

WHATCOM COUNTY HEARING EXAMINER

RE: Zoning Conditional Use Permit) CUP2020-0003
Application for)
)
Ron Faber) FINDINGS OF FACT,
"Dream Maker Bath & Kitchen") Conclusions of Law
) And Decision

SUMMARY OF APPLICATION AND DECISION

Application: The Applicant is requesting a Zoning Conditional Use Permit to change a nonconforming use from a grocery store and repair to an office and design center for a construction company, addressed as 5305 Northwest Drive, Bellingham, Washington.

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: Ron Faber / Dream Maker Bath and Kitchen

Property Address: 5305 Northwest Drive
Bellingham, Washington 98225

Agent: Ron Faber

Assessor's Parcel Number: 390227 257007

Zoning: RR2A

Comprehensive Plan: Rural Neighborhood

Subarea: Ferndale

Lot Size: Approximately 0.29 acres

Roads: Public – Northwest Drive

Water Supply: City of Ferndale

Sewage Disposal: City of Ferndale

Fire Protection: Whatcom County Fire District #7

Law Enforcement: Whatcom County Sheriff's Office

Public Schools: Not Applicable

Topography: Site is generally flat.

Vegetation: The subject site has little vegetation.

Adjacent Land Uses:

North:	RR2A - Residential
East:	RR2A - Residential
South:	RR2A - Residential
West:	RR2A - Residential

Authorizing Codes, Policies, Plans, and Programs

Revised Code of Washington [RCW] Chapters 36.70A & 58.17

Whatcom County Comprehensive Plan

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

Whatcom County Code Chapter 12.08, Development Standards

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, Environment - Critical Areas

Whatcom County Code Title 20, Official Whatcom County Zoning Ordinance

Whatcom County Code Title 22, Land Use and Development Procedures

Whatcom County Code Title 24, Health Regulations

Legal Notices:

Posted –	Notice of Public Hearing, August 6, 2020
Mailed –	Notice of Public Hearing, July 29, 2020
Published –	Notice of Public Hearing, August 6, 2020

Hearing Date: August 19, 2020

Parties of Record

Ron Faber
3311 Northwest Avenue
Bellingham, WA 98226

Charles Sullivan, Planner II
Whatcom County Planning & Development Services

Exhibit List, Dream Maker Bath & Kitchen
Displaying items 1 - 14 of 14

Display Name	Size (KB)
01.CUP2020-00003 Notice of Application	41
02.cup2020-00003-application-packet-20200203	464
03.cup2020-00003-dream-maker-bath-kitchen-cao-memo-20200303-jf	29
04.cup2020-00003-health-memo-20200305	72
05.cup2020-00003-ldp-application-20200203	238
06.cup2020-00003-legal-notice-20200220	33
07.cup2020-00003-mailing-labels-and-surrounding-parcel-info-20200203369	
08.cup2020-00003-preliminary-stormwater-proposal-20200203	205
09.cup2020-00003-preliminary-traffic-concurrency-info-20200203	192
10.cup2020-00003-project-narrative-20200203	106
11.cup2020-00003-pw-eng-memo-20200303	41
12.cup2020-00003-revocable-encroachment-permit-20200203	150
13.cup2020-00003-site-plans-20200203	402
14.CUP2020-0003 Notice of Application	35
15. CUP2020-0003 Legal Notice	
16. CUP2020-0003 Staff Report	
Hearing Examiner Exhibit List	

II.

The Applicant is seeking a Zoning Conditional Use Permit to change a nonconforming grocery store use to a design center, offices, and storage/warehouse for a construction business. The Applicant proposes to change the non-conforming use by applying for a Conditional Use Permit pursuant to WCC 20.83.040 and 20.84.220.

The Applicant proposes to have up to 15 employees. Parking will be provided by the existing parking spaces around the building. There will be 17 total stalls provided, including

one ADA accessible stall.

III.

The Whatcom County Technical Review Committee has recommended approval of the requested Zoning Conditional Use Permit to allow for the change of the non-conforming use from a grocery store to Dream Maker Bath and Kitchen showroom, warehouse, and office space in the Staff Report, Exhibit 16, dated August 5, 2020, subject to conditions. The Findings of Fact and Conclusions of Law set forth in the Staff Report, 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 supported by the record as a whole and 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 grant a nonconforming use shall be approved if it is consistent with the applicable zoning regulations, except the use restrictions, and complies with WCC 20.84.220(2) to (9), providing such change does not require the provision of water and sewer utility services at a level greater than that currently available to the subject property, and that the new nonconforming use does not result in greater impacts upon surrounding properties than did the original nonconforming use.

The Conditional Use Permit can be granted only if the request is consistent with the Zoning Conditional Use Permit Criteria of WCC 20.84.220 (2 through 9). The Technical Review Committee concluded that the requested Zoning Conditional Use Permit meets the requirements and the project does satisfy the criteria of WCC 20.84.220 (2) through (9). The Hearing Examiner concurs.

Subject to the Conditions of Approval recommended by Staff, the Hearing Examiner should approve the granting of the Applicant's Zoning Conditional Use Permit.

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 Conditional Use Permit is hereby granted to Ron Faber for Dream Maker Bath and Kitchen to change a nonconforming grocery store use to a design center, offices, and warehouse /storage for a construction business, located on Assessor's Parcel No. 390227 257007, addressed as 5305 Northwest Drive and Smith Road Drive, Ferndale, Washington, subject to the following conditions:

Planning Division

1. Permit Changes or Modifications: The use and location on site as shown on plans date stamped February 3, 2020 shall not be modified or changed in any way without further approval of the Whatcom County Hearing Examiner.
2. Building Permit Required: A building permit will be required to change the occupancy and address requirements associated with that change, in accordance with the IFC and International Building Code (IBC) at the time of that application.
3. Development Standards: All development shall comply with the Whatcom County Development Standards (WCDS).

4. Pre-application Screening: 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.
5. Landscaping: Applicant shall submit a final landscape plan in conformance with WCC20.80.300 with the building permit submittal.
6. Permit 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 within 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 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. An extension shall be granted if the Hearing Examiner finds that the applicant or permit holder will suffer a substantial hardship if the extension is denied. The Hearing Examiner may grant an extension for any other good cause shown, in his discretion, but extraordinary circumstances must be shown to obtain an extension of more than one year. The Hearing Examiner shall obtain the comments of Whatcom County Planning & Development Services before granting any extension.

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.

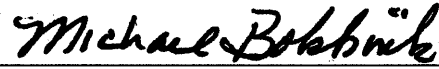
NOTICE OF APPEAL PROCEDURES FROM FINAL DECISIONS OF THE WHATCOM COUNTY HEARING EXAMINER

This action of the Hearing Examiner is final.

The 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 19th day of August 2020,

A handwritten signature in black ink that reads "Michael Bobbink". The signature is written in a cursive style with a horizontal line underneath it.

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

#16

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

Date: August 5, 2020
Hearing Date: August 19, 2020

The application of Dream Maker Bath and Kitchen for a Conditional Use Permit	CUP2020-00003 FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS
------------------------------------------------------------------------------	-------------------------------------------------------------

I. SUMMARY OF APPLICATION AND RECOMMENDATIONS

Summary: The applicant has applied for a conditional use permit to change a nonconforming use at 5305 Northwest Drive from a grocery store and repair to an office and design center for a construction company.

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

II. PRELIMINARY INFORMATION

A. BACKGROUND INFORMATION

Applicant: Ron Faber / Dream Maker Bath and Kitchen
3311 Northwest Ave
Bellingham, WA 98225

Property Owner: Secret Sauce LLC
201 Leslie Lane
Mukilteo WA, 98275

Agent: Ron Faber
3311 Northwest Drive
Bellingham, WA 98225

Site Location/Address: 5305 Northwest Drive
Bellingham WA 98225

Legal Description: TR IN SE SW DAF-BEG AT SE COR OF SE SW-TH W
184 FT-TH N 106 FT-TH E 184 FT-TH S 106 FT TO
BEG-LESS RD

Assessor's Parcel Number: 390227257007

Zoning: RR2A

Comprehensive Plan: Rural Neighborhood

Subarea: Ferndale

Lot Size: Approximately 0.29 acres

Roads: Public- Northwest Drive

Water Supply: City of Ferndale

Sewage Disposal: City of Ferndale

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.

Vegetation: The subject site has little vegetation

Adjacent Land Uses:

North:	RR2A – Residential
East:	RR2A – Residential
South:	RR2A – Residential
West:	RR2A – Residential

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 22, Permit Processing Procedures
12. Whatcom County Code Title 24, Health Regulations

III. APPLICATION PROPOSAL

The applicant, Dream Maker Bath and Kitchen, is proposing a change in use from a non-conforming grocery store use to a design center for a construction business. The applicant proposes to use the existing 3,969 square foot building for a mini-storage business. The site was last permitted under CUP2004-00026. It was granted non-conforming status by Whatcom County at that time. The applicant proposes to change the non-conforming use by applying for a Conditional Use Permit pursuant to WCC20.83.040 and 20.84.220.

Water and sewer service will be provided by the City of Ferndale. These services will be unchanged from the current level of service. Access to the property is from Northwest Drive and Smith Road Drive and will also remain unchanged.

The applicant proposes to have up to 15 employees. Parking will be provided by the existing parking spaces around the building. There will be 17 total stalls provided including 1 ADA accessible stalls.

The total impervious surfaces will remain unchanged. There will be no major improvements to the exterior of the building. The overall character of the development should be unchanged.

IV. SITE DESCRIPTION

The project site consists of one 0.29-acre parcel in the RR2A zone. Water and Sewer service is provided by the City of Ferndale. The adjacent land uses are a mix of government, commercial and residential uses.

The site currently is developed with one 3,969 square foot building. Parking exists to the North and West of the building. Access is off Northwest Drive and Smith Road. The site has existing pavement for parking and an existing stormwater system. The site is almost completely paved with some landscaping that was developed for the prior grocery store.

V. PUBLIC NOTICE AND COMMENT

Requirements for public notice are contained in Chapter 22 WCC.

Notice of Application: The Notice of Application was published on February 24, 2020. The fifteen (15) day comment period ended on March 1, 2020.

On February 24, 2019, sixty-seven 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 change of uses are exempt provided they are conducted within and existing building and that the activities will not change the character of the building within an existing building or facility in a way that would remove it from an exempt class.

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 recommending approval subject to conditions:

The proposed development is for a tenant improvement of an existing commercial building on a residential zone lot (subject parcel ID# 390227 257007). The use of the commercial space is proposed to change from a drive-thru coffee market & deli to an office space for a single tenant.

Material reviewed by public works at this time includes:

- Scaled Site Plan Drawing
- Conditional Use Master Application
- Preliminary Traffic and Concurrency Form
- Preliminary Stormwater Proposal

Staff Report

Engineering Services finds that the application package submitted demonstrates adequately that the applicable regulations and requirements for stormwater and traffic impacts from the subject development can be satisfied at the time of the commercial building permit subject to the following comments/conditions:

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 3, 2020 submitted a memo recommending conditional approval with the following discussion:

The above referenced project has been routed to critical areas staff for review for conformance with WCC 16.16.

The proposal is for internal improvements to an existing building

Staff recommends approval.

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 20.32 – Rural Residential (RR2A) District WCC 20.32.010 Purpose.

The purpose of the Residential Rural District is to maintain the low density rural residential character of the areas designated as rural neighborhoods or rural communities on the Comprehensive Plan map and implement the Comprehensive Plan policies that define the rural character in Whatcom County in accordance with RCW 36.70A.070(5). In addition, it is the intent of this district to provide the opportunity for the development of building sites which maximize the efficient use of both energy and land by allowing an option for clustering of residential lots.

The proposed use is not allowed in the RR2A zone as an allowed, administrative or conditional use. The site, however, currently houses a Grocery Store/ Restaurant which Whatcom County granted non-conforming status to in 2004 and issued a conditional use permit for an expansion of a non-conforming use through permit number CUP2004-0048. Therefore, the applicant can change the non-conforming use through a conditional use permit under WCC80.83.040.

WCC 20.32.350 Building setbacks.

Building setbacks shall be administered pursuant to WCC 20.80.200 (Setback requirements). (Ord. 2004-021 § 1, 2004; Ord. 2001-023 § 1, 2001; Ord. 97-046 § 2, 1997).

<i>Urban Residential Mixed Use (RR2A)</i>								
<i>Road Type</i>							<i>Other</i>	
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'	35'	25'	25'	25'	20'	5'	5'	
<p><i>1. No specific setback requirements shall apply to a planned concept submitted for technical committee review. This provision could be used, for example, to allow zero-lot-line development.</i></p>								

No new buildings are being proposed. The existing structure was built in 1922 and is legally non-conforming to the building setback requirements if WCC20.24.350.

WCC 20.83.040 Change to another nonconforming use.

The change of a nonconforming use to another type of a nonconforming use shall be conditionally permitted, except that a nonconforming use shall not be changed to an adult business. The change of nonconforming use shall be approved if it is consistent with the applicable zoning regulations, except the use restrictions, and complies with WCC 20.84.220(2) to (9), providing such change does not require the provision of water and sewer utility services at a level greater than that currently available to the subject property, and that the new nonconforming use does not result in greater impacts upon surrounding properties than did the original nonconforming use. (Ord. 2013-057 § 1 (Exh. A), 2013; Ord. 99-070 § 2, 1999; Ord. 86-15, 1986).

The proposed use does not require additional water and sewer utility services nor does it result in greater impacts to the surrounding properties.

WCC 20.84.220 Criteria.

The change of a nonconforming use to another type of a nonconforming use shall be conditionally permitted, except that a nonconforming use shall not be changed to an adult business. The change of nonconforming use shall be approved if it is consistent with the applicable zoning regulations, except the use restrictions, and complies with WCC 20.84.220(2) to (9), providing such change does not require the provision of water and sewer utility services at a level greater than that currently

Staff Report

available to the subject property, and that the new nonconforming use does not result in greater impacts upon surrounding properties than did the original nonconforming use. (Ord. 2013-057 § 1 (Exh. A), 2013; Ord. 99-070 § 2, 1999; Ord. 86-15, 1986).

(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.

The change in use does not change the existing character of the neighborhood. The building appearance will not change in any substantial manner from what has historically been there. The essential character of mixed residential and small scale commercial operations in the area will remain unchanged.

(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.

The proposal is not located in the rural area as designated by the Whatcom County Comprehensive Plan.

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

As conditioned, the design center/ showroom and construction office will not be hazardous or disturbing to existing or future neighboring uses.

(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.

The Technical Review Committee has reviewed the application and as conditioned the proposal will be adequately served by public facilities.

- *Policy and Fire Protection will be provided by the Whatcom County Sheriff's Department and Whatcom County Fire District 7.*
- *Access to the site will be from an approved access points on Northwest Avenue and Smith Road.*
- *Whatcom County Public Works Department has reviewed the stormwater for this proposal and approved the project.*
- *Water and Sewer will be provided by the City of Ferndale.*
- *The proposal will not increase use of schools in the area.*

(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.

The applicant will realize all costs associated with the proposed development and maintenance upon approval.

(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.

Subject to the proposed conditions, the proposal will not be detrimental to any person's property, or the general welfare by reasons of excessive traffic, noise, smoke, fumes, glare, or odors.

(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.

Whatcom County Public Works Engineering Services the preliminary traffic proposal submitted with the application, and determined that, as conditioned, the proposal does not create an interference with traffic on surrounding public streets.

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

There is no demolition or earthwork proposed with the proposal. The site will remain relatively unchanged.

WCC 20.34.653 Landscaping.

Refer to WCC 20.80.300 for landscaping requirements.

WCC 20.80.315 Scope.

This section shall apply to all permitted and conditional uses except as specifically listed below. It will apply to mobile home parks and recreational vehicle parks to augment the standards found in WCC 20.80.950; in the case of conflicts the more restrictive regulations shall apply. Remodeling projects representing 50 percent of the assessed valuation of the structure are also covered by this section, but with the requirements modified as needed to fit the existing situation. Major conversions of use such as bed and breakfast establishments from single-family houses if five or more parking stalls are required are also included.

This section does not apply to:

- (1) Farms and accessory uses associated with farming;

- (2) Single-family houses and duplexes and their accessory uses when not developed as part of an overall complex;
- (3) Subdivision(s), short subdivision(s) and binding site plans;
- (4) Remodels representing less than 50 percent of the assessed valuation of the structure;
- (5) Conversions of uses requiring less than five parking stalls.

20.80.320 Plans.

Prior to the issuance of a building permit a scaled landscape site plan shall be submitted to and approved by the land use division of planning and development services consistent with the provisions herein. This plan shall specify species name, size and location of all proposed plant materials and all existing trees over eight inches in caliper including those to be removed which shall be indicated. Existing trees which are part of a cluster of trees need not be individually identified. An irrigation plan or specified method of watering and the type and location of all proposed lighting shall also be included. Existing plants or native species which may need no watering should be so noted. The plan shall specify the treatment of the soil to protect its structure including method of protecting existing trees to remain and their root zones. The preferred scale of a plan shall be one-inch equals 20 feet; but other scales may be used if approved by the zoning administrator, adequate detail can be conveyed and the scales correlate to other required site plans.

A landscape plan shall be required at the time of building permit submittal. The landscape plan shall be consistent with the stated requirements pursuant to WCC 20.80.320-340.

WCC 20.80.505 General requirements.

(3) Whenever a building or structure constructed after the effective date of this ordinance is changed or enlarged in floor area, number of employees, number of housing units, seating capacity or otherwise to create a need for an increase in the number of existing parking spaces, additional parking spaces shall be provided on the basis of the enlargement or change; provided whenever a building or structure existing prior to the effective date of this ordinance is enlarged to the extent of 50 percent or more in floor area, number of employees, number of housing units, seating capacity or otherwise, said building or structure shall then and thereafter comply with the full parking requirements set forth herein.

The floor area of the buildings will remain unchanged; the need for parking from the public and employees has been reduced with the change of use. Parking as shown on the site plan dated February 3, 2020 meets the requirements of WCC20.80.505.

WCC 20.34.659 Drainage.

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 Whatcom County Public Works Engineering Division has reviewed the project for compliance with stormwater regulations and recommended approval.

WCC 20.80.21 – Concurrency

WCC Section 20.80.212 states that no conditional use permit shall be approved without a written finding that:

1. All providers of water, sewage disposal, schools, and fire protection serving the development have issued a letter that adequate capacity exists or arrangements have been made to provide adequate services for the development.
2. No county facilities will be reduced below applicable levels of service as a result of the development.

Water & Sewer

The application states that water and sewer will be provided by the City of Ferndale.

Schools

The Technical Review Committee notes that public notice of the proposed use was published in a journal of record, and no comments were received from the School District indicating that the use would increase a requirement for services, or costs associated with improvements. The Technical Review Committee finds that no county school facilities will be reduced below applicable levels of service as a result of the development.

Fire Protection

The proposed use is located within the service area designated as Fire District 7. No concurrency mitigation is required by the Fire District for the project.

The Technical Review Committee has determined that, as discussed above, the project meets the requirements of WCC Chapter 20.80.212. The Technical Review Committee finds that no county facilities will be reduced below applicable levels of service as a result of the development.

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 or tenant improvement as contemplated through this variance request.

D. 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 and on March 5, 2020, submitted a memo approving the project with no conditions:

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

E. WCC Title 15 – Buildings & Construction

Building Code: 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 March 20, 2020 with comments. The Plans Examiner conditions of approval for this proposal are listed in Section IX of this document. The applicant shall comply with all conditions of the Chief Plans Examiner's unless modified by the Chief Plans Examiner or appealed to the appropriate agency.

In addition, Building Services noted the following initial Building Permit conditions for approval. They are subject to change and additional conditions will be included when more detailed plans are submitted.

Project Review Discussion

Tenant improvement change of use from a Mercantile to a Business Office Occupancy

Plans and Studies Submitted and Reviewed

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

- Whatcom County Variance Application - *Master*;
- Proposed site plan
- Proposed Floor Plan

Discussion of Applicable Codes

The application was submitted on February 19th 2020 and is subject to review under Title 15 (ORD 2010-041).

The Technical Review Committee has determined that as discussed above, the conditional use permit application meets the requirements of WCC Title 15.

Fire Code: Gary Russell of the Whatcom County Fire District Number 7 reviewed the proposal and submitted a memo dated February 29, 2020 recommending approval for the project.

The Technical Review Committee has determined that as discussed above, the conditional use permit application meets the requirements of WCC Title 15.

VIII. RECOMMENDATION

The Technical Review Committee recommends that the Whatcom County Hearing Examiner approve the applicant's request for a change of non-conforming use from a grocery store to DreamMaker Bath and Kitchen's showroom, warehouse and office space subject to conditions found 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 3, 2020 shall not be modified or changed in any way without further approval of the Whatcom County Hearing Examiner.
2. Building Permit Required: A building permit will be required to change the occupancy and address requirements associated with that change, in accordance with the IFC and International Building Code (IBC) at the time of that application.
3. Development Standards: All development shall comply with the Whatcom County Development Standards (WCDS).
4. Pre-application Screening: 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.
5. Landscaping: Applicant shall submit a final landscape plan in conformance with WCC20.80.300 with the building permit submittal.
6. Permit 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 within 24 (twenty-four) months of the date of the issuance of this decision. Failure to complete construction or demonstrate compliance shall result

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in the expiration of this permit. Substantial progress toward completion may satisfy the terms of this condition if approved by 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. An extension shall be granted if the Hearing Examiner finds that the applicant or permit holder will suffer a substantial hardship if the extension is denied. The Hearing Examiner may grant an extension for any other good cause shown, in his discretion, but extraordinary circumstances must be shown to obtain an extension of more than one year. The Hearing Examiner shall obtain the comments of Whatcom County Planning & Development Services before granting any extension.

Report prepared for the Technical Review Committee by:



Charles Sullivan
Planner II - Current Planning