

WHATCOM COUNTY HEARING EXAMINER

RE: Zoning Variance) VAR2018-0001
Application for)
)
 BP West Coast Products, LLC) FINDINGS OF FACT,
) CONCLUSIONS OF LAW,
) AND DECISION

SUMMARY OF APPLICATION AND DECISION

Application: The Applicant is requesting a Zoning Variance Permit to reduce the required parking stall width from ten feet to nine feet to allow a greater number of parking stalls on a 2.55 acre contractor parking area, located at '0' East Brown Road, Blaine, WA.

Decision: The requested Zoning Variance 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: BP West Coast Products, LLC

Property Address: '0' East Brown Road
Blaine, Washington 98230

Assessor's Parcel Numbers: 390108 074352 & 390108 204346

Zoning: Heavy Impact Industrial [HII]

Comprehensive Plan: Cherry Point Industrial Urban Growth Area

Subarea: Ferndale – Cherry Point

Total Acreage: 3.3 acres

Roads: Private

Water and Sewer Supply: N/A

Fire Protection: Whatcom County Fire District No. 7

Law Enforcement: Whatcom County Sheriff's Office

Public Schools: N/A

Vegetation: The site is heavily vegetated with low lying shrubs and deciduous trees such as alder and maple trees.

Adjacent Land Uses:

North:	HII – BP Cherry Point
East:	HII – BP Cherry Point
South:	HII – BP Cherry Point
West:	HII – BP Cherry Point

Authorizing Codes, Policies, Plans, and Programs

Revised Code of Washington [RCW] Chapters 36.70 and 58.17

Whatcom County Comprehensive Plan

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

Whatcom County Code Chapter 12.08, Development Standards

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, Environment - Critical Areas

Whatcom County Code, Title 14, Use of Natural Resources

Whatcom County Code Title 20, Official Whatcom County Zoning Ordinance

Whatcom County Code Title 24, Health Regulations

Legal Notices: Posted – Notice of Public Hearing, May 5, 2018

Mailed – Notice of Application, May 1, 2018

Notice of Public Hearing, April 20, 2018

Published – Notice of Application, April 30 & March 12, 2018

Notice of Public Hearing, May 3 & April 27, 2018

Hearing Date: May 23, 2018

Parties of Record

Jackie Bourgault
BP West Coast Products, LLC
4519 Grandview Road
Blaine, WA 98230

Craig Parkinson
Cascade Engineering Group
119 Grand Avenue, Suite D
Bellingham, WA 98226

Amy Keenan, Senior Planner
Planning and Development Services

Exhibits

- 1 Variance Application, with attachments
 - 1-1 Project Narrative
 - 1-2 Fee Responsibility, February 20, 2018
 - 1-3 Mailing List for Property Owners within 300- Radius
 - 1-4 Customer Receipt, February 20, 2018
 - 1-5 Variance Routing Checklist
 - 1-6 PDS Notice of Application Comment Form Letter, March 12, 2018
 - 1-7 PDS Revised Application Comment Form Letter, April 30, 2018
 - 1-8 Determination of Completeness, March 1, 2018
 - 1-9 Vicinity Map
 - 1-10 Hearing Examiner Checklist, April 11 and May 8, 2018
- 2 Staff Report, dated May 8, 2018
- 3 SEPA Mitigated Determination of Non-significance, issued November 17, 2017, with attached Mitigating Conditions
- 4 Agency Comments
 - Critical Areas, March 8, 2018
 - Engineering Technician, March 21, 2018
 - Environmental Health, March 22, 2018
- 5 Critical Areas Assessment Report and Mitigation Plan: Wetlands and Habitat Conservation Areas, East Brown Improvements Project, prepared by Miller Environmental Services, LLC, October 18, 2017
- 6 Statutory Warranty Deed, dated May 15, 2002
- 7 Engineering General Notes and Site Plan Details, prepared by Cascade Engineering Group, P.S., Inc., dated Dec 29, 2017, revisions dated Jan 16, Feb 9 and 20, 2018
- 8 Certificate of Mailing Notice of Application, May 1, 2018

- 9 Bellingham Tear-Sheet, Notice of Application, April 30 and March 12, 2018
- 10 Certificate of Mailing Notice of Public Hearing, April 20, 2018
- 11 Certificate of Posting Notice of Public Hearing, May 5, 2018
- 12 Bellingham Herald Affidavit of Legal Notice of Public Hearing, May 3 and April 27, 2018

II.

The Applicant is seeking a Zoning Variance for a parking lot that will occupy approximately 3.3 acres. The Applicant proposes construction of a 2.5 acre parking lot, with an approximately 0.75 acre stormwater detention/treatment facility. The Applicant's request is to reduce the ten foot parking stall width requirement to a nine foot parking stall width for all 293 proposed parking stalls. The Applicant is requesting the reduction in stall width to accommodate additional parking stalls in an area constrained by identified critical areas.

III.

The Land Use Services Division of Whatcom County Planning and Development Services recommended approval of the requested Zoning Variance Permit in the Staff Report, Exhibit 2, dated May 8, 2018, subject to conditions. The Findings of Fact and Conclusions of Law set forth in the Staff Report, Exhibit No. 2, a copy of which is attached hereto, are incorporated herein by this reference. The Applicant has indicated that there are no factual inaccuracies in Staff's factual findings and no objection to the Conditions of Approval requested by Staff. There was no public comment on the application at the public hearing.

The Findings of Fact in the Staff Report are hereby adopted by the Hearing Examiner as the Findings of Fact herein.

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.

The request to reduce the required parking stall width from ten feet to nine feet for the construction of a contractor parking area can be granted only if the request is consistent with the Zoning Variance Criteria of WCC 20.84.120 (1 through 3). Subject to Conditions of Approval, this Zoning Variance will be consistent with the applicable Variance Criteria. The requested Variance should be granted subject to conditions.

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 Zoning Variance Permit is hereby granted to BP West Coast Products, LLC to reduce the required parking stall width from 10-feet to 9-feet to accommodate the construction of a 2.55 acre contractor parking area, located on Assessor's Parcel Nos. 390108 074352 & 390108 204346 , addressed as '0' East Brown Road, Blaine, Washington, subject to the following conditions:

1. The use and location on site as shown on plans date stamped February 20, 2018 shall not be modified or changed in any way without further approval of the Whatcom County Hearing Examiner.
2. The Applicant shall contact Whatcom County Planning and Development Services for an inspection of the parking stall striping.
3. The Applicant shall provide appropriate wheel and bumper guards to protect landscaped areas, to define parking spaces, and to clearly separate the parking area from any abutting street rights-of-way and property lines.
4. The parking area shall be striped between stalls to facilitate the movement into and out of the parking stalls.

5. The Applicant shall submit revised drawings associated with LDP 2017-00095 delineating the reduction in parking stall width and total number of parking stalls.
6. The Applicant shall complete construction or, if no construction is contemplated as a part of this permit, shall demonstrate compliance with all of the conditions of this permit with 24 (twenty-four) months of the date of the issuance of this decision. Failure to complete construction or demonstrate compliance shall result in the expiration of this permit. Substantial progress toward completion may satisfy the terms of this condition if approved by the Whatcom County Planning & Development Services and the Hearing Examiner. The applicant or permit holder may apply for an extension for a term of up to one year upon a showing that substantial progress has been made toward completion or compliance.

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 25th day of May 2018.



Michael Bobbink, Hearing Examiner

WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax



Mark Personius, AICP
Director

EXHIBIT
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MAY 09 2018
WHATCOM COUNTY
HEARING EXAMINER

2

WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES
STAFF REPORT

Date: May 8, 2018
Hearing Date: May 23, 2018

The application of BP West Coast Products for a Zoning Variance	VAR2018-00001 FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS
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I. SUMMARY OF APPLICATION AND RECOMMENDATIONS

Summary: The applicant is requesting a variance to reduce the required parking stall width from ten feet to nine feet to allow a greater number of parking stalls on a 2.55 acre contractor parking area on '0' East Brown Road, Blaine, WA in the Heavy Impact Industrial (HII) zone.

Recommendation: The Technical Review Committee recommends approval subject to the attached conditions.

II. PRELIMINARY INFORMATION

A. BACKGROUND INFORMATION

Applicant: Jackie Bourgault
4519 Grandview Road
Blaine, WA 98230

Property Owner: BP West Coast Products, LLC
501 Westlake Park
Houston, TX 77079

Agent: Craig Parkinson
Cascade Engineering Group
119 Grand Ave, Suite D
Bellingham, WA 98225

Site Location/Address: '0' East Brown Road
Blaine, WA 98230

Legal Description: A portion of SW ¼ of the SE ¼ of the NW ¼ of Section 8, Township 39, Range 1 E.W.M.

Assessor's Parcel Number: 390108 074352 390108 204346

Zoning: Heavy Impact Industrial (HII)

Comprehensive Plan: Cherry Point Industrial Urban Growth Area

Subarea: Ferndale – Cherry Point

Lot Size: Approximately 80 acres

Roads: Private

Water Supply: Not Applicable

Sewage Disposal: Not Applicable

Fire Protection: Whatcom County Fire District #7

Law Enforcement: Whatcom County Sheriff's Office

Public Schools: Not Applicable

Topography: General topography on the site is flat with gentle slopes to the north and northwest.

Vegetation: The subject site is heavily vegetated with low lying shrubs and deciduous trees such as alder and maple trees.

Adjacent Land Uses:

North:	HII – BP Cherry Point
East:	HII – BP Cherry Point
South:	HII – BP Cherry Point
West:	HII – BP Cherry Point

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

1. Revised Code of Washington (RCW) Chapter 36.70
2. Revised Code of Washington (RCW) Chapter 58.17
3. Whatcom County Comprehensive Plan
4. Whatcom County Code, Title 2, Chapter 2.33 – Permit Review Procedures
5. Whatcom County Code, Title 20, Official Whatcom County Zoning Ordinance
6. Whatcom County Code, Title 14, Use of Natural Resources
7. Whatcom County Code Chapter 12.08, Development Standards
8. Whatcom County Code Chapter 15, Building Code/Fire Code
9. State Environmental Policy Act (SEPA); Washington Administrative Code Chapter

- 197-11, Whatcom County Environmental Policy Administration Chapter 16.08
10. Whatcom County Code Chapter 16.16, Critical Areas
11. Whatcom County Code Title 24, Health Regulations

III. APPLICATION PROPOSAL

The applicant, BP West Coast Products, has submitted an application requesting a variance from the ten foot parking stall width requirement. The applicant is proposing a nine foot parking stall width for all 293 proposed parking stalls. The parking area will be accessed off East Brown Road and will be utilized as a contractor parking area to serve the existing refinery work force during normal operations and during larger maintenance events. The applicant is requesting the reduction in stall width to accommodate additional parking stalls in an area constrained by identified critical areas.

The parking lot will occupy approximately 3.3 acres with construction of a 2.5 acre parking area and an approximately 0.75 acre stormwater detention/treatment facility. Improvements will include perimeter security, lighting and associated utility infrastructure.

IV. SITE DESCRIPTION

The project site consists of two parcels in the HII zone located adjacent to the BP Cherry Point refinery. The parent parcels contain portions of the rail loop and refinery operations area. The remaining area is undeveloped with trees and brush. East Brown Road (a private road) is located on the southern border of the two properties and will be used for access.

V. PUBLIC NOTICE AND COMMENT

Requirements for public notice are contained in Chapter 2.33 WCC.

Notice of Application: The Notice of Application was published on March 12, 2018. The fifteen (15) day comment period ended on March 27, 2018.

On March 12, 2018, the Notices of Application were mailed to property owners whose boundaries lie within 300 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 Comment: No public comments were received during the public comment period for the Notice of Application.

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.

Pursuant to WCC 16.08 and WAC 197-11-800 (6)(b), minor land use decisions such as the granting of variances based on special circumstances, not including economic hardship, applicable to the subject property, such as size, shape, topography, location and/or surrounding are categorically exempt.

VII. CONSISTENCY WITH REGULATIONS, FINDINGS OF FACT

A. WCC Chapter 12.08 – Roads and Bridges

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 Department Division of Engineering reviewed the proposal and submitted memo with the following discussion:

The applicant is seeking Zoning Variance to decrease the width of the proposed contractor parking stalls to 9 ft. specifically, it is requested that the project be allowed to reduce the standard stall space from 10 ft. in width to 9 ft. in width. This request is to allow for additional parking beyond what would be achieved using 10 ft. wide parking stall/space. The completed parking area will have 293 parking stalls and will be accessed off of East Brown Road.

Engineering Services has no concerns for the subject Variance request as long as the total SF of impervious surface associated with the subject parking area remains the same as shown on the approved civil plans related to LDP2017-00095.

The Technical Review Committee has determined that as discussed above and conditioned the proposal meets the requirements of WCC Chapter 12.08.

B. WCC Title 16 – Whatcom County Critical Areas Ordinance

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.

Whatcom County Planning & Development Services Department Natural Resources Division Critical Areas wetlands staff reviewed the proposal and on March 8, 2016 submitted a memo with the following discussion:

The above-listed application packet was routed to Critical Areas staff to review for consistency with the Critical Areas Ordinance.

The proposal is for a variance from the standard parking space width. The parking lot is under construction and was approved through LDP2017-00094 and SEP2017-00113.

No new critical areas would be impacted by the proposal. However, if a variance is not approved the parking lot would need to be expanded, which would result in additional wetland fill.

In order to avoid additional impacts to wetlands, staff is in support of reduced parking space width.

The Technical Review Committee has determined that as discussed above, the proposal meets the requirements of WCC Chapter 16.16.

C. WCC Title 20 – Official Whatcom County Zoning Ordinance

Chapter 20.68 – Heavy Impact Industrial

WCC 20.68.010 Purpose.

The purpose of the Heavy Impact Industrial District is to implement the Heavy Impact Industrial land use designation of the Comprehensive Plan by supplying a reasonable amount of land, commensurate with demand, for the location and grouping of heavy impact industrial uses. Heavy industrial uses are primarily related to producing, distributing and changing the form of raw materials; whereby, product demand and industrial employment are predominately basic that is, serving nonlocal markets. In addition, the purpose of this district is to encourage the siting of industrial uses which will optimize the limited resource of land available for heavy impact industry. A further purpose of this district is to minimize the scope of impacts generated within the HII District and to provide protection for nonindustrial districts situated outside thereof; as enabled through the district's performance and development standards, and the buffer and setback requirements. (Ord. 98-083 Exh. A § 66, 1998)

.054 The following are permitted uses except as otherwise prohibited:

(1) The manufacture and process of paper including pulp, paper and paperboard mills; and building paper and board mill products.

(2) The manufacture and processing of chemicals and allied products including industrial inorganic and organic chemicals; synthetic resins, rubber, fibers and plastic materials; soap, detergents and cleaning preparations; paint, linseed oil, shellac, lacquer and allied products; chemicals from gum and wood; and agricultural chemicals.

- (3) Refining and storage of petroleum and asphalt.
- (4) The manufacture and processing of rubber and plastic products.
- (5) Leather tanning and finishing.
- (6) The manufacture and processing of cement and glass; and concrete, gypsum, plaster, abrasive, asbestos and nonmetallic mineral products.
- (7) Primary metal industries including blast furnaces and steel works; mills for primary smelting, secondary smelting, refining, reducing, finishing, rolling, drawing, extruding, and casting of ferrous and nonferrous metals; and the manufacture of miscellaneous metal products.

WCC 20.68.100 Accessory uses.

.105 Other accessory uses and buildings, including security services, customarily appurtenant to a principally permitted use.

The parking lot is considered accessory to the permitted use of refining and storage of petroleum. The parking lot is needed to park contractor vehicles for operation and maintenance of the existing facility.

D. WCC 20.80.500 Off-street Parking and Loading Requirements.

WCC 20.80.510 Parking space dimensions.

A parking space shall have minimum rectangular dimensions of not less than 10 feet in width and 20 feet in length; provided, however, that for any parking area of 12 or more spaces, 35 percent of all spaces may have minimum rectangular dimensions of not less than eight feet in width and 15 feet in length; provided, that these spaces are marked for use by compact automobiles. All dimensions shall be exclusive of driveways, aisles and other circulation areas. The number of required off-street parking spaces is established in WCC 20.80.580.

The applicant is proposing a parking space width of nine feet which is one foot less than the standard ten foot parking stall width. Using the standard parking stall width of ten feet would result in 264 parking spaces, if granted; the reduction in parking space width will allow 298 parking stalls. An additional 34 parking spaces can be accommodated utilizing the same space without impacting additional critical areas and buffers. The proposal is less than the standard parking width but greater than the minimum allowed for compact vehicles.

In addition, the site is located within the Birch Bay watershed and located within the Stormwater Special District (WCC 20.80.635). Minimization of impervious surface areas while maintaining project function is a general requirement of the stormwater special district (WCC 20.80.634(1)(c)). While there is no standard for reduction of parking in the Birch Bay watershed, a reduction of parking stall width to accommodate additional parking will minimize impacts to critical areas and buffers as

well as minimize overall impervious surface.

WCC 20.80.512 Wheel stop, overhang.

(1) Appropriate wheel and bumper guards shall be provided to protect landscaped areas, to define parking spaces, and to clearly separate the parking area from any abutting street rights-of-way and property lines. Vehicles may overhang landscaped areas up to two feet when wheel stops or curbing is provided.

(2) Where sufficient area is available to allow safe and efficient overhang of a vehicle, the planning department may permit the standard parking stall length to be reduced by two feet with corresponding increase in adjacent landscaping width. (Ord. 2016-045 § 1 Att. A, 2016).

As conditioned, the applicant shall place wheel guards to delineate the parking spaces.

WCC 20.80.575 Striping.

All paved parking areas with a capacity over 12 vehicles shall be striped between stalls to facilitate the movement into and out of the parking stalls.

As conditioned, the applicant shall stripe the parking area to delineate the parking spaces.

E. WCC 20.84.220 Zoning Variance - Applicable Policies and Regulations

In order for a variance to be approved it must satisfy the criteria of WCC 20.84.120 (1) through (3). In summary, these criteria state that any variance granted shall not constitute a grant of special privilege, be based upon reasons of hardship caused by previous actions of the property owner, nor be granted for pecuniary reasons alone, but be granted because of special circumstances applicable to the subject property, including size, shape, topography, location or surrounding uses, and when the strict application of the zoning ordinance is found to cause a hardship and deprive the subject property of a use or improvement otherwise allowed in the identical zoning classification.

Aesthetic considerations or design preferences without reference to restrictions based upon the physical characteristics of the property do not constitute sufficient hardship under this section, and the granting of this variance shall not be materially detrimental to the public welfare, or injurious to the property or improvement in the vicinity and zone in which the subject is situated.

The following circumstances, pursuant to WCC 20.84.120 (1)-(3), shall be found to apply in order to grant a variance:

- 1. That any variance granted shall not constitute a grant of special privilege, be based upon reasons of hardship caused by previous**

actions of the property owner, nor be granted for pecuniary reasons alone.

Staff has no reason to believe that this variance has been requested for financial reasons or is a grant of special privilege. The proposed parking lot is located within the HII zone adjacent to the BP refinery as well as other heavy industrial uses. The parking lot will be utilized for contractor parking associated with BP operations and maintenance. The location of the parking area was chosen because of proximity to the security gate and the existing parking area, however the site is constrained by wetlands and associated buffer. Reducing the parking stall width from ten feet to nine feet allows for a greater number of parking stalls to be located in the parking area with less impact to wetlands and buffer and minimization of impervious surfaces.

- 2. Because of special circumstances applicable to the subject property, including size, shape, topography, location or surrounding, the strict application of the zoning ordinance is found to cause a hardship and deprive the subject property of a use or improvement otherwise allowed in the identical zone classification. Aesthetic considerations or design preferences without reference to restrictions based upon the physical characteristics of the property do not constitute sufficient hardship under this section.**

As discussed above, the site was chosen for its proximity to the existing security entry area and existing contractor parking lot. Much of the undeveloped land at BP is constrained by wetlands and buffer. The footprint of the parking area was designed to minimize impact to wetlands and buffer while attempting to maintain the desired number of parking stalls. The parking stall requirements of WCC 20.80.510 states the following:

A parking space shall have minimum rectangular dimensions of not less than 10 feet in width and 20 feet in length; provided, however, that for any parking area of 12 or more spaces, 35 percent of all spaces may have minimum rectangular dimensions of not less than eight feet in width and 15 feet in length; provided, that these spaces are marked for use by compact automobiles. All dimensions shall be exclusive of driveways, aisles and other circulation areas. The number of required off-street parking spaces is established in WCC 20.80.580.

The applicant considered the mix of standard and compact parking stall width allowed by WCC 20.80.510 but did not feel that would adequately cover the parking needs for contractors to the site. Using the parking stall width of ten feet and 35% compact stall widths would result in 264 parking stalls. Asking for the reduction in parking stall width from ten feet to nine feet would allow a total of 298 parking stalls. The applicant can gain 34 additional parking stalls within the same amount of space helping to meet the needs of BP as well as reduce the amount of impervious surface. As noted in the Critical Areas Memo submitted by Josh Fleischman on March 8, 2018, wetland fill would be necessary if the parking lot would need to be expanded to accommodate additional parking stalls.

- 3. The granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the vicinity and zone in which the subject is situated.**

The granting of the variance will not be detrimental to the public welfare or injurious to the property or improvements in the vicinity. During the public comment period, staff received no comments. None of the comments addressed potential issues that would be detrimental to the public welfare or injurious to other properties.

WCC 20.84.260 Date of expiration.

The hearing examiner shall have the authority to fix a date of expiration of any or all approval, or conditions attached thereto, of conditional use permits, variances or expansions of nonconforming uses.

As conditioned, the applicant would have two years to complete construction as contemplated through this variance request.

F. Health Code (Title 24)

The purpose of Title 24 is to provide minimum standards to safeguard public health and welfare by regulating and controlling the activities considered in this title and any related work.

The Whatcom County Health Department (WCHD) reviewed the application on March 22, 2018, and stated no comments or concerns for this application.

The Technical Review Committee has determined that the project meets the requirements of WCC Title 24.

VIII. RECOMMENDATION

The Technical Review Committee recommends that the Whatcom County Hearing Examiner approve the applicant's variance request to reduce the parking stall width from ten feet to nine feet for the parking lot at East Brown Road subject to the requested conditions in Section IX of this report.

IX. CONDITIONS OF APPROVAL

- 1. Permit Changes or Modifications:** The use and location on site as shown on plans date stamped February 20, 2018 shall not be modified or changed in any way without further approval of the Whatcom County Hearing Examiner.
- 2. Inspection:** The applicant shall contact Whatcom County Planning and Development Services for an inspection of the parking stall striping.
- 3. Wheel Guards:** Appropriate wheel and bumper guards shall be provided to protect landscaped areas, to define parking spaces, and to clearly separate the parking area from any abutting street rights-of-way and property lines.

4. Striping: The parking area shall be striped between stalls to facilitate the movement into and out of the parking stalls.
5. Civil Drawings: The applicant shall submit revised drawings associated with LDP 2017-00095 delineating the reduction in parking stall width and total number of parking stalls.
6. Expiration: The Applicant shall complete construction or, if no construction is contemplated as a part of this permit, shall demonstrate compliance with all of the conditions of this permit with 24 (twenty-four) months of the date of the issuance of this decision. Failure to complete construction or demonstrate compliance shall result in the expiration of this permit. Substantial progress toward completion may satisfy the terms of this condition if approved by the Whatcom County Planning & Development Services and the Hearing Examiner. The applicant or permit holder may apply for an extension for a term of up to one year upon a showing that substantial progress has been made toward completion or compliance.

Report prepared for the Technical Review Committee by:

Amy Keenan, AICP
Senior Planner – Current Planning