

WHATCOM COUNTY HEARING EXAMINER

RE: Zoning Conditional Use Permit) CUP2010-0017
Application for)
)
South Whatcom Fire Authority) FINDINGS OF FACT,
) CONCLUSIONS OF LAW,
) AND DECISION

SUMMARY OF APPLICATION AND DECISION

Application: The Applicant is requesting a Zoning Conditional Use Permit to convert an existing single-family residence into a fire station that will house a 24-hour, staffed unit. The construction is proposed in two (2) phases.

Phase I will include a small addition, minor life and safety upgrades to the existing single-family residence and to a carport.

Phase II, which is proposed within a five (5) year time frame, will include the replacement of an existing detached storage structure with a 2,500 square foot building that will house a fire engine and ambulance.

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: South Whatcom Fire Authority

Owner: South Whatcom Fire Authority

Site Location/Address: 5070 Samish Way
Bellingham, WA 98229

Abbreviated Legal Description: A tract of land lying in the west half of the southeast quarter of Section 15, Township 37 North, Range 3 East, W.M. Whatcom County, WA

Assessor's Parcel Number: 370315 338137

Zoning: Rural District – One Dwelling Unit per Five Acres (R5A)

Comprehensive Plan: Rural

Subarea: Chuckanut / Lake Samish

Total Acreage: Approximately 1.46 acres

Roads: Public [Samish Way]

Water: Private Well

Sewage Disposal: On-Site Sewage System (OSS)

Fire Protection: South Whatcom Fire Authority

Law Enforcement: Whatcom County Sheriff's Office

Public Schools: Bellingham School District # 501

Topography: The site contains a relatively flat developed area (roughly one acre) that slopes slightly to the southwest (a maximum ten foot drop in elevation from Samish Way to 60 feet from the rear property line). However, outside of this existing developed area, the site slopes significantly. The site exhibits an approximate 65% - 80% downward slope from the existing developed area to the north-northwest property line as well as an approximate 56% downward slope from the developed area to the south-southwest property line.

Vegetation: The site predominantly consists of grass, and a mixture of deciduous and coniferous trees. Specifically, this vegetation includes cedars, Douglas firs, alders, maples, and other low lying shrubbery/ decorative landscaping near the single-family residence.

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

Easements: None

AUTHORIZING CODES, POLICIES, PLANS, AND PROGRAMS:

1. Revised Code of Washington Chapter 36.70
2. Whatcom County Comprehensive Plan.
3. Whatcom County Code, Title 14, Use of Natural Resources
4. Whatcom County Code Chapter 15, Building Code
5. State Environmental Policy Act (SEPA). Washington Administrative Code, Chapter 197-11, Whatcom County Environmental Policy Administration Chapter 16.08
6. Whatcom County Code, Chapter 16.16, Critical Areas
7. Whatcom County Code, Title 20, Official Whatcom County Zoning Ordinance
8. Whatcom County Code, Title 24, Health Regulations

Legal Notices: Posted – February 17, 2011
 Mailed – December 20, 2010 and February 14, 2011
 Published – December 22, 2010 and February 17, 2011

Hearing Date: March 2, 2011

Parties of Record:

South Whatcom Fire Authority
Bill Hewitt – Assistant Fire Chief on behalf of
Dave Ralston – Fire Chief
2050 Lake Whatcom Boulevard
Bellingham, WA 98229

Ray and Darcie Sadler
5055 Samish Way/PO Box 4163
Bellingham, WA 98229

A. Lee Jones
416 Avenue F
Snohomish, WA 98290

Nick Smith
Planning and Development Services

Exhibits:

1. Land Use Application
 - 1-1. Proposal Description
 - 1-2. Fee Responsibility

- 1-3 Letter of Representation
- 1-4 Statutory Warranty Deed
- 1-5 Determination of Completeness, December 15, 2010
- 1-6 Technical Committee Form Memo, December 20, 2010
- 1-7 PDS Comment Form, December 22, 2010
- 1-8 PDS Questionnaire Form
- 1-9 Pre Development Site Inspection (CA2010-4), July 26, 2010
- 1-10 Preliminary Stormwater Proposal
- 1-11 Preliminary Traffic and Concurrency Information
- 1-12 Revocable Encroachment Permit Application
- 1-13 On-Site Sewage System Construction Permit
- 1-14 Water Well Report, State of Washington "Group G"
- 1-15 PDS request for Hearing Date Memo
- 1-16 PDS Instructions for obtaining Names, Addresses
- 1-17 Address Labels
- 1-18 Hearing Examiner Checklist, January 20, 2011

- 2 DNS, January 20, 2011, with Distribution List and Checklist attached

- 3 Staff Report, March 2, 2011

- 4 Agency Comments

- 5 DOE Letter, January 4, 2011, re: SEPA Comments

- 6 Fire Authority Letter dated January 17, 2011 to Mr. & Mrs. Sadler, re attached comments

- 7 Zoning Map

- 8 Aerial Photos

- 9 Vicinity Map

- 10 Certificate of Mailing, Notice of Application, December 20, 2010

- 11 Legal Notice of Application, December 22, 2010

- 12 Certificate of Mailing, Notice of Public Hearing, February 14, 2011

- 13 Certificate of Posting of Notice of Public Hearing, February 17, 2011

- 14 Legal Notice of Public Hearing, February 17, 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 #3, dated March 2, 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 at the public hearing. Two written comment letters were received during the comment period. Staff indicated, and the Hearing Examiner concurs, that these comments were adequately addressed in the attached Staff Report.

III.

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

CONCLUSIONS OF LAW

I.

The proposed re-model of an existing single-family residence in order to convert the structure into a fire station can be approved if it is consistent with the Zoning Conditional Use Criteria of WCC 20.84.220 (1 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 South Whatcom Fire Authority for the proposed re-model of a single-family residence, converting the structure into a fire station to be located on Assessor's Parcel No.370315 338137, 5070 Samish Way, Bellingham, 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. Building Setbacks: Pursuant to WCC 20.80.200, setback requirements, all structures shall be setback 25-feet from the property line fronting Samish Way and 5-feet from the side and rear property lines.
3. Height Limitations: Pursuant to WCC 20.36.400, the maximum building height shall be limited to 35 feet.
4. Lot Coverage: Pursuant to WCC 20.36.450, no structure or combination of structures, including accessory buildings, shall occupy or cover more than 2,500 square feet or 35 percent whichever is greater.
5. Parking: Pursuant to WCC 20.80.500, the applicant is required to install four (4) parking spaces or one for every employee on the largest shift whichever is greater. At least one parking stall shall be ADA accessible. Parking space dimensions shall comply with WCC 20.80.510.
6. Drainage: Pursuant to WCC 20.36.656, approval of this application shall be subject to the stormwater management provisions of the Whatcom County Development Standards, unless specifically exempted.
7. Landscaping: Shall be implemented pursuant to WCC 20.80.300. Landscaped parking strips shall be provided pursuant to WCC 20.80.350.
8. Signage: One 32 square foot reader board sign that displays fire related information to the public. The location of the sign must meet WCC 20.80.410.
9. Construction Hours: On site construction shall be limited to the hours of 7 A.M. to 6 P.M., Monday through Friday.
10. Construction Noise Levels: All equipment shall comply with the State Noise Level Standards under the Washington Administrative Code (WAC) 173.6.
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. Right to Farm: Pursuant to WCC, Title 14, the owners of the property, upon which this Conditional Use Permit Approval is granted, shall sign a statement of acknowledgment containing a disclosure that pertains to the use of natural resources in Whatcom County. This

disclosure shall be made on forms provided by Whatcom County, which shall then be recorded in the Whatcom County Auditor's Office.

The disclosure shall contain the following language: The subject property is within or near designated agriculture lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. You may be subject to inconveniences or discomforts arising from such operations, including but not limited to noise, odors, flies, fumes, dust, smoke, the operation of machinery of any kind during any 24-hour period (including aircraft), the storage and application of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. Whatcom County has determined that the use of real property for agricultural operations is a high priority and favored use and will not consider to be a nuisance those inconveniences or discomforts arising from farm operations, if such operations are consistent with commonly accepted good management practices and otherwise comply with local, State, and Federal laws.

B. Critical Areas Department

The Applicant shall comply with the following condition set forth in the Critical Areas-Watershed Specialist's memorandum dated January 19, 2011, unless modified by that Department or appealed to the appropriate agency.

1. Any areas draining into the Lake Samish Watershed shall be subject to WCC 20.71 (Water Resource Protection Overlay District), WCC 20.80.636 (Stormwater Special District Requirements), and WCC 20.80.735 (Water Resource Special Management Areas)

C. Fire Marshal

The Applicant shall comply with the following condition set forth in the Fire Marshal's memorandum dated January 7, 2011, unless modified by that Department or appealed to the appropriate agency.

1. Phase I will require a NFPA 13D Sprinkler and Fire Alarm system prior to the final occupancy for the house structure. Phase II will require additional Fire Sprinklers, Fire Alarms and possibly Fire Flow of 500 gpm.

D. Health Department

The Applicant shall comply with the following conditions set forth in the Health Department Memorandum, dated January 13, 2011, unless modified by that Department or appealed to the appropriate agency.

1. Water - Public water is required. The site has received a Conditional Well Site Approval for a group B public water system. Any structures or parking areas located within the

Well Sanitary Control Area must be approved by the Whatcom County Health Department.

2. Septic - Any change of use or expansion will require the Whatcom County Health Department (WCHD) to review the septic system.

E. Building Services Department

The Applicant shall comply with the following condition set forth in the Plans Examiner's memorandum, dated January 5, 2011, unless modified by that Department or appealed to the appropriate agency.

1. A building permit is required for each phase of construction (see specific submittal requirements within the memorandum).

F. Public Works – Engineering Division

The Applicant shall comply with the following conditions set forth by the Public Work's – Engineering Division memorandum, dated January 5, 2011, unless modified by that Department or appealed to the appropriate agency.

1. At the time of Phase II, the Applicant will need to apply for a Whatcom County Revocable Encroachment Permit to modify the existing access point to a commercial access standard with a minimum 24-foot wide access into the parking area.
2. All development shall comply with the Whatcom County Development Standards, and the Applicant shall obtain a Revocable Encroachment Permit for all work required in the public right-of-way.

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 five years 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 9th day of March 2011.

Michael Bobbink, Hearing Examiner

WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-676-6907, TTY 800-833-6384
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J.E. "Sam" Ryan
Director

WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

March 2, 2011

The application of South Whatcom Fire Authority for a Zoning Conditional Use Permit		CUP2010-00017 FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS
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I. SUMMARY OF APPLICATION AND RECOMMENDATIONS

Summary: The applicant is requesting a zoning conditional use permit to convert an existing single-family residence into a fire station that will house a 24 hour staffed unit. The construction is proposed in two (2) phases. Phase I will include a small addition, minor life and safety upgrades to the existing single-family residence and a carport. Phase II, which is proposed within a five (5) year time frame, will include the replacement of an existing detached storage structure with a 2,500 square foot building that will house a fire engine and ambulance.

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: South Whatcom Fire Authority
Dave Ralston – Fire Chief
2050 Lake Whatcom Blvd.
Bellingham, WA 98229

Owner: South Whatcom Fire Authority
2050 Lake Whatcom Blvd.
Bellingham, WA 98229

Representative: Bill Hewitt – Assistant Fire Chief
2050 Lake Whatcom Blvd.
Bellingham, WA 98229

Site Location/Address: 5070 Samish Way Bellingham, WA 98229

Abbreviated Legal Description: A tract of land lying in the West half of the Southeast quarter of Section 15, Township 37 North, Range 3 East, W.M., Whatcom County, WA.

Assessor's Parcel Number: 370315 338137

Zoning: Rural District – 1 Dwelling Unit per Five Acres (R5A)

Comprehensive Plan: Rural

Subarea: Chuckanut/Lake Samish

Total Acreage: Approximately 1.46 acres

Roads: Samish Way - Public

Water: Private Well

Sewage Disposal: On-Site Sewage System (OSS)

Fire Protection: South Whatcom Fire Authority

Law Enforcement: Whatcom County Sheriff's Office

Public Schools: Bellingham School District # 501

Topography: The site contains a relatively flat developed area (roughly one acre) that slopes slightly to the southwest (a maximum ten foot drop in elevation from Samish Way to 60 feet from the rear property line). However, outside of this existing developed area, the site slopes significantly. The site exhibits an approximate 65% - 80% downward slope from the existing developed area to the north-northwest property line as well as an approximate 56% downward slope from the developed area to the south-southwest property line.

Vegetation: The site predominantly consists of grass, and a mixture of deciduous and coniferous trees. Specifically, this vegetation includes cedars, douglas firs, alders, maples, and other low lying shrubbery/ decorative landscaping near the single-family residence.

Adjacent Land Uses: North: Residential
East: Residential/Church

South: Residential
West: Residential

Easements: None

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

III. APPLICATION PROPOSAL

The applicant, Dave Ralston on behalf of the South Whatcom Fire Authority, has applied for a zoning conditional use permit, pursuant to WCC 20.36.151, to operate a fire station out of an existing single-family residence at 5070 Samish Way.

Currently, the South Whatcom Fire Authority operates a small fire station at 5170 Samish Way (roughly 1,600 feet southeast of 5070 Samish Way). This station (Fire Station 28) consists of a metal framed garage that houses three (3) fire apparatuses but contains no living or office facilities. In 2009-2010, the Fire Authority determined that Fire Station 28 needed to be expanded in order to meet the district's requirements for a rural level of service. Specifically, Fire Station 28 needed to be able to house a full time (24-hour) staff unit. The Authority originally looked at updating the existing station, however, were unable to do so because of the development constraints that currently exist (size of the parcel, ownership, critical areas, water and septic). As such, the Authority found a nearby parcel (5070 Samish Way) that could accommodate such an expansion.

The applicant is proposing to convert 5070 Samish Way in two (2) phases. Phase I would include converting the existing three (3) bedroom single-family residence into a fire station that will house four (4) resident fire fighters (two (2) of which will stay full time through the night). This conversion will include minor life and safety upgrades, a 152 square foot addition to the existing single-family residence and a carport. The carport, which is proposed to be attached to an existing 864 square foot storage building, will house an ambulance. Phase II, which the applicant is proposing to occur within a five (5) year time frame due to the availability of funding, will include replacing the existing 864 square foot RV storage structure with a 2,500 square foot building that will house a fire engine and ambulance.

The applicant is also proposing, during Phase I, a 32 square foot reader board sign. This proposed sign will display fire related information to the public, and will be consistent with other permitted reader board signs within the Fire District. The applicant has also indicated that the existing fire station at 5170 Samish Way will continue to operate. As stated, this station will continue to be used for the volunteer firefighters to respond out of.

IV. SITE DESCRIPTION

The subject property is a 1.46 acre parcel situated between Samish Way and Interstate 5 (I-5). The site is accessed by a residential driveway off of the south side of Samish Way and is within one mile of the City of Bellingham. The site address is 5070 Samish Way and is located within a portion of the Northwest ¼ of the Southwest ¼ of the Southeast ¼ of Section 15, Township 37N, Range 3 East, W.M., Whatcom County, WA.

The zoning of the site is Rural (R5A) and is currently developed with a 1,120 square foot single-family residence, a 323 square foot attached storage building, and an 864 square foot pole building. All of the residential structures are within 200 feet of Samish Way. There is a cumulative one acre developed area that extends 300 feet back from Samish Way towards the rear property line and 140 feet northwest from the southeast property line. This area consists of the structures, a driveway, lawn and other decorative landscaping. The one acre area does gradually slope south towards the rear property line where it meets a row of evergreen trees. This hedge acts as a buffer to a more significant (56% downward) slope towards the south (rear) property line and the embankment that is 70 feet back from the northwest (side) property line.

A small seasonal stream exists on the parcel just northwest of 5070 Samish Way. As such, this area slopes approximately 65% downward from the existing developed area towards the northwest property line (approximately 70 feet northwest of the developed area). On the top of the embankment the rear evergreen hedge wraps around until it meets a brush line. Below the brush line and heading downward towards the stream, large alders, douglas firs and cedar trees exist. This vegetation and the existing topography should provide adequate screening from the residential uses that are located on the northwest parcel.

All parcels surrounding the site to the north, northwest, southwest and southeast are developed with residential homesites. However, a church also exists on the parcel that is directly southeast of 5070 Samish Way (the church fronts Samish Way whereas the homesite is roughly 300 feet behind the church). This church appears to be roughly 200-250 feet away from the property line fronting 5070 Samish Way. Currently, there is no planted vegetation between the existing buildings at 5070 Samish Way and the southeast property line. However, there is a significant amount of vegetation that separates these two uses, but is all on the southeast property.

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 December 22, 2010. The fifteen (15) day comment period ended on January 6, 2011. Notice was also mailed to property owners within 1000 feet of the site on December 22, 2010 with the same 15 day comment period ending on January 6, 2011.

Public Comment: During the public comment period for the Notice of Application, the County received two (2) written comments. The following is a brief summary of the concerns addressed in the letters of opposition regarding the proposed use:

1. A party of record commented and questioned why the Fire Authority could not expand at its current location (5170 Samish Way). The party suggested that the current location was more accessible to Interstate 5 (I-5), and further that they preferred it not expand northward into a more residentially dominated area.

Response: On January 17, 2011, Dave Ralston (Fire Chief for the South Whatcom Fire Authority) replied to the above comment (see attached document of record). In Mr. Ralston's letter he stated that Fire Station 28 was identified by the board of commissioners as needing to be expanded in order to meet an adequate rural level of service. Specifically, the station needed to be able to house a full time staff. However, the existing parcel (5170 Samish Way), which is leased from the Whatcom County Parks Department, currently does not have and is too small to adequately support a septic system. This sites inability to support a septic system prevents the station from housing a full time staff. Mr. Ralston further indicated that the size of any new additions would be limited since the parcel is within the Lake Samish Watershed and is subject to WCC 20.71.302 (allowable impervious surfaces).

As for expanding northward into a more residentially dominated area, the applicant has indicated that the proposed alterations to the existing single-family residence would be limited in appearance. By not significantly altering the facade of the structure, the fire station will appear more residential in nature and thus blend in with the surrounding character/uses of the neighborhood (with the exception of the reader board sign).

2. Another party of record filed a concern about what the general implications this proposed project would have on their property. Specifically, the party questioned how the proposed use would affect traffic, noise levels, the environment and water table. The party further asked what the 5, 10 and 30 year plan was for the district, and whether chemicals would be stored on site.

Response: The Whatcom County, Public Works Division of Engineering has reviewed the applicant's preliminary traffic proposal and thus is not anticipating any adverse impacts. However, the applicant will be required, in Phase II, to modify the existing access by enlarging the driveway entry (access point) to 24 feet. As for any anticipated noise, the applicant will be required to meet the Washington State Noise Level Standards found under Washington Administrative Code (WAC) 173.6 for both phases of construction. Vehicle/siren noise is anticipated to occur from the Authority's emergency vehicles. However, this noise should be limited because of the areas surrounding topography and dense vegetation.

The Whatcom County Natural Resource Division has determined that a 50 foot critical areas buffer exists (from the stream located on the northwest property), and thus is requiring that all development be located, as proposed, outside of this buffer. A small area fronting Samish Way was also found to be within the Lake Samish Watershed. However, this proposed and any future development will comply with WCC 20.71 (Watershed Overlay), WCC 20.80.636 (Stormwater Special District) and WCC 20.80.735 (Water Resource Special Management Areas).

The applicant has also stated that no chemicals (not otherwise found in a single-family residence) will be stored on site. As for the department's long term goals, the applicant anticipates that this facility will meet the immediate (10-15 years), but not the long term needs of the district.

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 be 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 December 22, 2010. The comment period for the Optional DNS ended on January 6, 2011. Staff received one (1) public comment from the Washington State Department of Ecology (see below). A formal Determination of Non-significance was issued January 20, 2011. The appeal period for this DNS ended on January 31, 2011. No appeals to this determination were filed.

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

1. The Washington State Department of Ecology (see document of record) has commented that an approved water right be obtained if the project withdraws in excess of more than 5,000 gallons per day as stated in Section B.3.b, and that the project may be subject to an Ecology National Pollutant Discharge Elimination System (NPDES) permit.

Response: The applicant has been informed of these comments (see Health Department discussion for more details regarding water).

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 zoning 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. The below Comprehensive Plan goals and policies, and their relationship to this application are discussed in detail further within this staff report (WCC 20.84.220 (1)).

Applicable Comprehensive Plan Goals and Policies:

Chapter Two – Land Use

Rural Services

Services provided to rural residents include law enforcement protection, volunteer fire protection, and emergency services.

GOAL 2EE: Ensure that rural areas are provided with services consistent with the rural character and that development patterns do not encourage an increased service level or degrade water quality.

Policy 2EE-1: Recognize domestic water systems, volunteer fire protection, emergency services, law enforcement protection, transportation, public transit services and public utilities typically associated with rural development as appropriate services in designated rural areas.

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. A description of the specific use that is the subject of application, as provided in the Official Whatcom County Zoning Ordinance is listed below:

Chapter - 20.36.151 Conditional uses.

Public and community facilities including police and fire stations, libraries, community centers, recreation facilities, and other similar noncommercial uses, excluding correction facilities.*

Items indicated by an “*” are not allowed outside short-term planning areas unless the applicant can demonstrate that there is a need to locate outside those areas in order to comply with legal requirements or standards; or that the proposed location is the most efficient place for the proposed use with respect to providing needed services to the public.

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: Whatcom County Code 20.36.151 does specifically state, under conditional uses, public and community facilities including fire stations. However, the applicant must demonstrate “that there is a need to locate outside a short term planning area in order to comply with legal requirements or standards; or that the proposed location is the most efficient place for the proposed use with respect to providing needed services to the public.”

As such, the applicant has indicated that Fire Station 28 needed to be updated in order to meet national, county and department needs for a rural level of service. The applicant states “that after the South Whatcom Fire Authority was formed in 2009, one of the initial priorities by the board of commissioners was to have all six of the current fire stations assessed for current conditions, responses and for future planning.” The commissioner’s and associated staff determined that Fire Station 28 was one such station, based on national averages, that needed to be expanded in order to maintain a rural level of service.

Unfortunately, the Authority cannot expand at 5170 Samish Way because of the development constraints that exist (size of the parcel, septic, ownership and its location within the Lake Samish Watershed). As such, 5070 Samish Way became the most efficient place for an expansion since the parcel is substantially outside of the

Lake Samish Watershed, has an adequate existing septic system and is the closest parcel (outside of the Watershed) to the existing station.

The Whatcom County Comprehensive Plan – Capital Facilities and Land Use section, briefly discusses the importance of ensuring that rural areas are adequately served with public facilities. The Comprehensive Plan does not specifically state non-county capital facilities (i.e. fire districts), but it does outline the importance of ensuring that rural areas are provided with fire protection. Goal 2EE states that “rural areas [shall be] provided with services consistent with the rural character.” Such rural character is identified in Policy 2EE-1 as recognizing volunteer fire protection and emergency services associated with rural development as appropriate services in designated rural areas.

(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 is proposing to maintain the existing rural/residential character and appearance of the structures on site. As stated by the applicant, “the property will have the option of being resold and returned back to a single-family residence with minimal changes to the exterior of the building” once the Authority has found a long term station (anticipated 10-15 years).

Nevertheless, Phase I will include a small addition to the existing “residence,” a carport addition to the existing “RV storage” building and the installation of a parking area (maximum 5 parking stalls) within the front yard/driveway. It is anticipated that the facade of the existing and additions to these structures will continue to appear residential. The gravel parking area, however, may detract from what is typically viewed as residential. As such, the applicant is proposing to maintain as well as enhance the existing landscaping that fronts Samish Way. This landscaping will lessen the visual appearance of the parking area and vehicles. Phase II will include demolishing the existing “RV storage” building and replacing that building with a 2,500 square foot garage-like structure. This structure will house an ambulance and fire engine, but because of fire flow requirements, will be consistent to the size and appearance to other residential garages in the area.

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

Discussion: The proposed use as conditioned is not considered to be hazardous by the technical review committee. The use of the existing single-family residence will continue to appear residential in nature as the structure will be maintained as living space for the full time staff. The Whatcom County, Public Works Division of Engineering has reviewed the applicant’s preliminary traffic proposal and thus is not anticipating any adverse impacts. The applicant has also stated that no chemicals will be stored on site.

One anticipated concern, however, is the potential noise from the emergency response vehicles. Nevertheless, all noise associated with the emergency response vehicles should be limited due to the areas surrounding dense vegetation.

(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: As conditioned, the site will be serviced adequately by necessary public facilities. Public access is available off of an existing county road; Samish Way. The Whatcom County Public Works Department, Division of Engineering has reviewed the preliminary stormwater and traffic applications. As such, staff's only comment states "that the applicant will need to apply for a Revocable Encroachment permit to modify the existing residential access point to a commercial 24 foot wide access" prior to Phase II. The Whatcom County Health Department has commented that the proposed use will be required to be hooked up to an approved public water source (the site has received a conditioned well site approval for a group B public water system) and that the Health Department will need to review the original septic system prior to construction of Phase I.

(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: The applicant is not proposing to store any materials or harmful chemicals that would create or cause smoke, fumes, glare or odors and as such will not be detrimental to persons, property, or the general welfare. Noise from the emergency response vehicles including the accompany sirens will occur, but not at levels greater than what currently exist at 5170 Samish Way. The surrounding dense vegetation should also lessen this impact. The brief construction period for both phases may slightly increase noise and potentially dust levels on site, but not at levels exceeding appropriate state and federal standards.

(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 Whatcom County Public Works Department, Division of Engineering staff has reviewed the proposed use for traffic impacts and has found that no traffic impacts will occur with the proposal. The applicant will be required to increase the driveway access to 24 feet at the time of Phase II (commercial access). As such, the applicant will be required to obtain a Revocable Encroachment Permit prior to any construction work in the county right-of-way.

(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 a fire station out of an existing single-family residence 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 Natural Resource Division submitted two (2) memos with the following comments and conditions for the proposed use:

Mike Kershner, Watersheds - January 19, 2011:

On July 26, 2010, Whatcom County issued a determination for a pre-development site inspection (case CA2010-00004) for this proposed development. In this determination, I stated that a portion of the north side of the property sloped towards Samish Way. This area drains to a County ditch system that eventually flows into the Lake Samish Watershed. Any of the areas draining to Lake Samish will be subject to the applicable watershed regulations (WCC 20.71, WCC 20.80.636, and WCC 20.80.735).

The above proposal is to be done in two phases. The first phase is to add a medic vehicle carport structure (448 sq. ft.), approximately 1,023 sq. ft. of additional gravel parking area, and a 152 sq. ft. addition to the existing guest room. The carport structure and the additional gravel areas will be located within an area that drains to the Lake Samish Watershed.

Phase II proposes to remove the medic vehicle carport and detached garage, increase the size of the gravel parking lot by about 1,346 sq. ft., and add a 2-bay fire apparatus garage building of approximately 1,760 sq. ft. Of these changes, only the new gravel parking areas will be draining to the Lake Samish Watershed.

As the purpose of this permit is to establish the use in this zone, I have reviewed the uses that would fall within the Lake Samish Watershed area (the gravel parking areas and the medic vehicle carport) and neither of these uses are prohibited or conditional uses. The permitted and accessory uses of the underlying zone would apply.

Upon review of the site plans for Phase I and Phase II, it appears as though the parking areas that drain to the Lake Samish Watershed are more than 2,500 sq. ft in size. Since these areas are subject to watershed regulations, no more than 2,500 sq. ft, of impervious surface would be allowed. Any future building permits must meet this requirement.

I have no objection to the approval of the above referenced Conditional Use Permit based on the following conditions:

1. Any areas draining into the Lake Samish watershed shall be subject to WCC 20.71 (Water Resource Protection Overlay District), WCC 20.80.636 (Stormwater Special District Requirements), and WCC 20.80.735 (Water Resource Special Management Areas).

Lyn Morgan-Hill, Wetlands - December 20, 2010:

Based on the predevelopment site inspection, critical areas staff has determined that there will be no wetland or habitat conservation area impacts as a result of this proposal:

The Technical Review Committee has determined that the proposal, as conditioned, 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 January 7, 2011 with the following requirements for this proposal:

Phase I will require a NFPA 13D Sprinkler and Fire Alarm system prior to the final occupancy of the house/living structure. Phase II will require additional NFPA 13 Sprinkler systems, Fire Alarms, and possibly Fire Flow of 500 gpm.

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

C. Health Code (Title 24)

The Whatcom County Health Department submitted a memo dated January 13, 2011 listing the following requirements for this proposal:

Water - Public water is required. The site has received a conditional Well site approval for a group B public water system. Any structures or parking areas located within the Well sanitary control area must be approved by the Whatcom County Health Department.

Septic - Any change of use or expansion will require the Whatcom County Health Department (WCHD) to review the septic system.

The Technical Review Committee has determined that as proposed, 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 January 5, 2011. The Plans Examiners is requiring that a building permit be submitted for each phase of construction. See memo for specific building permit submittal 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 January 11, 2011 with the following comments:

The site has an existing access point that is sufficient for Phase I of the development proposal. However, at the time of Phase II the applicant will need to apply for a Whatcom County Revocable Encroachment Permit to modify the existing access point to a commercial access standard with a minimum 24-foot wide access into the parking area. There will need to be sufficient room to maneuver the apparatus onsite into the structures without allowing for any blocking or backing movements onto Samish Way.

All development shall also comply with the Whatcom County Development Standards, and the applicant shall obtain a Revocable Encroachment Permit for all work required within the public right-of-way.

The Technical Review Committee has determined that as conditioned, the proposal meets the requirements of Whatcom County Development 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. Building Setbacks: Pursuant to WCC 20.80.200, setback requirements, all structures shall be setback 25-feet from the property line fronting Samish Way and 5-feet from the side and rear property lines.
3. Height Limitations: Pursuant to WCC 20.36.400, the maximum building height shall be limited to 35 feet.
4. Lot Coverage: Pursuant to WCC 20.36.450, no structure or combination of structures, including accessory buildings, shall occupy or cover more than 2,500 square feet or 35 percent whichever is greater.
5. Parking: Pursuant to WCC 20.80.500, the applicant is required to install four (4) parking spaces or one for every employee on the largest shift whichever is greater. At least one parking stall shall be ADA accessible. Parking space dimensions shall comply with WCC 20.80.510.
6. Drainage: Pursuant to WCC 20.36.656, approval of this application shall be subject to the stormwater management provisions of the Whatcom County Development Standards, unless specifically exempted.
7. Landscaping: Shall be implemented pursuant to WCC 20.80.300. Landscaped parking strips shall be provided pursuant to WCC 20.80.350.
8. Signage: One 32 square foot reader board sign that displays fire related information to the public. The location of the sign must meet WCC 20.80.410.
9. Construction Hours: On site construction shall be limited to the hours of 7AM to 6PM between M-F.
10. Construction Noise Levels: All equipment shall comply with the State Noise Level Standards under the Washington 5 Administrative Code (WAC) 173.6.
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. Right to Farm: Pursuant to WCC, Title 14, the owners of the property upon which this conditional use permit approval is granted shall sign a statement of acknowledgment containing a disclosure that pertains to the use of natural resources in Whatcom County. This disclosure shall be made on forms provided by Whatcom County, which shall then be recorded in the Whatcom County Auditor's office.

The disclosure shall contain the following language: The subject property is within or near designated agriculture lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. You may be subject to inconveniences or discomforts arising from such operations, including but not limited to noise, odors, flies, fumes, dust, smoke, the operation of machinery of any kind during any 24-hour period (including aircraft), the storage and application of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. Whatcom County has determined that the use of real property for agricultural operations is a high priority and favored use and will not consider to be a nuisance those inconveniences or discomforts arising from farm operations, if such operations are consistent with commonly accepted good management practices and otherwise comply with local, state, and federal laws.

B. Critical Areas Department

The applicant shall comply with the conditions set forth by the Critical Areas-Watershed Specialist's memorandum dated January 19, 2011, unless modified by that Department or appealed to the appropriate agency.

1. Any areas draining into the Lake Samish Watershed shall be subject to WCC 20.71 (Water Resource Protection Overlay District), WCC 20.80.636 (Stormwater Special District Requirements), and WCC 20.80.735 (Water Resource Special Management Areas)

C. Fire Marshal

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

1. Phase I will require a NFPA 13D Sprinkler and Fire Alarm system prior to the final occupancy for the house structure. Phase II will require additional Fire Sprinklers, Fire Alarms and possibly Fire Flow of 500 gpm.

D. Health Department

The applicant shall comply with the conditions set forth by the Health Department memorandum dated January 13, 2011, unless modified by that Department or appealed to the appropriate agency.

1. Water - Public water is required. The site has received a conditional Well site approval for a group B public water system. Any structures or parking areas located within the Well sanitary control area must be approved by the Whatcom County Health Department.
2. Septic - Any change of use or expansion will require the Whatcom County Health Department (WCHD) to review the septic system.

E. Building Services Department

The applicant shall comply with the conditions set forth by the Plans Examiner's memorandum dated January 5, 2011, unless modified by that Department or appealed to the appropriate agency.

1. A building permit is required for each phase of construction (see specific submittal requirements within the memorandum).

F. Public Works – Engineering Division

The applicant shall comply with the conditions set forth by the Public Work's – Engineering Division memorandum dated January 5, 2011, unless modified by that Department or appealed to the appropriate agency.

1. At the time of Phase II, the applicant will need to apply for a Whatcom County Revocable Encroachment Permit to modify the existing access point to a commercial access standard with a minimum 24-foot wide access into the parking area.
2. All development shall comply with the Whatcom County Development Standards, and the applicant shall obtain a Revocable Encroachment Permit for all work required in the public right-of-way.

Report prepared for the Technical Review Committee by:

Nick Smith
Planner