process (WAC 197-11-355). The appeal period for this Optional DNS ended on October 18, 2016. No appeals to this determination were filed.

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

### **A. Roads and Bridges (WCC Chapter 12.08)**

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 Engineering Department reviewed the proposal and submitted a memo dated October 31, 2016 with the following comment and conditions of approval.

Subject proposal is exempted from traffic concurrency evaluation because it will generate 9 or less new p.m. peak hr. trips. (ECE2016-00045)

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

### **B. Critical Areas (Title 16)**

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.

The critical areas team reviewed the proposal and submitted a memo dated October 4, 2016. Critical area review included investigation for wetlands and habitat conservation areas on GIS mapping, aerial photos, and permits history. Staff had the following comments:

Pre-Application PRE2016-00039 has been forwarded to Whatcom County Critical Areas staff for review under WCC 16.16, Critical Areas - Wetlands and Habitat Conservation Areas (HCA).

The proposal is to build a pole building to cover two existing 8'x40' storage containers. The building will be 38'x40' and will be used for storage of emergency response equipment and to store carbon sacks used for a dual phase extraction system used on-site

The proposal will occur on an existing developed surface and will not result in new impacts to regulated critical areas or their buffers.

As part of a complete application, CA staff will not require additional information, provided the proposal is consistent with the pre-application materials. Future fees associated with this project at the time of building permit submittal will include NR Office review (\$220 as of the 2015 UFS).

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

### **C. Fire Code (WCC Title 15)**

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 Fire Marshall submitted a memo dated November 21, 2016, with the following comments for this proposal:

I have reviewed the application documents for the proposed storage building to be built at Kinder-Morgan Smith Rd. site.

Whatcom County Fire Marshal Office is approving it as submitted and has no additional comments or concerns.

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

### **D. Building Services (WCC Title 15)**

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 October 13, 2016 with the following comments for the proposal:

Project Review Discussion 38'x48' storage shed

Plans and Studies Submitted and Reviewed

These conditions are based on review of the following documents that were submitted by the applicant:

- Whatcom County *Conditional Use Application*;
- Project narrative;
- Preliminary Site Plan (dated 03/08/16).
- Preliminary floor plans (Dated 05/20/16)

Discussion of Applicable Codes

The application was submitted on September 27<sup>th</sup>, 2016 and is subject to review under Title 15 (ORD 2010-041).

If there are any questions or comments regarding this memorandum, please do not hesitate to contact me at 778-5924 or by email [rbooth@whatcomcounty.us](mailto:rbooth@whatcomcounty.us).

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

**E. Zoning (WCC Title 20)**

**WCC 20.82 – Public Utilities**

Whatcom County Code 20.82.210 states that utility uses are allowed in all zone classifications of the Whatcom County Zoning Ordinance.

**WCC 20.84 – Conditional Uses 20.84.220 (1) through (8) Criteria**

**WCC 20.32 Rural Residential Zone**

*The proposal is located within the Rural (R) zone which does not specifically allow a Storage building of this type. However, WCC 20.82.030 Conditional Uses does allow the following:*

**WCC 20.82.030 Conditional uses.**

The following uses shall require a conditional use permit or major project permit and shall be subject to a threshold determination in accordance with the Whatcom County SEPA Ordinance:

**(7) Utility structures located above ground such as pump stations, equipment buildings and similar structures greater than 200 square feet in area.**

*A conditional use permit will be required for a storage building greater than 200 square feet in area.*

**WCC 20.32.350 Building setbacks.**

Building setbacks shall be administered pursuant to WCC 20.80.200 (Setback Requirements).

Rural (R)							
Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
45'	45'	35'	25'	25'	20'	5' <sup>1</sup>	5' <sup>1</sup>

*The building, as proposed meets the setbacks outlined above.*

**WCC 20.32.400 Height limitations.**

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

*The building as proposed will be less than 35 feet in height.*

**WCC 20.32.450 Lot coverage. (Adopted by reference in WCCP Chapter 2.)**

No structure or combination of structures shall occupy or cover more than 5,000 square feet or 20 percent, whichever is greater, of the total area, not to exceed 25,000 square feet. Buildings used for livestock or agricultural products shall be exempt from this lot coverage requirement.

*The site is non-conforming to lot coverage at present. Expansions of non-conforming uses are allowed through conditional use permits per WCC20.83.020.*

**WCC 20.32.652 Use of natural resources.**

All discretionary project permits for land on or within one-half mile of the 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.

*The property is located within the rural zone. A right-to-practice forestry disclosure will be required prior to building permit issuance.*

**WCC 20.32.653 Landscaping.**

Refer to WCC 20.80.300 for landscaping requirements.

*The applicant has provided a site plan showing that the building will be placed in an existing industrially developed area encompassed on all four sides by natural vegetation. The existing vegetation provides adequate screening to comply with the landscaping requirements.*

**WCC 20.32.654 Parking requirements.**

Parking shall conform to the requirements of WCC 20.80.500. However, recreation vehicles, and boat parking and storage shall be limited to side and rear yards.

*The proposal provides adequate parking and demonstrates adequate parking spaces for maintenance purposes.*

**WCC 20.32.656 Drainage. (Adopted by reference in WCCP Chapter 2.)**

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.

*The application has been reviewed by Whatcom County Public works. As conditioned, the project meets the requirements of WCC 20.32.656.*

**WCC 20.80.355 Trash and storage areas – Screening and placement.**

All trash and/or garbage collection and storage areas must be screened from view from adjacent streets and properties using a solid fence or wall a minimum of six feet high.

**(1) Will be harmonious and in accordance with the general and specific objectives of Whatcom County's Comprehensive Plan and zoning regulations.**

**Goal 5J: Facilitate maintenance and rehabilitation of existing utility systems and facilities and encourage use of existing utility corridors.**

**Discussion:** The proposal is for development of a storage building in support of the Kinder Morgan pipeline. The use is existing in the area and is allowed by zoning with a conditional use.

**(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.**

**Discussion:** *The proposed storage building is in support of an existing use. It will not be visible from neighboring parcels due to vegetation and location.*

**(3) If located in a rural area (as designated in the Comprehensive Plan), will be consistent with rural land use policies as designated in the rural lands element of the Comprehensive Plan.**

**Policy 2DD-2: Protect the character of the rural area through the County's development regulations. In addition to the policies of this plan that provide measures governing rural development, the following County's key development regulations are incorporated into this plan by reference.**

**Discussion:** *The proposal has been reviewed by Whatcom County's Technical Review Committee; the proposal has been conditioned for consistency with all applicable Whatcom County development regulations.*

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

**Discussion:** *There are no activities related to this proposal that will be hazardous or disturbing to existing or future neighboring uses. The proposal is for a storage shed in support of an on-going operation. No change in activities is expected.*

**(5) 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.**

**Discussion:** *The proposal will require little public services. The storage building does not represent an expansion in the number of employees or activities on the site.*

**(6) 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.**

**Discussion:** *There will be no public costs for the facilities or services. The proposal will not be detrimental to the economic welfare of the community.*

**(7) 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.**

**Discussion:** *The proposal is for a storage building to house material and equipment currently stored outside. It does not represent an increase in employees or the intensity of the existing use.*

**(8) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.**

**Discussion:** *The proposal has existing private road access off Smith Road. The proposal will use this existing access. Public works has reviewed the proposed access and had no issues.*

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

**Discussion:** *There are no natural, scenic or historical features of major importance on or near the site.*

## **VIII. RECOMMENDATION**

The Technical Review Committee has determined that subject to the following proposed conditions, the Conditional Use complies with applicable Whatcom County regulations.

As stated above, the Technical Review Committee recommends approval of the CUP 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. Construction Hours: On site construction shall be limited to the hours of 7AM to 6PM between M-F.
3. Construction Noise Levels: All equipment shall comply with the State Noise Level



Standards under the Washington 5 Administrative Code (WAC) 173.6

4. Archaeological Findings: Should archaeological materials (e.g. shell midden, faunal remains, stone tools) or human remains be observed during the scope of operations as approved, all work in the immediate vicinity shall stop, and the area shall be secured. The State Office of Archaeology and Historic Preservation (360-586-3065) and the Lummi Nation Tribal Historic Preservation Office (360-384-2298) shall be contacted immediately in order to help assess the situation and determine how to preserve the resource(s). Compliance with all applicable laws pertaining to archaeological resources is required.
5. CUP Nontransferable: Pursuant to WCC 20.84.210, Conditional Use Permits shall be nontransferable unless said transfer is further approved by the Hearing Examiner.

**B. Public Works – Engineering**

1. All development shall comply with the Whatcom County Development Standards.
2. Preliminary Stormwater Proposal shall be submitted with the building permit application clearly addressing runoff from the building roof.

**C. Building Service Department**

1. A commercial building permit is required for each new building structure. A building permit is also required for additions, change of use and/or change of occupancy to the existing buildings. They will be reviewed under the current adopted edition of the International Building Code (IBC) and must comply with all other applicable codes and ordinances adopted by Whatcom County.
2. The applicant shall complete a pre-application screening prior to submitting for a commercial building permit to determine submittal requirements.

Report prepared for the Technical Review Committee by:



Charles Sullivan  
Planner I