

WHATCOM COUNTY HEARING EXAMINER

RE: Zoning Conditional Use Permit) CUP2011-0006
Application for)
)
John and Dorene Belisle) FINDINGS OF FACT,
) CONCLUSIONS OF LAW,
) AND DECISION

SUMMARY OF APPLICATION AND DECISION

Application: The Applicant is requesting a Zoning Conditional Use Permit to operate a restaurant within a proposed 14,598 square foot facility that will primarily be used to process locally grown, including on-site, agricultural products.

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: John & Dorene Belisle

Site Location/Address: 6140 Guide Meridian, Lynden, WA 98264

Abbreviated Legal Description: A tract of land described as Government Lot 4, of Section 18, Township 39 North, Range 3 East of W.M., Whatcom County, WA except two tracts heretofore conveyed to the Laurel Grange No. 208. (Please see the deed for a complete legal description.)

Assessor's Parcel Number: 390318 062103

Zoning: Agriculture (AG)

Comprehensive Plan: Agriculture

Subarea: Lynden-Nooksack Valley
Total Acreage: 17.26 acres

Roads: State Hwy

Water Guide Meridian Water Association

Sewage Disposal: On-Site Sewage System (OSS)

Fire Protection: Whatcom County Fire District No. 21

Public Schools: Meridian School District No. 505

Law Enforcement: Whatcom County Sheriff's Office

Topography: The 17.26-acre parcel is relatively flat with a fairly even slope averaging 0.5% to 1% from the south and west area of the site to the north and east. The site does exhibit a fairly abrupt downward slope near the meander line of Ten Mile Creek which is located on or near the north-northeast property line.

Vegetation: The site is actively being farmed with crops such as winter wheat. However, pasture grasses and other native trees and shrubby exists near the riparian buffer of Ten Mile Creek. In cooperation with the Whatcom County Conservation Reserve Enhancement Program (CREP), the Applicants have installed over 800 native trees and shrubs to act as a vegetative buffer between the salmon bearing stream (Ten Mile Creek) and the surrounding agricultural land.

Adjacent Land Uses: North: Agriculture (AG) – Agriculture
East: Agriculture (AG) – Agriculture
South: Agriculture (AG) – Agriculture
West: General Manufacturing (GM) – Z's Recyclers

Easements: Washington State Department of Transportation
Stormwater Pond Easement, AF# 2041102997

Authorizing Codes, Policies, Plans, and Programs

Revised Code of Washington Chapter 36.70

Whatcom County Comprehensive Plan

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

Whatcom County Code, Title 14, Use of Natural Resources

Whatcom County Code Chapter 15, Building Code
State Environmental Policy Act (SEPA). Washington Administrative Code Chapter 197-11,
Whatcom County Environmental Policy Administration Chapter 16.08
Whatcom County Code Chapter 16.16, Critical Areas
Whatcom County Code, Title 20, Official Whatcom County Zoning Ordinance
Whatcom County Code, Title 23 – Shoreline Management Program
Whatcom County Code, Title 24, Health Regulations

Legal Notices: Posted – August 25, 2011
 Mailed – August 23, 2011
 Published – August 25, 2011

Hearing Date: September 7, 2011

Parties of Record

John & Dorene Belisle
231 Ten Mile Road
Lynden, WA 98264

Nick Smith
Planning and Development Services

Exhibits

- 1 Land Use Application
 - 1-1 Project Description
 - 1-2 Fee Responsibility
 - 1-3 Statutory Warranty Deed
 - 1-4 Determination of Completeness, May 23, 2011
 - 1-5 Preliminary Traffic and Concurrency Information
 - 1-6 Preliminary Stormwater Proposal
 - 1-7 Availability Notification for Public Water- Whatcom County Health Dept
 - 1-8 Land Disturbance and Clearing Application Information and Permit, issued Jan 27, 2011
 - 1-9 PDS Instructions for Names Addresses and Parcel Numbers
 - 1-10 PDS Tech Committee Form Memo, May 23, 2011
 - 1-11 PDS Property Owner Form Letter, May 26, 2011
 - 1-12 Customer Receipt

- 2 Staff Report, dated August 17, 2011

- 3 Site Plan/Drawings [large scale]

- 4 SEPA, DNS, dated June 10, 2011, with attached Distribution and Checklist

- 5 Drawings – Associated Project Consultants
- 6 Location Map, with Landowners within 1000-feet attached
- 7 Aerial Map
- 8 Vicinity Map
- 9 Zoning Map
- 10 Contour Map
- 11 Public Water Permit
- 12 Legal Notice of Application, May 26, 2011
- 13 Certificate of Mailing, Notice of Public Hearing, August 23, 2011
- 14 Certificate of Posting, Notice of Public Hearing, August 25, 2011
- 15 Legal Notice of Public Hearing, August 25, 2011
- 16 On-Site Sewage System Construction Permit, approved May 31, 2011
- 17 Agency Comments
- 18 DOE SEPA Comment Letter, June 2, 2011
- 19 Comment Form from David J. Boyd
- 20 Certificate of Mailing, Notice of Application, May 25, 2011

II

The Land Use Services Division of Whatcom County Planning and Development Services recommended approval of the requested Zoning Conditional Use Permit, subject to conditions. The Findings of Fact and Conclusions of Law of the Division are set forth in a Staff Report, Exhibit #2, dated August 17, 2011, a copy of which is attached hereto and incorporated herein by this reference.

The Applicant indicated there were no factual inaccuracies in the Staff Report. The Applicant indicated no objection to any of the Conditions of Approval requested by Staff. There was no public comment on this matter.

III

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following

CONCLUSIONS OF LAW

I

The operation of a restaurant within a proposed facility used to process locally grown, including onsite, agricultural products can be approved if it is consistent with the Zoning Conditional Use Criteria of WCC 20.84.220 (2 through 8). Subject to the Conditions of Approval attached to the granting of this permit, the proposal is consistent with the Conditional Use Criteria. A Zoning Conditional Use Permit 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 Conditional Use Permit is hereby granted to John and Dorene Belisle for the operation of a restaurant within a proposed 14,598 square foot facility to be used primarily for processing locally grown, including onsite, agricultural products located on Assessor's Parcel No390318 062103, 6140 Guide Meridian, Lynden, Washington, subject to the following conditions:

A. Planning Division – Current Planning

1. Use and location: The use and location on the site shall not be modified or changed in any way without further approval by the Whatcom County Hearing Examiner.
2. Use: Pursuant to WCC 20.40.160, the restaurant must clearly be subordinate to the processing of agricultural products into food or beverage for human consumption.
3. Parking: Pursuant to WCC 20.80.500, adequate parking shall be established. An approved parking plan shall be submitted prior to issuance of the required commercial building permit.
4. Lighting: Pursuant to WCC 20.80.523, any lights used to illuminate a parking lot shall be so arranged as to direct the light away from the adjoining property and the public road.
5. Landscaping: Pursuant to WCC 20.80.300, a landscape plan must be submitted prior to the approval of the commercial building permit.
6. Screening of Outside Storage: Pursuant to WCC 20.80.355, all trash and/or garbage collection and storage areas must be screened from view from adjacent streets and properties using a solid fence or wall a minimum of six feet high.

7. Noise Levels: All equipment shall comply with the State Noise Level Standards under the Washington 5 Administrative Code (WAC) 173.6.
8. Freestanding Signage: One freestanding sign not to exceed 64 square feet in surface area per sign face. Reader board signs shall be allowed for tenant identification only, and merchandise or price special advertising shall be prohibited. The height of this sign shall not exceed 25 feet.
9. Wall Signage: Single-faced signs on walls or eaves not to exceed a cumulative total of 100 square feet in area.
10. Liquor License: The Applicant is required to obtain a liquor license from the Washington State Liquor Control Board for sale of alcoholic beverages.
11. Archaeological Discovery: Should archaeological materials (e.g. shell midden, faunal remains, stone tools) or human remains be observed during the scope of operations as approved, all work in the immediate vicinity shall stop, and the area shall be secured. The State Office of Archaeology and Historic Preservation (360-586-3065) and the Lummi Nation Tribal Historic Preservation Office (360-384-2298) shall be contacted immediately in order to help assess the situation and determine how to preserve the resource(s). Compliance with all applicable laws pertaining to archaeological resources is required.
12. CUP Nontransferable: Pursuant to WCC 20.84.210, Conditional Use Permits shall be nontransferable unless said transfer is further approved by the Hearing Examiner.

B. Building Services

The Applicant shall comply with all the conditions set forth in the Plans Examiner's memorandum dated June 3, 2011, unless modified by Building Services or appealed to the appropriate agency. Specifically those conditions include:

1. A commercial building permit is required for this proposal. It will be reviewed under the 2009 International Building Code (IBC) and must comply with all other applicable codes and ordinances adopted by Whatcom County.
2. A revision to an active commercial building permit is required if the applicant has applied for an agriculture processing only structure.
3. A Washington State registered architect and/or engineer will be required to prepare the construction documents and act as the design professional in responsible charge (Section 106.3.4).
4. A Washington State Professional Engineer shall engineer the proposed building.

C. Fire Marshal

The Applicant shall comply with all the conditions set forth in the Fire Marshal's memorandum dated June 7, 2011, unless modified by the Fire Marshal, or appealed to the appropriate agency. Specifically those conditions state:

1. Fire flow is required. A minimum 500 GPM at not less than 20PSI shall be provided for one hour per the International Fire Code. All of the hydrants, pumps, water supply and pipes shall be designed by a Washington State Licensed Engineer.
2. A fire sprinkler system is required. Plans and specifications shall be submitted to the Fire Marshal's Office for review and permitting.
3. A fire alarm system is required. Plans and specifications shall be submitted to the Fire Marshal's Office for review and permitting.
4. The location of all fire extinguishers shall be approved by the Fire Marshall, and shall be the size of 2A10BC.
5. The fire department access shall meet the requirements of the Whatcom County Development Standards for roads.

D. Public Works Division of Engineering

The Applicant shall comply with all the conditions set forth in the Division of Engineering memorandum dated June 3, 2011, unless modified by that Division or appealed to the appropriate agency. Specifically those conditions state:

1. An Engineered Stormwater Design Report that addresses conveyance, detention, and water quality measures by a Washington State licensed civil engineer shall be submitted for approval by Whatcom County Engineering per WCDS Section 215.
2. All roads/aisles, drainage facilities, and grading plans shall be designed and stamped by a Washington State licensed civil engineer and submitted for county engineering approval prior to construction.
3. Record drawings for public roads and drainage system with a letter of certification from a licensed engineer must be submitted to the County Engineer prior to occupancy per WCDS Section 507.
4. A 2-year stormwater maintenance security shall be submitted before occupancy at 10% of the construction costs of the drainage system or \$5,000, whichever is greater.

E. Health Department

The Applicant shall comply with all the conditions set forth in the Health Department memorandum dated June 7, 2011, unless modified by that Department or appealed to the appropriate agency. Specifically those conditions state:

1. Water – A copy of the signed public water availability form is required at the time of building permit issuance.
2. Sewage – An approved on-site sewage permit is required.

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 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 15th day of September 2011.

Michael Bobbink, Hearing Examiner

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



J.E. "Sam" Ryan
Director

WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

Date: August 17, 2011
Hearing Date: September 7, 2011

The application of Bellewood Acres for a Zoning Conditional Use Permit		CUP2011-00006 FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS
--	--	--

I. SUMMARY OF APPLICATION AND RECOMMENDATIONS

Summary: The applicant is requesting a zoning conditional use permit to operate a restaurant within a proposed 14,598 square foot facility that will primarily be used to process locally grown, including on-site, agricultural products.

Recommendation: The Technical Review Committee recommends approval of the application for a zoning conditional use permit, subject to the requested conditions, as attached.

II. PRELIMINARY INFORMATION

A. BACKGROUND INFORMATION

Applicant: John & Dorene Belisle
231 Ten Mile Rd.
Lynden, WA 98264

Site Location/Address: 6140 Guide Meridian Lynden, WA 98264

Abbreviated Legal Description: A tract of land described as Government Lot 4, of Section 18, Township 39 North, Range 3 East of W.M., Whatcom County, WA except two tracts heretofore conveyed to the Laurel Grange No. 208. (Please see the deed for a complete legal description.)

Assessor's Parcel Number: 390318 062103

Zoning: Agriculture (AG)

<u>Comprehensive Plan:</u>	Agriculture
<u>Subarea:</u>	Lynden-Nooksack Valley
<u>Total Acreage:</u>	17.26 acres
<u>Roads:</u>	State Hwy
<u>Water</u>	Guide Meridian Water Association
<u>Sewage Disposal:</u>	On-Site Sewage System (OSS)
<u>Fire Protection:</u>	Whatcom County Fire District No. 21
<u>Public Schools:</u>	Meridian School District # 505
<u>Law Enforcement:</u>	Whatcom County Sheriff's Office
<u>Topography:</u>	The 17.26-acre parcel is "relatively flat with a fairly even slope averaging .5% to 1% from the south and west area of the site to the north and east." ¹ The site does exhibit a fairly abrupt downward slope near the meander line of Ten Mile Creek which is located on or near the north-northeast property line.
<u>Vegetation:</u>	The site is actively being farmed with crops such as winter wheat. However, pasture grasses and other native trees and shrubby exists near the riparian buffer of Ten Mile Creek. In cooperation with the Whatcom County Conservation Reserve Enhancement Program (CREP), the applicant's have installed over 800 native trees and shrubs to act as a vegetative buffer between the salmon bearing stream (Ten Mile Creek) and the surrounding agricultural land.
<u>Adjacent Land Uses:</u>	North: Agriculture (AG) – Agriculture East: Agriculture (AG) – Agriculture South: Agriculture (AG) – Agriculture West: General Manufacturing (GM) – Z's Recyclers

¹ Associated Project Consultants, Inc., P.S.; Stormwater Design Report for Bellewood Acres – Revised July 15, 2011; pg 2.

Easements:

Washington State Department of
Transportation Stormwater Pond Easement,
AF#: 2041102997

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

1. Revised Code of Washington 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 14, Use of Natural Resources
5. Whatcom County Code Chapter 15, Building Code
6. State Environmental Policy Act (SEPA). Washington Administrative Code Chapter 197-11, Whatcom County Environmental Policy Administration Chapter 16.08
7. Whatcom County Code Chapter 16.16, Critical Areas
8. Whatcom County Code, Title 20, Official Whatcom County Zoning Ordinance
9. Whatcom County Code, Title 23 – Shoreline Management Program
10. Whatcom County Code, Title 24, Health Regulations

III. APPLICATION PROPOSAL

The applicants, John and Dorene Belisle, have applied for a zoning conditional use permit, pursuant to WCC 20.40.160, to operate a restaurant within a proposed facility that will process locally grown, including on-site, agricultural products. The proposed development will occur on a 17.26 acre parcel that the operators use for the cultivation of crops.

Currently, John and Dorene Belisle own a separate and neighboring 29.5 acres at 231 Ten Mile Road. This separate property, together with the subject 17.26 acre parcel, is more commonly referred to as Bellewood Acres. Bellewood Acres is an agricultural farm that grows, processes and sales locally produced, including on-site, agricultural products.

At this time, both of the properties are engaged in the cultivation of crops, which include apples, corn and pumpkins at the Ten Mile site and winter wheat at the Guide Meridian site. The Ten Mile site, unlike the subject property, contains structures used for the processing (bakery and packaging) and sales (retail market) of those crops grown at the Bellewood Acres farm. The applicant's use these structures to clean and package the crop, as well as process the crop into other goods such as jams, jellies, pies, pastries, cookies, juices, ciders and other decorative gourds. Once processed, these goods, along with the grown produce, are wholesaled to local suppliers or are sold on-site at the small (Ten Mile) retail market.

The applicant's have proposed to expand and move the retail market and processing of goods (i.e. bakery) from the Ten Mile site to the subject 17.26 acre parcel. As proposed, the applicant's would construct a new 14,598 square foot processing and sales structure. This structure would contain an apple distillery, a bakery, (agriculture) coolers, produce storage rooms, a 3,573 square foot retail sales (merchandising) area and a 1,456 square foot restaurant (which includes a 715 square foot "tasting room"). The restaurant, including the accessory merchandising area, is the subject of this conditional use application.

The proposed restaurant would consist of the sales of agricultural goods that are processed on-site. Specifically, the applicant's would sell all of the products that are/would formally be produced at the Ten Mile site (ciders, pies, pastries, ect.) as well as new products such as apple spirits, liquors and other processed goods that are consistent with WCC 20.40.111 (sandwiches and other dairy products). The applicant's have also indicated that the restaurant will largely be utilized as "take and go," which means many of these products will directly be served to the customers and/or taken from the merchandise area. As such, staff is recommending incorporating both the denoted "restaurant area" and "merchandise/retail area" as one similar use; pursuant to the definition of restaurant (WCC 20.97.349).

IV. SITE DESCRIPTION

The subject property is a 17.26 acre parcel situated off of the east side of Guide Meridian, and is located 260 feet north of the Hemmi Road and 1,300 feet south of the Ten Mile Road. The site address is 6140 Guide Meridian, Lynden WA 98264, and is within Section 18, Township 39 North, Range 3 East of W.M., Whatcom County, WA.

The zoning of the site is Agriculture (AG), and the site is currently undeveloped except for a Washington State Department of Transportation stormwater pond (AF# 2041102997) near the northwest property corner. The site is, however, actively being farmed for winter wheat, and it is estimated that 80% of the parcel is in active agriculture production. The areas exclusive of active farmland include the existing stormwater pond and the riparian buffer of Ten Mile Creek. This area contains pasture grasses as well as numerous native trees, shrubs and other low lying vegetation. The applicant has indicated that the property was once part of a nursery, and as such, many of these non-native plants, which were near the riparian buffer of Ten Mile Creek, were removed and replanted with native vegetation.

The site is relatively flat except for a small area near the north-northeast property line where Ten Mile Creek meanders through the parcel. The civil engineer of record has determined that the site exhibits a fairly even slope of .5% to 1% from the south and west area of the site to the north and east area. The property also appears rectangular in nature except for a .6 acre

parcel which is omitted near the center of the property. This parcel, which fronts the Guide Meridian and is bordered on three sides by the subject property, is owned by the Laurel Grange #208.

The subject property is connected to the applicant's separate 29.5 acre Ten Mile property by a small bridge via the northeast property corner. As stated, the neighboring Ten Mile farm is predominantly used for the cultivation of crops but it also contains a single-family residence and structures used for the processing and sale of those crops grown. These uses are consistent with the other uses in the area which predominantly include agriculture and single family homes. The exception is the Laurel Grange hall and a metal recycling facility which is located directly west (across the Guide Meridian) of the proposed development.

V. PUBLIC NOTICE AND COMMENT

Requirements for public notice are contained in Chapter 2.33 WCC.

Notice of Application: The Notice of Application for this proposal was published on May 26, 2011. The fifteen (15) day comment period ended on June 10, 2011. Notice was also mailed to property owners within 1000 feet of the site on May 26, 2011 with the same 15 day comment period ending on June 10, 2011.

Public Comment: During the public comment period for the Notice of Application, the County received one (1) written comment. The following is a brief summary of the concerns addressed in the letter of opposition regarding the proposed use:

1. A party of record commented that the proposed development "would over tax the Guide Meridian Water Association which is already over used." The party went on to state that they were "told every summer to watch the water use."

Response: On May 24, 2011, the Whatcom County Health Department approved the Public Water Availability for the proposed development (see document of record). However on June 21, 2011 and in response to above statement, Charles Sullivan of the Whatcom County Health Department provided the following comment: "at present the Guide Meridian Water Association has a green operating permit from the Washington State Department of Health (DOH). This means that, "systems in this category are considered adequate for existing uses and adding new service connections up to the number of approved service connections." At present the DOH Sentry database shows that the water association is approved for 84 total connections and serves 80 connections. They have yet to meet their maximum number of service connections." As such, the proposed development is well

within the capacity of the existing infrastructure.

Notice of Public Hearing: The Notice of Public Hearing for this application was published in a one-time newspaper publication in the Bellingham Herald.

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 the SEPA threshold review. The Whatcom County SEPA Official has reviewed the completed SEPA checklist submitted by the applicant, and has made a determination that with proper mitigation and by compliance with applicable codes and requested conditions, no significant adverse impacts to the environment would likely to occur as a result of approving the proposed zoning conditional use. Through the Optional Determination of Non-significance (DNS) process (WAC 197-11-355), an anticipated DNS and the notice of application was sent out jointly for public comment on May 26, 2011. The comment period for the Optional DNS ended on June 10, 2011. Staff received one (1) public comment from the Washington State Department of Ecology (see below). A formal Determination of Non-significance was issued on June 10, 2011. The appeal period for this DNS ended on June 20, 2011. No appeals to this determination were filed.

Public Comment: During the public comment period for the Optional DNS, Whatcom County received one (1) written comment. The following is a brief summary of that party's comments:

1. The Washington State Department of Ecology (see document of record) has commented that if the water is from a permitted source such as a water association, then the water purveyor is responsible for ensuring that the proposed uses are within the limitations of its water rights. If the proposal's actions are different than the existing water right, then the use is subject to approval from the Department of Ecology, pursuant to RCW 90.44.100.

Response: The water source for the proposed development is from the Guide Meridian Water Association. As such, the Whatcom County Health Department has reviewed and further determined that the additional water right given is well within the capacity of that association's approved system.

VII. FINDINGS OF FACT and CONSISTENCY WITH REGULATIONS

A. Whatcom County Comprehensive Plan

Zoning regulations of a specific use district are meant to implement the goals and policies of the Whatcom County Comprehensive Plan. Conditional uses are those uses that may be approved within a zone district if it is determined that the specific use requested is consistent with the general and specific objectives of the Whatcom County Comprehensive Plan. This proposed use has been reviewed for consistency with the following goals and policies of the Whatcom County Comprehensive Plan, and as such those applicable Comprehensive Plan goals and policies, and their relationship to this application are discussed further in detail below:

Applicable Goals & Policies:

CHAPTER 7 – Economics

GOAL 7H: To promote economic diversity, continue to support the resource industries as significant elements of the local economy including the employment base.

Policy 7H-1: Ensure that sufficient agricultural land, support services, and skills are available to encourage a healthy and diversified agricultural economy.

Policy 7H-4: As part of a broad-based economy, foster productive timber, agriculture and fisheries industries in a sustainable manner.

Policy 7H-6: Promote the expansion of "value added" production of secondary products and resources to support the primary resource industries and maintain wealth and jobs in the local community.

CHAPTER 8 – Resource Lands

GOAL 8A: Conserve and enhance Whatcom County's agricultural land base for the continued production of food and fiber.

Policy 8A-6: Prioritize agricultural activity in land use decisions when land is composed of prime and/or productive agricultural soils and agriculture is the highest value resource use.

Goal 8B: Maintain and enhance Whatcom County's agricultural products industry as a long-term and sustainable industry.

Policy 8B-1: Promote the expansion and stability of local and regional agricultural economies.

Policy 8B-2: Assist Whatcom County's agricultural industry in the pursuit of its long-term economic potential. This should include the development

of strategies and policies necessary to reach this potential, in terms of both production and diversity.

Policy 8B-3: Support agricultural product processing facilities through appropriate planning, zoning, and land use regulations.

Policy 8B-4: Support methods and strategies to market Whatcom County agriculture in ways which ensure that agricultural activities (such as dairying) and entities (such as processors) will remain here in the long term.

Findings: The Whatcom County Comprehensive Plan – Resource Lands (Agriculture) section places special emphasis on the importance of maintaining and enhancing the County’s agriculture industry. Specifically, the Comprehensive Plan encourages supporting methods and strategies to market Whatcom County agriculture in ways which ensure that agricultural activities and entities (such as processors) will remain in the County for the long term. As such, a proposed restaurant that will serve locally produced and processed agricultural goods is consistent with those goals. The restaurant will help market locally grown and processed agricultural products, which in turn will enhance the economic viability of the Bellewood Acres Farm. By its product marketing, the restaurant will also ensure that the processing facility will stay in the county for the long term as outlined in Policy 8B-4.

B. Official Whatcom County Zoning Ordinance (Title 20, WCC)

The subject application consists of a request for approval of a conditional use that is specifically provided for in the applicable code criteria subject to approval and conditions issued by the Whatcom County Hearing Examiner. The following are findings that detail the relationship the restaurant has with other applicable zone uses, definitions and the specific use criteria.

Permitted Use:

WCC 20.40 .051 - Dairying, raising of livestock, husbandry of small animals, raising of crops, horticulture, apiculture, and temporary portable equipment used for processing of locally harvested crops.

Findings: The proposed restaurant will predominantly sell agriculture products that are grown both on the subject 17.26 acre site and the neighboring 29.5 acre Ten Mile site (both two separate properties). At this time, the applicant’s produce apples, corn, pumpkins and other decorative gourds (squashes) at the 29.5 acre Ten Mile site and winter wheat at the subject parcel. In order to support the business, both sites will continue to be maximized for the production of crops.

Accessory Use:

WCC 20.40.102 (1) - Wholesale marketing activities provided the activity is accessory to the provisions of WCC 20.40.051.

(2) Retail marketing, by the operator, of Whatcom County products which originate from the permitted uses stated in WCC 20.40.050 provided:

(a) Only one retail sales facility containing not more than 1,000 square feet of floor area shall be permitted.

(b) Such retail sales facility shall be subject to the setback requirements of WCC 20.80.200.

(c) Such retail sales facility shall be provided with a sufficient area to permit at least five automobiles to park safely off the road right-of-way and to re-enter the traffic in a forward direction.

Findings: The applicant's have proposed to move and further incorporate the existing retail market at 231 Ten Mile Road to the proposed restaurant at 6000 Guide Meridian. This will include discontinuing the retail market at the Ten Mile Site. Staff believes that the former retail market and restaurant will act together as one common use, pursuant to WCC 20.97.349; restaurant. As defined, a restaurant means an establishment where food and beverages are prepared and served for consumption either on or off premise. This definition is consistent with the retail use that the applicant is proposing, which includes preparing food products (i.e. ciders, jellies, jams, ect.) for the purposes of selling them as retail merchandise and/or as a to order item.

The proposed 6140 Guide Meridian structure will also be utilized to sell goods that are grown at the Ten Mile Site and/or Whatcom County. This is consistent with WCC 20.40.111 (3) which states that the facility shall process at least 50 percent of agricultural goods produced in Whatcom County and that originate from permitted uses.

Even though the applicant is discontinuing the retail use of goods processed at the Ten Mile site, it shall not preclude the applicant from doing retail at the Ten Mile site in the future. Please note that the applicant will continue wholesale marketing activities at the Ten Mile Site.

WCC 20.40.111 - The processing of agricultural products that originate from the permitted uses in WCC 20.40.050, provided the following criteria are met:

(1) The facility is not a slaughterhouse or mushroom substrate production facility.

(2) The facility is supplemental and related to the primary permitted use.

(3) The facility processes at least 50 percent agricultural goods produced in Whatcom County and that originate from permitted uses.

(4) The facility employs no more than 20 permanent employees.

Findings: The proposed 14,598 square foot facility will process at least 50 percent of agricultural goods produced in Whatcom County. This facility will not produce mushroom substrates nor will it be a slaughterhouse. The applicant has proposed to employ six (6) permanent employees. The primary use of the property will also continue to be agriculture. It is estimated that the proposed development will occupy approximately 2.9 acres of the subject 17.26 acre parcel. As such, the remaining acreage will continue to be utilized for the production of agriculture.

Conditional Use:

WCC 20.40.160 - Restaurants, when located on the same property and subordinate to a permanent facility for the processing of agricultural products into food or beverage for human consumption; provided, that the size, scale and character of the restaurant facility are compatible with the agricultural/rural character of the surrounding area and are consistent with the general purpose of the zone district.

Definitions:

WCC 20.97.010.1 Agricultural processing - "Agricultural processing" means the transformation, either chemically or physically, of raw agricultural goods including but not limited to washing, grading, sizing, drying, extracting, icing, producing ornamental agricultural products, sorting, cutting, pressing, bagging, freezing, canning, packaging, milling, crushing, fermenting, aging, pasteurizing, preserving, storage, bottling, but excluding slaughtering of livestock. Agricultural processing includes those process steps associated with product preparation and processing. Storage, warehousing and distributing products in conjunction with the agricultural processing activity occurring on that site shall be allowed.

WCC 20.97.349 Restaurant - "Restaurant" means an establishment where food and beverages are prepared and served for consumption either on or off premises. This term shall include cafes, coffee houses, cabarets and dining rooms, but shall not include taverns. Restaurants may include cocktail lounge and facilities for dancing and live entertainment of patrons; provided, that these activities are clearly accessory to food service; and provided further that these activities are not expressly prohibited in a specific zone.

Findings: The Agriculture zone conditionally permits restaurants when the use is clearly subordinate to the processing of agriculture. As proposed, the applicant will incorporate a restaurant within a 14,598 square foot structure that will predominantly be used for the processing of agricultural goods. As planned, 9,000 square feet of the new structure will be utilized for the

processing of goods. Specifically, this includes a bakery, a distillery, a packaging area, coolers and three storage rooms. These uses are all consistent with the definition of a WCC 20.97.010.1; agricultural processing.

The Agriculture zone also conditionally permits restaurants when the size, scale and character of the restaurant are compatible with the agricultural/rural character of the surrounding area and the district's purpose. The subject property is directly located off of the Guide Meridian, which contains land uses such as General Manufacturing (across the Guide Meridian) and Rural General Commercial (just south of the Hemmi Road). The neighboring structures include Z-recycler's 18,166 square foot manufacture storage building (located directly west of the proposed development), the applicant's neighboring 9,730 square foot processing building (located directly northeast of the subject property), a 5,580 square foot cattle loafing shed (located directly east of the proposed development) and the 3,200 square foot Laurel Grange Hall.

The applicant has proposed to design the structure in an aesthetically pleasing manner. The restaurant/processing facility will have a classic farm house feel "with front porches that look out to Mount Baker." This design should blend well with the surrounding single-family residences.

The purpose of the Agriculture zone, pursuant to WCC 20.40.010, is to maintain a sufficiently large agricultural land base to ensure a viable agriculture industry. Even though the proposed development will impede on prime agriculture land, it will help market locally grown and processed agricultural products. This in turn will enhance the economic viability of the Bellewood Acres Farm and further help ensure the viability of the county's agriculture industry.

**Chapter - 20.84 Conditional uses.
20.84.220 (1) through (8) Criteria:**

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

Discussion: The applicant's have proposed to operate a restaurant within a 14,598 square foot structure that will primarily be utilized for the processing of locally grown, including on-site, agricultural products. This facility will be constructed on a parcel that is currently and will continue to be engaged in cultivation of crops. The proposed facility will process those goods produced on the neighboring 29.5 acre parcel (owned by the applicants) and all of Whatcom County. As stated, the size and scale of the structure will be compatible with other surrounding buildings and uses found off of the Guide Meridian. The appearance of the structure will also

be designed in a way that will blend well with the surrounding character, which is consistent with the requirements set forth in WCC 20.40.160.

The Whatcom County Comprehensive Plan discourages the conversion of agriculture land into other uses, but it also encourages supporting methods and strategies to market Whatcom County agriculture in ways which ensure that agricultural activities and entities (such as processors) will remain in the County for the long term; Policy 8B-4. As such, a proposed restaurant will be the marketing force that helps advertise locally grown and processed agriculture goods. This in turn, will help increase the viability of the agriculture production on this site as well as other farms within Whatcom County. Staff believes that this should offset the loss of 2.9 acres of agriculture that would normally occur on this 17.26 acre site.

The Technical Review Committee has determined that a proposed restaurant within a structure that is predominantly used for the processing of agriculture is consistent with the Goals and Policies of the Comprehensive Plan and Whatcom County Zoning regulations.

(2) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.

Discussion: The applicant's have proposed to design the structure in way that it ascetically pleasing to its customers and the surrounding environment. As stated, the building will contain open porches that look out to Mt. Baker which will provide a positive presentation to the area. The site will also be landscaped with native vegetation that is consistent with Whatcom County 20.80.300. The applicant's have proposed similar hours of operation as the existing retail structure at 231 Ten Mile Road. Those hours will be from 10 a.m. to 6 p.m. except during special events for which the restaurant will be open until 10 p.m.

The surrounding character includes single-family residences, agricultural uses (loafing sheds and processing structures), heavy manufacturing, an assembly hall (grange), and other commercial uses (including a restaurant that is ½ mile south of the proposed development). The proposed facility will also be 3,598 square feet less in size than the neighboring structure (Z-Recycler). As such, the approval of this conditional use permit will not result in any changes to the character of the general vicinity.

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

Discussion: The technical review committee has determined that the proposed restaurant will not be hazardous or disturbing to the surrounding uses.

The subject 17.26 acre site is actively being farmed, but it also contains a 26,000 square foot stormwater pond and native vegetation around Ten Mile Creek (at or near the north property line). This existing vegetation along the riparian buffer of Ten Mile Creek as well as the stormwater pond will act as a sound buffer to the north property owner.

The proposed development will be located 35 feet south of the common property line shared with the Laurel Grange, 580 feet west of the site's east property line and 190 feet north of the site's south property line. The closest residence is located 800 feet southeast of the proposed development (off of the Hemmi Road). The surrounding land uses include heavy manufacturing (across the Guide Meridian), an assembly building (Laurel Grange) and agriculture. The restaurant and the processing of goods will be located within the proposed structure. As such, these factors should limit the amount of noise, if any, the neighboring properties may experience.

The proposed restaurant will serve and sell alcoholic beverages which could present a potential hazard to drivers along the Guide Meridian. As such, the restaurant will be required to obtain a Washington State Liquor license. This license will regulate the sales of alcohol.

(4) Will be serviced adequately by necessary public facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

Discussion: The site will be serviced adequately by the necessary public facilities. Public access is available off of the Guide Meridian Road. The Whatcom County Sheriff's Department will provide police protection and Fire District 21 will provide fire protection. The Whatcom County Public Works Department, Division of Engineering has reviewed and approved the submitted stormwater design report which addressed the conveyance, detention and water quality of the proposed development. The applicant's have obtained a Washington State Department of Transportation (WSDOT) commercial access permit, and at this time WSDOT does not have any further concerns. The Whatcom County Health Department has also reviewed and approved the proposed public water source and septic design for this development.

(5) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community.

Discussion: The proposed use will not require additional requirements at public cost for public facilities and services beyond what is typically provided at a rural level of service.

(6) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare or odors.

Discussion: As conditioned, the proposed use will not be detrimental to persons, property, or the general welfare.

Noise:

The proposed restaurant will be accessory and subordinate to the processing of agricultural goods. As such, noise may occur from the equipment used to process the goods. However, this will largely occur within an enclosed structure.

The applicant has also proposed special community events (i.e. banquets) which, on rare occasion, will keep the restaurant open until 10 p.m. These banquets will be utilized to help educate the public about agriculture processing and production. Staff believes that the neighboring properties will not be affected by any unreasonable amount of evening noise when the restaurant is open past 6 p.m. At this time, other uses such as the neighboring Laurel Grange Hall operate past 7 p.m.

However to ensure that noise levels are reasonable, staff is recommending that the permit be conditioned per the Washington State Noise Level Standards; WAC Chapter 173-60.

Traffic:

The Whatcom County Engineering Department and the Washington State Department of Transportation have both determined that the proposal will not cause any significant traffic constraints to the general public. The increase in traffic is anticipated is to be eighty-five (85) average daily trips (ADT).

Odor/Smoke/Fumes:

The proposed development will not cause any additional amounts of dust, smoke, fumes or dust then what is otherwise found on sites that are engaged in the production and processing of agriculture.

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

Discussion: The applicant's have obtained a Washington State Department of Transportation "Access Connection Permit." This is a "40' type D-1 commercial road approach (see document of record)." This approach is designed so as not to interfere with the traffic on the Guide Meridian.

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

Discussion: The proposed use will not result in the destruction, loss or damage of natural, scenic or historic features of major importance.

As such, the Technical Review Committee finds that the application for a conditional use permit to authorize restaurant with an agriculture processing facility as meeting the criteria for approving a zoning conditional use pursuant to WCC 20.84.220 (1) through (8).

Technical Review Committee Comments

A. Critical Areas (Title 16)

Staff with the Whatcom County Planning – Critical Areas Department submitted a memo dated May 26, 2011 with the following comment for this proposal:

1. Based on a review of Whatcom County Critical Area maps and several site inspections, it has been determined that there will be no wetland or habitat conservation area impacts as a result of this proposal. The land disturbance form submitted with the application indicates approximately 6000 cu yd of fill and/or excavation. A separate land disturbance permit will be required if the land disturbance activities occur prior to the issuance of a building permit.

The Technical Review Committee has determined that the proposal meets the requirements of Chapter 16.16, Whatcom County Code.

B. Fire Marshal's Office

The Whatcom County Deputy Fire Marshal submitted a memo dated June 7, 2011 with the following comments and conditions for this proposal:

1. Fire flow is required. A minimum 500 GPM at not less than 20PSI shall be provided for 1 hour per the International Fire Code. All of the hydrants, pumps, water supply and pipes shall be designed by a Washington State Licensed Engineer.
2. A fire sprinkler system is required. Plans and specifications shall be submitted to the Fire Marshal's Office for review and permitting.

3. A fire alarm system is required. Plans and specifications shall be submitted to the Fire Marshal's Office for review and permitting.
4. The location of all fire extinguishers shall be approved by the Fire Marshall, and shall be the size of 2A10BC.
5. The fire department access shall meet the requirements of the Whatcom County Development Standards for roads.
6. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County. Any overlooked hazardous conditions and/or applicable code does not imply approval of such condition or violation.

The Technical Review Committee has determined that the development, as conditioned, will meet the requirements of all applicable Fire Codes.

C. Health Code (Title 24)

The Whatcom County Health Department submitted a memo dated June 7, 2011 listing the following comments for this proposal:

1. Water – A signed public water availability form is required at the time of building permit issuance.
2. Sewage – If plumbing is run to any building, an approved on-site sewage permit is required

The Technical Review Committee has determined that as conditioned the development will meet the requirements of Title 24, Whatcom County Code.

D. Building Code (Title 15)

The Whatcom County Chief Plans Examiner submitted a memo dated June 3, 2011 and states the following comments for this proposal:

1. A commercial building permit is required for this proposal. It will be reviewed under the 2009 International Building Code (IBC) and must comply with all other applicable codes and ordinances adopted by Whatcom County.
2. A pre-application screening is required prior to building permit submittal. Contact the Building Services division to schedule and for submittal requirements.
3. A Washington State registered architect and/or engineer will be required to prepare the construction documents and act as the design professional in responsible charge (Section 106.3.4).

4. A WA State Professional Engineer shall engineer the proposed building.

5. The following requirements/findings are from the 2009 IBC.

a. Preliminary occupancy classifications:

- Deli-restaurant & Tasting Room Assembly Group A-2
- Retail sales Mercantile Group M
- Community Room Assembly Group A-3
- Distillery Factory Industrial Group F-1 (moderate-hazard storage)
- Storage rooms Storage Group S-2 (low-hazard storage)
- Signs Utility Group U

b. Where required, occupancy separation shall be constructed per IBC Table 508.3.3.

c. Exits shall meet the requirements of Chapter 10.

d. Minimum plumbing facilities (restrooms) are required in accordance with WA State Amendments (WAC) to IBC Chapter 29.

e. The proposed occupancies, except Group S-2, are limited to one-story unless an automatic sprinkler system per IBC Section 903.3.1 is provided.

6. An automatic sprinkler system per IBC Section 903.3.1 is also required for some of the proposed occupancies as follows:

- Group A-2 when fire area exceeds 5,000sf or has an occupant load of 100 or more.
- Groups F-1 and M when fire area exceeds 12,000sf. Depending on building design, the fire sprinkler system may be required for a portion of the building or the entire building.

7. The project shall meet the barrier-free, handicap accessible requirements of IBC Chapters 10, 11 and Appendix E; ICC/ANSI A117.1-03; and WAC 51-50. Accessible parking and restrooms are required.

8. Heating, cooling and lighting shall comply with the 2009 WA State Nonresidential Energy Code (NREC). Ventilation shall comply with the 2009 International Mechanical Code (IMC).

9. Storage of flammable or combustible materials and/or high-pile storage items shall comply with the International Fire Code (IFC).
10. A Demolition Permit is required for the removal of any existing buildings, structures or other such site improvements.
11. All signage (free-standing and building-mounted) requires a separate permit.
12. Refer to the attached General Conditions for Commercial Buildings for additional building permit requirements.

The Technical Review Committee has determined that as conditioned, the development will meet the requirements of Title 15, Whatcom County Code.

E. Public Works –Engineering

The Whatcom County Public Works, Engineering Division submitted a memo dated June 3, 2011 with the following comments:

1. Applicant shall supply the Engineering Division with the WSDOT Access Permit before the civil plans are signed.
2. An Engineered Stormwater Design Report that addresses conveyance, detention, and water quality measures by a Washington State licensed civil engineer shall be submitted for approval by Whatcom County Engineering per WCDS Section 215.
3. All roads/aisles, drainage facilities, and grading plans shall be designed and stamped by a Washington State licensed civil engineer and submitted for county engineering approval prior to construction.
4. Record drawings for public roads and drainage system with a letter of certification from a licensed engineer must be submitted to the County Engineer prior to occupancy per WCDS Section 507.
5. A 2-year stormwater maintenance security shall be submitted before occupancy at 10% of the construction costs of the drainage system or \$5,000, whichever is greater.

The Technical Review Committee has determined that as conditioned, the proposal meets the requirements of Whatcom County Development Standards.

F. Washington State –Department of Transportation

John Tellesbo of the Washington State Department of Transportation submitted an e-mail dated June 7, 2011 with the following comment:

“We are currently in the process of issuing an access connection permit for the Belisle's proposed business ventures along SR 539. WSDOT has no concerns at this time with the proposed restaurant.” On July 25th, 2011, the Washington State Department of Transportation approved the applicant's commercial “Access Connection Permit” (see document of record).

The Technical Review Committee has determined that as proposed, the development meets the requirements set forth by Washington State Department of Transportation.

G. Current Planning – Applicable Development Regulations

The proposed development is required to meet all of the applicable development standards found within Title 20 – Whatcom County Zoning Ordinance. Such standards include:

WCC 20.40.350 - Building Setbacks:

Building setbacks shall be administered pursuant to WCC 20.80.200.

Whatcom County Public Works, Division of Engineering has classified the Guide Meridian as a State Highway. As such, the front yard setback for the proposed structure shall be a minimum of fifty (50) feet from the front property line and twenty (20) feet from the side and rear yard property lines.

WCC 20.40.450 - Lot Coverage:

No structure or combination of structures, including accessory buildings, shall occupy or cover more than 25 percent of the total area of the subject parcel. Exceptions to the maximum lot coverage may be allowed when any of the following can be demonstrated:

- (1) Proposed structures, in excess of the allowed maximum lot coverage, are located on lesser quality soils.
- (2) Proposed structures in excess of the allowed maximum lot coverage support additional agricultural production on parcels other than the subject parcel.
- (3) Expansion of facilities that were in operation prior to the adoption of the ordinance codified in this section if it can be demonstrated that substantial on-site investment has been made and location of additional structures off-site would cause an economic hardship to the farm operation.

WCC 20.40.651 – Landscaping:

The applicant shall submit a landscape plan that meets all of the standards set forth within WCC 20.80.300.

WCC 20.40.652 – 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.

WCC 20.40.662 - Use of Natural Resources:

All discretionary project permits for land on or within one-half mile of an area designated as Agriculture, Rural, Commercial Forestry or Rural Forestry or within 300 feet of an area designated as Mineral Resource Lands in the Whatcom County Comprehensive Plan, or upon which farm operations are being conducted, shall be subject to the right to farm, right to practice forestry and mineral land disclosure policies contained in WCC Title 14, Use of Natural Resources.

WCC 20.80.500 – General Parking Requirements:

The applicant shall provide a minimum of thirty-two (32) parking spaces pursuant to WCC 20.80.580 (33) Manufacturing/Processing and (46) Restaurant.

The parking area shall minimum space requirements as identified 20.80.510.

Any parking area which is intended to be used primarily during non-daylight hours shall be properly illuminated to avoid accidents. Any lights used to illuminate a parking lot shall be so arranged as to direct the light away from the adjoining property and the public road.

The applicant did not propose operating the horse boarding facility in the evening. The hours of operation shall be from 7:00 AM to dusk.

WCC 20.80.523 – Lighting Criteria:

Any parking area which is intended to be used primarily during non-daylight hours shall be properly illuminated to avoid accidents. Any lights used to illuminate a parking lot shall be so arranged as to direct the light away from the adjoining property and the public road.

The Technical Review Committee has determined that the development, as conditioned, will meet the requirements of all applicable Zone Standards.

VIII. RECOMMENDATION

Based on the findings of fact listed above, the Technical Review Committee has concluded that subject to the following proposed conditions, the proposed use would comply with all applicable Whatcom County regulations.

IX. CONDITIONS OF APPROVAL

A. Planning Division – Current Planning

1. Use and location: The use and location on the site shall not be modified or changed in any way without further approval by the Whatcom County Hearing Examiner.
2. Use: Pursuant to WCC 20.40.160; the restaurant must clearly be subordinate to the processing of agricultural products into food or beverage for human consumption.
3. Parking: Pursuant to WCC 20.80.500; adequate parking shall be established. An approved parking plan shall be submitted prior to issuance of the required commercial building permit.
4. Lighting: Pursuant to WCC 20.80.523; any lights used to illuminate a parking lot shall be so arranged as to direct the light away from the adjoining property and the public road.
5. Landscaping: Pursuant to WCC 20.80.300; a landscape plan must be submitted prior to the approval of the commercial building permit.
6. Screening of Outside Storage: Pursuant to WCC 20.80.355; all trash and/or garbage collection and storage areas must be screened from view from adjacent streets and properties using a solid fence or wall a minimum of six feet high.
7. Noise Levels: All equipment shall comply with the State Noise Level Standards under the Washington 5 Administrative Code (WAC) 173.6.
8. Freestanding Signage: One freestanding sign not to exceed 64 square feet in surface area per sign face. Reader board signs shall be allowed for tenant identification only, and merchandise or price special advertising shall be prohibited. The height of this sign shall not exceed 25 feet.
9. Wall Signage: Single-faced signs on walls or eaves not to exceed a cumulative total of 100 square feet in area.
10. Liquor License: The applicant is required to obtain a liquor license from the Washington State Liquor Control Board for sale of alcoholic beverages.
11. Archaeological Discovery: Should archaeological materials (e.g. shell midden, faunal remains, stone tools) or human remains be observed during the scope of operations as approved, all work in the immediate vicinity shall

stop, and the area shall be secured. The State Office of Archaeology and Historic Preservation (360-586-3065) and the Lummi Nation Tribal Historic Preservation Office (360-384-2298) shall be contacted immediately in order to help assess the situation and determine how to preserve the resource(s). Compliance with all applicable laws pertaining to archaeological resources is required.

12. CUP Nontransferable: Pursuant to WCC 20.84.210, Conditional Use Permits shall be nontransferable unless said transfer is further approved by the hearing examiner.

B. Building Services Department

The applicant shall comply with all the conditions set forth by the Plans Examiner's memorandum dated June 3, 2011, unless modified by that Department or appealed to the appropriate agency. Specifically those conditions include:

1. A commercial building permit is required for this proposal. It will be reviewed under the 2009 International Building Code (IBC) and must comply with all other applicable codes and ordinances adopted by Whatcom County.
2. A revision to an active commercial building permit is required if the applicant has applied for an agriculture processing only structure.
3. A Washington State registered architect and/or engineer will be required to prepare the construction documents and act as the design professional in responsible charge (Section 106.3.4).
4. A Washington State Professional Engineer shall engineer the proposed building.

C. Fire Marshall's Department

The applicant shall comply with all the conditions set forth by the Fire Marshall's memorandum dated June 7, 2011, unless modified by that Department or appealed to the appropriate agency. Specifically those conditions state:

1. Fire flow is required. A minimum 500 GPM at not less than 20PSI shall be provided for 1 hour per the International Fire Code. All of the hydrants, pumps, water supply and pipes shall be designed by a Washington State Licensed Engineer.
2. A fire sprinkler system is required. Plans and specifications shall be submitted to the Fire Marshal's Office for review and permitting.

3. A fire alarm system is required. Plans and specifications shall be submitted to the Fire Marshal's Office for review and permitting.
4. The location of all fire extinguishers shall be approved by the Fire Marshall, and shall be the size of 2A10BC.
5. The fire department access shall meet the requirements of the Whatcom County Development Standards for roads.

D. Public Works Engineering Department

The applicant shall comply with all the conditions set forth by the Engineering Services memorandum dated June 3, 2011, unless modified by that Department or appealed to the appropriate agency. Specifically those conditions state:

1. An Engineered Stormwater Design Report that addresses conveyance, detention, and water quality measures by a Washington State licensed civil engineer shall be submitted for approval by Whatcom County Engineering per WCDS Section 215.
2. All roads/aisles, drainage facilities, and grading plans shall be designed and stamped by a Washington State licensed civil engineer and submitted for county engineering approval prior to construction.
3. Record drawings for public roads and drainage system with a letter of certification from a licensed engineer must be submitted to the County Engineer prior to occupancy per WCDS Section 507.
4. A 2-year stormwater maintenance security shall be submitted before occupancy at 10% of the construction costs of the drainage system or \$5,000, whichever is greater.

E. Health Department

The applicant shall comply with all the conditions set forth by the Engineering Services memorandum dated June 7, 2011, unless modified by that Department or appealed to the appropriate agency. Specifically those conditions state:

1. Water – A copy of the signed public water availability form is required at the time of building permit issuance.
2. Sewage – An approved on-site sewage permit is required.

Report prepared for the Technical Review Committee by:

Nick Smith
Planner