

**WHATCOM COUNTY HEARING EXAMINER**

RE: Zoning Conditional Use

CUP2019-0009

Bellingham School District No. 501

FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND DECISION

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**SUMMARY OF APPLICATION AND DECISION**

**Application:**

Bellingham School District No. 501 is requesting approval of a zoning conditional use permit (CUP) for the construction of a new elementary school and demolition of the existing elementary school upon completion of the new school in the Urban Residential Mixed (UR-MX) zone in the Urban Growth Area (UGA) shadow of Bellingham. The proposed Zoning Conditional Use Permit will also allow storage of construction supplies, equipment, and the construction of a multi-purpose grass field, a playground area, and two (2) portable classrooms.

**Decision:**

The requested permit is 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: Bellingham School District No. 501  
1306 Dupont Street  
Bellingham, WA 98225

Property Location: 3400 Hollywood Avenue  
Bellingham, WA 98225

Assessor's Parcel No. 380214-089120-0000

Zoning: Urban Residential – Mixed District (URMX)

Comprehensive Plan: Urban Growth Area (UGA) (Bellingham)

Subarea: Urban Fringe

Total Acreage: 10.9 Acres

Water Supply: Public – City of Bellingham

Sewage Disposal: Public – City of Bellingham

Fire Protection: Whatcom County Fire District No. 8

Law Enforcement: Whatcom County Sheriff's Office

Adjacent Land Uses: North: Residential  
East: Residential  
South: Residential  
West: Residential

Authorizing Ordinances:

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 12.08, Development Standards
5. Whatcom County Code Chapter 15, Building Code/Fire Code
6. State Environmental Policy Act (SEPA)
7. Washington Administrative Code Chapter 197-11
8. Whatcom County Environmental Policy Administration Chapter 16.08

9. Whatcom County Code, Title 20, Official Whatcom County Zoning Ordinance
10. Whatcom County Code Title 22, Whatcom County Project Permit Procedures
11. Whatcom County Code Title 24, Health Regulations
12. Whatcom County 2018 City of Bellingham Urban Fringe Subarea Plan (UFSP)
13. City of Bellingham Comprehensive Plan
14. City of Bellingham Municipal Code, Title 13, Streets and Sidewalks
15. City of Bellingham Municipal Code, Title 15, Water and Sewer
16. City of Bellingham Municipal Code, Title 16, Environment
17. City of Bellingham Municipal Code, Title 20, Land Use Development

SEPA Review: The proposed number of units exceeds the categorical exemption threshold in WAC 197-11-800 and SEPA review is required. See Findings at §3.

Legal Notices: Published & Mailed – Notice of Application, September 16, 2019

Mailed – Notice of SEPA Mitigated Determination of Non-Significance, October 4, 2019

Mailed – Notice of Public Hearing, January 22, 2020

Posted – Notice of Public Hearing, January 29, 2020

Publication – Notice of Public Hearing, January 30, 2020

Hearing Date: February 12, 2020

Parties of Record

Robbie Eckroth, Planner II  
Planning and Development Services  
Whatcom County

Sanja Barisic  
Public Works Engineering Services  
Whatcom County

Curtis Lawyer  
Director of Capital Projects  
Bellingham School District  
1306 Dupont St.  
Bellingham, WA

Zachary Ham

Dykeman Architects  
1716 West Marine View Drive  
Everett, WA 98201

Moshe Quinn  
City of Bellingham Planning  
210 Lottie St  
Bellingham, WA 98225

Susan Rogers  
3435 Redwood Ave.  
Bellingham WA

Admitted Exhibits:

- 1 CUP Master Application, with  
attachments 1-1 Fee Responsibility  
1-2 Agent Authorization  
1-3 Customer Receipt  
1-4 Case #: PRE2019-0004 Project Answers to  
Questions 1-5 Land Disturbance & Clearing  
Application Information 1-6 Preliminary Stormwater  
Proposal  
1-7 Preliminary Traffic & Concurrency  
Information 1-8 Revocable Encroachment  
Permit Application  
1-9 Whatcom County Fire District No. 8: Fire Protection Letter, dated July  
30, 2019 1-10 Public Works City of Bellingham Letter May 7, 2019 re:  
both sewer & water  
service  
1-11 Pacific Surveying & Engineering Letter June 23, 2019 re: Notice of  
CUP Application for Alderwood Elementary School Replacement &  
Improvement with Notice of Proposed Construction or Alteration and  
Record of Survey, 10-24-18, with Preliminary Site Plan  
1-12 Determination of Completeness, September 3,  
2019 1-13 Property Owners within 300 Ft. Mailing  
Labels  
1-14 PDS Comment Form Letter, September 16, 2019: Notice of  
Application with Project Description  
1-15 PDS Certificate of Mailing Notice of Application, September  
16, 2019 1-16 PDS Legal Notice of Application, September 16,  
2019  
1-17 Affidavit of Mailing, prepared by Curtis Lawyer, Director of Capital  
Projects & School Facilities, dated October 8, 2019, with Property  
Owners List attached  
1-18 Memo dated September 16, 2019 from Robby Eckroth to Tech Review  
Committee re: Alderwood Elementary School Redevelopment pre-  
application meeting

- 1-19 Routing Checklist-Internal Depts/Optional SEPA Determination & Checklist
- 1-20 Hearing Examiner Routing Memorandum, dated January 3, 2020
  
- 2 Staff Report, dated January 30, 2020
  
- 3 Dykeman Architecture +Design Letter dated November 15, 2019 re: Response to Notice of Additional Requirements [NOAR] for Alderwood Elementary School Rebuild, with attached Customer Receipt, dated Nov. 19, 2019:
  - 3-1 Geotechnical Engineering Services, June 3, 2019, with Appendix A Field Methods and Appendix B Report Limitations and Guidelines for Use
  - 3-2 Wetland Impact Assessment & Mitigation Plan, November 2019, prepared by NW Ecological Services, with Appendix A: References, Appendix B: Figures, Appendix C: Long-Term Management, Appendix D: Whatcom County Bond Worksheet, Appendix E: Contractor's Checklist
  
- 3 Agency Comments
  - 3A-1 Mitigated Determination of Non-Significance [MDNS] by Responsible Official: Curtis Lawyer, Capital Projects Director, Bellingham School District #501, dated October 1, 2019 and published October 4, 2019, with attached Memo from Robby Eckroth, Planner II to Curtis Lawyer and Moshe Quinn, Planner II, Bellingham Planning and Community Development, dated October 17, 2019 re: SEPA MDNS-Alderwood Elementary School Rebuild and Memo from Moshe Quinn to Curtis Lawyer and Robby Eckroth, dated October 15, 2019 re: SEPA MDNS for Alderwood School Rebuild
  - 3A-2 Letter dated January 24, 2020 from Philip Serka to Rajeev Majumdar, Hearing Examiner Pro Tem re: Notice of Representation for Bellingham School District No. 501
  - 3A-3 Memo to TRC Committee from Robby Eckroth, Planner, dated January 2, 2020 re: Revised Site Plan for School Redevelopment with attached Email from Robby to TRC Committee Members, dated Jan 2, 2020 re: Revised Site Plan with Portables, and Letter dated Nov. 8, 2019 from Robby Eckroth to Bellingham Capital Projects & School Facilities: Brian Smart and Curtis Lawyer re: Notice of Additional Requirements [NOAR]
  - 3A-4 Memo from Robby to TRC Members, dated Nov 20, 2019 re: 2<sup>nd</sup> TRC Meeting for Alderwood Elementary School Redevelopment, with attached Memo dated Dec 19, 2019 from Moshe Quinn, Planner, City of Bellingham to Robby re: TRC Alderwood Elementary School, and attached Memo dated Nov 7, 2019 from Moshe Quinn to Robby re: TRC comments on the Alderwood Elementary School Rebuild
  - 3A-5 Memo dated Sept 12, 2019 from Moshe Quinn to Robby re: Alderwood

Elementary, with attached Memo from Bellingham Fire Department-Life Safety Division, dated October 15, 2019, prepared by R.C. Richard, Division Chief/Fire Marshal re: City of Bellingham requirements pertaining to the Alderwood Elementary School proposal, and Memo dated Oct. 16, 2019; Revised 1/3/2020 from Curtis Metz, Building Services Division Manager to Robby re: Alderwood Elementary Redevelopment with General Conditions for Commercial Buildings and Memo dated Oct 16, 2019 from Curtis Metz to Robby re: Project Review Discussion, with General Conditions for Commercial Buildings and Memo dated October 17, 2019 from Environmental Health re: Water Supply and Sewer Disposal, Living Environment Plan Review, and Food Service for the new elementary school; and Memo dated Dec 16, 2019 from Public Works Engineering Services re: Stormwater Maintenance Security & Declaration of Covenant and Grant of Easement; and Traffic: Development Road Frontage Improvements; Email from County Fire Marshal Fire Inspector dated Jan 2, 2020 re: addition of Portables does not change anything for the Certified Fire Investigator and Memo dated Nov 21, 2019 from County Fire Marshal to Robby re: review of the Alderwood School Application Materials and WCFMO comments

4. Preliminary Stormwater Report, prepared by Pacific Surveying & Engineering, Inc., September 6, 2019
5. Wetland Impact Assessment & Mitigation Plan, prepared by NW Ecological Services, July 2019
6. Traffic Impact Analysis for the Alderwood Elementary School Rebuild Project, prepared by Heffron Transportation, Inc., dated August 2, 2019
7. Bellingham School District #501 Environmental Checklist for Alderwood Elementary School Rebuild, prepared by the Environmental Consultant Laura Brent, AICP and Brent Planning Solutions, LLC, dated August 2019
8. Public Comment Form Letter, dated September 25, 2019 from neighbor, Leah Rose
9. Vicinity Map of Subject Area, Sept 2019
10. nine photos of existing Alderwood School and property
11. Pacific Survey and Engineering, Inc. Deeds: Record of Survey, dated 10-24-18 with 8 Bellingham School District #501 Deeds

- 12 Legal Notice of Application, January 30, 2020
- 13 Certificate of Mailing Notice of Public Hearing
- 14 Certificate of Posting Notice of Hearing, dated January 30, 2020
- 15 Memorandum in Support of Application, submitted by Applicant's Attorney Phil Serka at the hearing.

## Scope

### II.

Bellingham School District No. 501 is requesting approval of a zoning conditional use permit (CUP) for the construction of a new elementary school and demolition of the existing elementary school upon completion of the new school in the Urban Residential Mixed (UR-MX) zone pursuant to WCC 20.24.151. This is inside of Bellingham's Urban Growth Area. The school will have approximately 58,295 square feet of building area to accommodate 450 students. Development will also include two portable classrooms, two access points, road frontage improvements, parking, utility, and stormwater infrastructure. Public water and sewer will serve the development.

### III.

## SEPA Findings

The Bellingham School District (501) is SEPA Lead Agency for this proposal. The Bellingham School District published a Mitigated Determination of Non-Significance (MDNS) on October 04, 2019 with the following mitigated impacts:

### Water

- Compensatory mitigation for the proposed wetland fill includes enhancement within the retained Wetland Mosaic ABCD. The buffer encroachment will be compensated by expanding the buffer into the forested area to the south at a 2:1 replacement ratio. The buffer will be expanded to include a 3,893 square foot forested area adjacent to the southern portion of the buffer. A portion of Wetland Mosaic ABCD will be planted with native conifers and herbaceous species capable of providing increased water filtration.

### Transportation

- The project will provide a Construction Transportation Management Plan to

address traffic and pedestrian control during major phases of the school construction.

- The project will provide frontage improvements along Hollywood Avenue and Redwood Avenue, adding curb, gutter, and sidewalk where they do not currently exist.

#### **IV.**

##### Staff Report

The Whatcom County Technical Review Committee has recommended approval of the Zoning Conditional Use Permit and issued a staff report entitled “Findings, Conclusions, and Recommendations,” dated February 5, 2020 (herein “Staff Report”). The City of Bellingham, through their agent Moshe Quinn, indicated that the staff report was factually correct, and supported the recommendations.

The Applicant has indicated that the Staff Report is factually correct, but at the hearing made an oral and written request (Ex. 15, pg. 10-11) to modify staff recommended Condition No. 1 to allow for additional structures. The Applicant otherwise stated no objection to the Conditions of Approval recommended by Staff.

Public comment was taken at the hearing in the form of the testimony of Susan Rogers and raised issues of concern about public safety both in terms of physical dangers in the form of lack of sidewalks and unattended equipment, as well as criminal safety issues regarding the construction site. Concern was also raised about the status of the undeveloped areas and any increase in traffic. Sanja Barisic and Robbie Eckroth testified as to the recommendations and issues examined taken to improve safety, reduce impact on undeveloped areas, a lack of substantive increase in traffic which would have required additional traffic study, and other ways in which public concerns were addressed, as encapsulated in the Staff Report.

The Findings and Conclusions of the Current Planner of the Land Use Services Division of Whatcom County Planning and Development Services, as set forth in the Staff Report, Exhibit No. 2, dated February 5, 2020, a copy of which is attached hereto, are hereby adopted as findings of fact by the Hearing Examiner and incorporated herein by this reference.

#### **V.**



Any Conclusion of Law made below 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 for a zoning conditional use permit to authorize the construction of a new elementary school and demolition of the existing elementary school upon completion of the new school 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 hereto, the proposed use is consistent with the Conditional Use Criteria, and a Zoning Conditional Use Permit should be granted with those conditions.

#### **II.**

Pursuant to WCC 20.84.225, the hearing examiner may administratively approve revisions to conditional use permits, such as those brought by the Applicant on the hearing date; provided, that the proposed changes are within the scope and intent of the original permit. WCC 20.84.225(1) specifies that “revisions involving new structures not shown on the original site plan shall require a new permit.” The proposed revisions brought by the Applicant involve new structures, and as such the Hearing Examiner is not authorized to approve such changes, as they require a new permit by law.

#### **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 Bellingham School District No. 501. for the for the construction of a new elementary school, the demolition of the existing elementary school upon completion of the new school, and other***

***improvements described in the Staff Report, on Assessor's Parcel No. 380214-089120-0000, addressed as 3400 Hollywood Avenue, Bellingham, WA 98225. The permit is granted subject to the following 45 conditions:***

**Planning Division**

1. The use and location on the site as approved by this use permit, as shown on the revised site plan dated January 02, 2020 shall not be amended or changed in any way except to comply with regulations without review from Staff and further approval of the Hearing Examiner.
2. The applicant shall submit a final landscaping plan (to scale) at the time of building permit submittal. The landscape plan shall be consistent with landscaping requirements pursuant to BMC 20.42.050(D)(4) for any proposed development. Said plan shall specify species name, size and location.
3. The applicant shall submit a site & parking plan (to scale) at the time of building permit submittal. The site and parking plan shall meet the performance standards in BMC 20.42.050 (D).
4. The applicant shall specify wheel blocks or other suitable devices in their parking plan for approval prior to implementation.
5. Pursuant to WCC 20.80.375, all landscaping and required irrigation shall be installed prior to occupancy of a building permit.
6. The Applicant shall obtain a Land Disturbance Permit for any proposed site development work (unless associated with a building permit application) as required by Whatcom County regulations.
7. As indicated by the applicant, the hours of construction shall be between the hours of 7:00 AM and 5:00 PM. Pursuant to WCC 20.80.620, no development shall exceed the maximum environmental noise level established by WAC 173- 60.
8. Pursuant to WCC 20.80.650, no development, including traffic generated directly by it, should generate air pollution exceeding the minimum permissible emission levels established by the Northwest Clean Air Agency (NWCAA) or the Environmental Protection Agency.
9. Any parking area which is intended to be used primarily during non-daylight hours shall continue to be properly illuminated to avoid accidents. Any lights used to illuminate a parking lot shall continue to be so arranged as to direct the light away from the adjoining property and the public road.
10. No structure shall exceed the height of the imaginary surfaces defined in Federal

Aviation Regulations (FAR) Part 77 around airports that have mapped such imaginary surfaces (airports that have mapped Part 77 imaginary surfaces are shown in Appendix H of the Whatcom County Comprehensive Plan).

11. Should archaeological materials (e.g. shell midden, faunal remains, stone tools) or human remains be observed during project activities, 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.
12. 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 within 24 (twenty-four) months of the date of the issuance of this decision pursuant to WCC 22.05.140(1). Failure to complete construction or demonstrate compliance shall result in the expiration of this permit. The decision maker may extend this period up to one year from the date of original expiration upon written request by the applicant.

#### **Building Services Division**

13. Commercial building permits will be required for this project. Separate permits will be required for the School, Playground equipment, and the manufactured units for additional classrooms. 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.
14. A pre-application screen meeting will be required prior to submittal for permit to determine if a Building Services pre-application meeting will be required or waived. If a Conditional Use Permit is required, it must be approved prior to the screening meeting date. Call 360-778-5900 to set up a screening meeting with the Building Department supervisor or a plans examiner.

#### **Whatcom County Fire Marshal – Bellingham Fire Life Safety Division**

15. Fire Hydrants shall be shown on the approved site plan as agreed on by WCFMO and Bellingham Fire Department Life Safety Division.
16. Fire Department access roads shall meet WCFMO standards per WCC 15.04.040 and the 2015 International Fire Code.
17. Fire Department Connection shall be shown on the approved site plan as agreed on by the WCFMO and Bellingham Fire Department Life Safety Division.
18. Per IFC 903.2.3, Group E fire areas greater than 12,000 square feet are required to be sprinklered throughout with an NFPA 13 sprinkler system. In addition, State Amendment 903.2.3 requires that a sprinkler system be provided for Group E

occupancies with an occupant load of 51 or more.

19. A monitored fire alarm system, which is activated by waterflow within the sprinkler system is required (IFC 903.4.2). In addition, fire alarm systems in a Group E occupancy with an occupant load greater than 100 requires an emergency voice/alarm communication component.
20. Buildings with sprinkler systems require a monitored fire alarm system, which is activated by waterflow within the sprinkler system (IFC 903.4.2). In addition, the fire alarm system requires an annunciator panel located in the main entrance lobby of the building.
21. The sprinkler system shall be equipped to provide a separate alarm zone for each floor (IFC 903.4.4).
22. The sprinkler riser and fire alarm control panel shall be co-located in a dedicated room with exterior access, lighting, temperature monitoring, and heat for the room (IFC 903.3.9, 907.6.7). Signage on the door must state "Fire Sprinkler & Fire Alarm Control Room." Bellingham does not require a sprinkler system exterior PIV due to the exterior access requirement for sprinkler/fire alarm control rooms.
23. A Class 1 standpipe system will not be required since the floor level of the highest occupied floor is less than 30 feet above the lowest level of fire department access (IFC 905.3.1).
24. The sprinkler/standpipe fire department connection (FDC) shall be in an approved location remote from the building and within 150' of a hydrant, but in a location that does not obstruct access of other fire apparatus (IFC 912.2).
25. The building will require an emergency responder radio analysis to be conducted (IFC 510). Any deficiencies found must be corrected prior to Certificate of Occupancy issuance. Testing is performed by Public Works-Communications staff. You are encouraged to pre-plan for the installation of an in-building radio enhancement system by installing conduit between floors during construction in the event a system is required.
26. A portable fire extinguisher plan will be required with building permit applications to include type, size and mounting details. These occupancies shall have portable fire extinguishers with minimum size/rating of 2A10BC. Extinguishers must be located on each floor with one for every 3,000 square feet and no more than 75 feet of travel distance. They must be in conspicuous locations and mounted no more than 5 feet above the floor (IFC 906).
27. Buildings with a sprinkler system and/or a fire alarm system are required to have an approved, recessed Knox Box key box at the main entrance. Due to the overall size of the building and distance between the main entrance and sprinkler control

room, a second recessed Knox Box shall be mounted at the sprinkler control room. Approved key box models can be found at [www.knoxbox.com](http://www.knoxbox.com) by searching under the "Bellingham" or "98225" jurisdiction (IFC 506.1).

28. Elevators must be capable of accommodating a gurney for buildings greater than 3 stories in height.

### **Whatcom County Health Department**

29. Water Supply and Sewer Disposal  
The applicant shall provide approved water and sewer availability at the time of building permit application.
30. Living Environment Plan Review  
School and playground plan review approval by WCHD, in accordance with Primary and Secondary School Regulations Chapter 246-366 WAC, must be completed prior to building permit application.
31. Food Service  
All proposed food and beverage service will require food service establishment plan review and approval from the WCHD prior to building permit application.

### **Whatcom County Public Works – Engineering and City of Bellingham Public Works**

32. All development shall comply with City of Bellingham and Whatcom County Development Standards (WCDS).
33. All roads, stormwater facilities, and grading plans shall be designed and stamped by a Washington State Licensed Civil Engineer and submitted for County and City engineering review and approval prior to construction.

### **STORMWATER**

34. Preliminary Stormwater Proposal has been reviewed and accepted. Final Engineered Stormwater Design Report and Maintenance and Operation Plan prepared in accordance to DOE 2012/2014 Manual shall be submitted for the review and approval by the PW Engineering Services and City of Bellingham (COB) prior to any land disturbance or the issuance of any building permit.
35. Certified Record Drawings (as-built) for the installation of any new drainage system/facility shall be provided and approved by the PW Engineering Services upon construction completion, and prior to any Certificate of Occupancy. (Ref. Chapter 2, Sec. 205 B 5,6,7,8).

36. The applicant shall post a Stormwater Maintenance Security with the PW Engineering Services for the new drainage facilities installation. The security shall be for the amount of 10% of the engineer's construction cost estimate or \$5,000 (whichever is greater). The security shall be in effect for 2 years from the date of provisional acceptance of newly constructed drainage facilities. This security may be waived in lieu of the School District providing a certified letter confirming their stormwater maintenance obligations and responsibilities according to approved Maintenance & Operation Plan. (Ref. Chapter 2, Sec. 205, B 11).
37. Pursuant to DOE 2012/14 Manual, Vol. I, Chapter 3, applicant shall complete and record a Declaration of Covenant and Grant of Easement for the stormwater maintenance purposes. Document is required to be recorded prior to issuance of any Certificate of Final Occupancy.

### TRAFFIC

38. Interior/on-site traffic circulation shall be designed as per Fire Marshal requirements and City of Bellingham Standards.
39. Development Road Frontage Improvements shall be consistent with the City of Bellingham design and development standards including a  $\frac{3}{4}$  frontage improvements with sidewalk, curb and gutters along Redwood Ave. and Hollywood Ave.
40. Proposed access management design shall meet current site distance criteria as per WCC Development Standards, Chapter 5. Proposed entrance/exit points shall be designed by the P.E. and shall accommodate vehicles entrance/exit including school bus turns, and sidewalks with ADA ramps.
41. The applicant shall obtain a Revocable Encroachment Permit prior to any work to be performed in the county right-of-way.
42. The proposed development is exempt from traffic concurrency evaluation because it will generate 9 or less new p.m. peak hr. trips. (ECE2019-00022).

### **Whatcom County and City of Bellingham Natural Resources Divisions**

43. The proposal shall comply with the Wetland Impact Assessment and Mitigation Plan prepared by Northwest Ecological Services and submitted on November 19, 2019.
44. A Wetland Mitigation Permit Application shall be submitted to Whatcom County with the Commercial Building Permit application for the purpose of monitoring wetland mitigation on the site.

A conservation easement for the wetland and wetland buffer shall be granted to the City of Bellingham as the Bellingham School District property is in

Bellingham's UGA and this area could potentially be annexed to the City in the future. The city will advise the school district about the exhibits needed for the easement; the city will write the easement document. The conservation easement shall be recorded at the Whatcom County Auditor's prior to any site disturbance and prior to the issuance of any building permits.

**Bellingham School District's Mitigated Determination of Non-Significance**

45. The proposal shall comply with the Mitigations outlined in the Mitigated Determination of Non-Significance on October 4, 2019, to any extent they are not already covered by other conditions above.

**NOTICE OF POTENTIAL REVOCATION AND PENALTIES**

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 applicant, any party of record, or any county department may appeal any final decision of the hearing examiner to Superior Court or other body as specified by WCC 22.05.020. The appellant shall file a written notice of appeal within 21 calendar days of the final decision of the hearing examiner, as provided in RCW 36.70C.040.

More detailed information about appeal procedures is contained in the Whatcom County Code Title 22 and Title 23.60 and which is available at <http://www.codepublishing.com/WA/WhatcomCounty>.

DATED this 19<sup>th</sup> day of February 2020.



Rajeev D. Majumdar, Hearing Examiner *Pro Tem*