

WHATCOM COUNTY HEARING EXAMINER

RE: Preliminary Long Subdivision)	LSS2006-0007
Application by)	
)	
<i>Doug Connelly</i>)	FINDINGS OF FACT, CONCLUSIONS
<i>“Connelly Cluster Long Plat”</i>)	LAW, AND DECISION

SUMMARY OF APPLICATION AND DECISION

Application: Doug Connelly is requesting Preliminary Long Subdivision Approval for the proposed creation of a cluster subdivision consisting of 4 single-family lots, with a 27.32 acre reserve tract, located in the Rural (R5A) zoning designation.

Decision: The requested preliminary approval is hereby granted subject to Conditions of Approval.

SUMMARY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW

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: Doug Connelly

Site Location/Address: North of Birch Bay-Lynden Road between Custer School Road and Valley View Road, Custer, Washington 98240

Legal Description: within the W ½ of the SE ¼ of Section 23, Township 40N, Range 1E, W.M.

Assessor’s Parcel Number: 400123 363165

Zoning: Rural (R5A)

Comprehensive Plan: Rural

Subarea: Birch Bay/Blaine

Number of Lots: Four single-family lots and one buildable reserve tract

Reserve Area: 20.49 Acres

Total Acreage: Approximately 27.32 Acres

Roads: Private

Water Supply: Group 'B' Water System

Sewage Disposal: On-site Septic Systems

Fire Protection: Whatcom County Fire District No. 21

Law Enforcement: Whatcom County Sheriff's Office

Public Schools: Ferndale and/or Blaine School District

Topography: The site is described as mostly flat with a man-made berm along the eastern portion of the site. A small lake and pond are located in the north central portion of the site.

Vegetation: Vegetation consists mostly of grass areas with some forested areas.

Adjacent Land Uses: North: Residential, Undeveloped
East: Residential, Undeveloped
South: Residential and Commercial
West: Residential

Utilities Easements: Necessary utility easements will be established prior to recording the Final Plat.

Variances: No variances requested

SEPA Review: Determination of Non-significance, issued September 18, 2007

Authorizing Ordinances:

- 1) Revised Code of Washington Chapter 58.17
- 2) Whatcom County Code Title 20, Official Whatcom County Zoning Ordinance
- 3) Whatcom County Code Title 21, Subdivision Regulations
- 4) State Environmental Policy Act (SEPA). Washington Administrative Code Chapter 197-11
Whatcom County Environmental Policy Administration Chapter 16.08; Whatcom County
Critical Areas, Chapter 16.16
- 5) Whatcom County Code Chapter 12.08, Development Standards
- 6) Whatcom County Comprehensive Land Use Plan
- 7) Whatcom County Code Chapter 15, Building Code

Pursuant to the *Revised Code of Washington (RCW) 58.17.110*, in order to approve a preliminary long subdivision, Whatcom County must find that appropriate provisions are made for the public health, safety, and general welfare, open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all other relevant facts including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school, and the public use and interest will be served by the platting of such subdivision.

Legal Notices: Posted – July 1, 2010
 Mailed – October 6, 2009, and June 25, 2010
 Published – October 7, 2009 and July 1, 2010

Hearing Date: July 14, 2010

Parties of Record:

Doug Connelly
8154 Comox Road
Blaine, WA 98230

Doug Campbell, P.E.
Associated Project Consultants, Inc.
1401 Astor Street
Bellingham, WA 98225

Amy Keenan
Planning and Development Services

Mary White
Division of Engineering

Exhibits:

- 1 Land Use Application
 - 1-1 Supplemental Application
 - 1-2 Property Owner within 1,000-feet
 - 1-3 Application Cover Letter dated September 28, 2009, from Douglas Campbell
 - 1-4 Determination of Complete Application, dated October 2, 2009
 - 1-5 Pre-Application Routing Checklist
 - 1-6 Notice of Application form letter
 - 1-7 Hearing Examiner Checklist
 - 1-8 Customer Receipt
 - 1-9 Preliminary Traffic Analysis

- 1-10 Preliminary Stormwater Proposal
- 1-11 On-Site Sewage System Subdivision Application, dated September 20, 2009
- 1-12 Fire / School District Concurrency Letter
- 1-13 Blaine School District, Will Serve Notice, dated May 1, 2006
- 1-14 Letter, dated August 5, 2009, from North Whatcom Fire & Rescue re: Confirming Rural LOS to Lands within Rural Areas of Whatcom County
- 1-15 Letter, dated August 5, 2009, from North Whatcom Fire & Rescue re: Request for Notice; Letter confirming site within jurisdiction of Fire Distr 21; but does not state Urban LOS are available

- 2 DNS, dated September 18, 2007, Checklist attached

- 3 Letter, dated October 1, 2007 from DOE, Kasey Ignac re: SEPA Water Resources

- 4 Comment Form Letter of Concern, from Linda Entsgaard and Joanne Gaulke, with reply dated October 27, 2009 from Amy Keenan

- 5 Comment Form Letter of Concern, from Don Phillips, with reply dated October 27, 2009 from Amy Keenan

- 6 Letter dated October 28, 2009, from Greg Kendall re: property access

- 7 Staff Report, dated July 1, 2010

- 8 Agency Comments

- 9 Critical Areas Study, Northwest Wetlands Consulting, L.L.C., dated April 12, 2006

- 10 Site Plan

- 11 Vicinity Map

- 12 Zoning Map

- 13 Aerial Map

- 14 Certificate of Mailing of Notice of Application, dated October 6, 2009

- 15 Legal Notice of Application, dated October 7, 2009

- 16 Certificate of Mailing of Notice of Public Hearing, dated June 25, 2010

- 17 Certificate of Posting of Notice of Public Hearing, dated July 1, 2010

- 18 Legal Notice of Public Hearing, dated July 1, 2010
- 19 CC&Rs
- 20 Lot of Record Confirmation
- 21 Letter of Objection dated July 6, 2010, from Greg and Debra Kendall with attachments

II.

The proposed 5-lot subdivision was reviewed by the Technical Review Committee. The recommendation of this Committee was set forth in a Staff Report, entered into the Hearing Examiner file as Exhibit #7, dated July 1, 2010, prepared by the Land Use Services Division of Whatcom County Planning and Development Services. The Technical Review Committee put in writing its Findings of Fact and Conclusions of Law. Based on these, the Committee recommended Preliminary Long Subdivision Approval, subject to conditions.

III.

There was no public comment on this proposal at the public hearing. No County agency objected to the granting of Preliminary Long Subdivision approval. The Applicant has indicated no objection to any of the conditions proposed in the Staff Report, Exhibit #7, dated July 1, 2010.

There is nothing in the record which would indicate either the Findings of Fact made by the Technical Committee, as set forth in the Staff Report, or its Conclusions of Law were incorrect or inaccurate or failed to properly support preliminary approval.

The Hearing Examiner hereby adopts by this reference the Findings of Fact and Conclusions of Law reached by the Technical Review Committee in the Staff Report, Exhibit #7, a copy of which is attached hereto and incorporated herein by this reference.

IV.

Based on these Findings of Fact and Conclusions of Law, the Hearing Examiner hereby issues the following decision:

DECISION

Preliminary Long Subdivision Approval is hereby granted to Doug Connelly, granting preliminary approval for a cluster long subdivision, "Connelly Cluster Long Plat," consisting of a four lot single-family cluster subdivision and one 27.32-acre reserve tract, to be located on Assessor's Parcel No. 400123 363165, north of Birch Bay-Lynden Road, between Custer School Road and Valley View Road, Custer, Washington, subject to the following conditions:

A. *Planning Division*

1. The use and location on the site shall not be amended or changed in any way without further approval of the Whatcom County Hearing Examiner.
2. Signage for the site shall be limited to one site identification sign at the entrance to the site, per WCC 20.80.470 (4). The subject sign shall be limited to 64 square feet.
3. No sign shall be located closer than 10-feet to any right-of-way, per WCC 20.80.410 (1). A building permit shall be obtained for any sign installed on the site.
4. Approval of this preliminary subdivision shall become invalid unless a final plat is submitted in proper form for Final Plat Approval within seven years of the date of Preliminary Subdivision Approval. This expiration date may be extended pursuant to WCC 21.05.030(5).
5. An Applicant requesting final approval of a subdivision shall submit to the Administrative Official copies of the materials and fees specified in WCC 21.06.050, and the request shall be accompanied by a statement from the County Engineer that Whatcom County has accepted as complete all on-site and off-site improvements required by the conditions of Preliminary Plat Approval, or has received cost estimates and performance guarantees to assure completion thereof.
6. The Applicant shall obtain all necessary permits prior to construction.
7. The Applicant shall provide written verification from Bonneville Power Authority (BPA) for the use of the access easement prior to construction of the subdivision improvements.
8. The following cluster subdivision provisions shall apply and be shown on the face of the plat:

CLUSTER NOTES:

1. THIS FIVE (5) LOT LAND DIVISION HAS BEEN APPROVED AS A CLUSTER SUBDIVISION PURSUANT TO WHATCOM COUNTY CODE TITLE 20.36. THE FOLLOWING NOTES SHALL BE CONSIDERED A DEED RESTRICTION AND SHALL CONSTITUTE A BINDING AGREEMENT BETWEEN WHATCOM COUNTY AND ALL PRESENT AND FUTURE OWNERS OF RECORD. SAID NOTES SHALL BE INCLUDED WITHIN ALL DEEDS AND CONTRACTS OF CONVEYANCE AND MAY ONLY BE AMENDED BY MUTUAL AGREEMENT BETWEEN SAID PARTIES PURSUANT TO THE ZONING IN EFFECT AT THE TIME. ANY ALTERATION OF THE RESERVE TRACT, BOUNDARIES OR CLUSTER NOTES PURSUANT TO WCC TITLE 21.06.030 REQUIRES THE REVIEW AND FILING FOR RECORD OF A NEW ORIGINAL DRAWING.
2. LOT(S) 1, 2, 3 AND 4 HAVE BEEN DESIGNATED AS THE CLUSTERED LOT(S) AND ARE SUBJECT TO THE FOLLOWING RESTRICTIONS:
 - A. EACH CLUSTERED LOT HAS BEEN ASSIGNED ONE DENSITY.

- B. EACH CLUSTERED LOT MAY BE UTILIZED FOR THE CONSTRUCTION OF ONE, SINGLE FAMILY DWELLING UNIT.
3. LOT 5 HAS BEEN DESIGNATED AS THE RESERVE TRACT AND IS SUBJECT TO THE FOLLOWING RESTRICTIONS:
- A. LOT 5 HAS BEEN ASSIGNED ONE (1) DENSITY AND MAY BE UTILIZED FOR THE CONSTRUCTION OF ONE SINGLE FAMILY DWELLING UNIT.
 - B. BASED ON DENSITY CALCULATIONS MADE FOR THE ORIGINAL 27.32 ACRE PARENT PARCEL LOCATED WITHIN THE R-5A ZONE, THE RESERVE TRACTS HAS NO REMAINING RESIDENTIAL DENSITIES.
 - C. THE RESERVE TRACTS SHALL NOT BE FURTHER DIVIDED IN ANY MANNER EXCEPT AS MAY BE PROVIDED BY W.C.C. 20.36.320 OR AS AMENDED IN THE FUTURE.
 - D. THE RESERVE TRACTS MAY BE RETAINED BY THE SUBDIVIDER, CONVEYED TO THE RESIDENTS OF THIS SHORT PLAT, OR CONVEYED TO A THIRD PARTY.
 - E. THE RESERVE TRACTS CONTAIN 75% OF THE GROSS AREA OF THE PARENT PARCEL (APPROXIMATELY 20 ACRES). AS THIS PROPERTY IS SUBJECT TO THE RURAL ZONE, ANY FUTURE ALTERATIONS, AMENDMENTS, OR ADJUSTMENTS TO ANY PART OF THIS PLAT SHALL NOT RESULT IN THE MINIMUM RESERVE AREA (TRACT) BEING REDUCED BELOW THE MANDATORY 75% REQUIREMENT.
9. No land comprising any part of a proposed land division in the unincorporated area of Whatcom County shall be sold, leased, or offered for sale or lease unless approved under this title. Any person being the owner or agent of the owner of such land who shall sell, lease, or offer for sale or lease any lot or portion thereof shall be guilty of a gross misdemeanor. Each sale or lease, or offer for sale or lease shall be a separate and distinct offense for each separate lot or portion of said land, pursuant to WCC 21.11.010.

B. Health Department

- 1. The Applicant shall comply with the conditions of the Whatcom County Health and Human Services Department in the memo dated May 28, 2010, unless modified by that Department or appealed to the appropriate agency.
- 2. Water: The proposed Group B water system has received design approval from WCHD. Prior to Final Plat Approval, the water system must be constructed and receive final approval from WCHD.
- 3. Sewage: An On-site Sewage System (OSS) Subdivision Application has been approved by WCHD. In addition, proposed drainfield locations have been identified over the approved soils, meeting setbacks to property lines. There will be no further requirements prior to Final Plat Approval.

NOTE: Care needs to be taken during road and utility installation to prevent disturbance of proposed OSS sites.

C. *Natural Resources Division*

1. Critical Areas Administrator

a. The following note shall be placed on the face of the plat:

CRITICAL AREAS ORDINANCE (CAO) NOTE:

THIS LONG SUBDIVISION HAS BEEN REVIEWED ACCORDING TO THE CRITICAL AREAS ORDINANCE, WHATCOM COUNTY CODE TITLE 16, CHAPTER 16.16 ADOPTED PURSUANT TO ORDINANCE 2005-00068. NO REGULATED CRITICAL AREAS WERE IDENTIFIED WITHIN THIS LONG SUBDIVISION AS OF APRIL 2006.

2. Watersheds Administrator

- a. The Applicant shall comply with all of the conditions of the Critical Areas Administrator in the memo dated October 20, 2009, unless modified by the Critical Areas Administrator or appealed to the appropriate agency.
- b. A TESC Plan shall be reviewed and approved by the Watersheds Staff prior to beginning any clearing activity. ESC measures shall be inspected when installed. Depending on the site this inspection may occur prior to, during, or after land disturbance. Call Watersheds staff to arrange inspection. Details for submittal are found in the Whatcom County Development Standards Chapters 2 and 3. The plan shall contain a site plan and narrative including, but not limited, to the following components:
- c. A ESC preconstruction meeting is required with representatives of Whatcom County PDS, Whatcom County Engineering, the Project Engineer, and Contractor in attendance.
- d. TESC Site Plan (drawn to scale) must include the following information:
 - 1) Depiction of all areas where soil disturbance will occur
 - 2) Depiction of all areas where vegetation is to be removed. Clearing activity limits shall be marked and inspected on site.
 - 3) Depiction and description of the type and location of ALL TESC BMPs to be utilized on site.
- e. The TESC Site Plan is required to be prepared by a Professional Civil Engineer, licensed in the State of Washington unless Whatcom County Public Works determines that engineered road plans are not required. If engineered road plans are not required, a non-engineered TESC plan must be submitted prior to any earthwork.
- f. A WA DOE NPDES Stormwater General Permit may be required (for cumulative land disturbance one acre or greater). Contact Department of Ecology at 360.738.6250 for more info.

- g. The TESC Maintenance Plan must include a narrative describing, in detail, the TESC BMP maintenance plan. BMPs shall be inspected and reinstalled, if necessary, after each phase of construction. The BMP maintenance plan shall include each anticipated inspection and the position title of the staff responsible for performing the maintenance.
- h. The TESC Maintenance Plan is required be prepared by a Professional Civil Engineer, licensed in the State of Washington unless Whatcom County Public Works determines that engineered road plans are not required. If engineered road plans are not required, a non-engineered TESC maintenance plan must be submitted prior to any earthwork.
- i. Street Sweeping Plan. In order to protect surface waters and stormwater conveyance systems all streets shall be kept free of sediment for the duration of construction including subsequent development of individual lots. Street sweeping shall be conducted on a regularly scheduled basis.
- j. A narrative describing the equipment, the disposal of sediment, and frequency of sweeping shall be submitted prior to final plat approval
- k. The Street Sweeping Plan is required to be prepared by a Professional Civil Engineer, licensed in the State of Washington
- l. Pumping Plan for Sediment or Storm Water Pond. Provide a narrative describing, in detail, measures planned to ensure capacity of the pond during the wet season. These may include but are not limited to: pumping turbid water to a truck and removing it from the site to another approved site, pumping turbid water to an approved dispersion/ infiltration system on or off site. The name, contact info, and contract for pumping services contractor shall be on file with the technical administrator.
- m. The Pumping Plan is required to be prepared by a Professional Civil Engineer, licensed in the State of Washington
- n. The following note shall be placed on the face of the plat:

DRAYTON HARBOR AND BIRCH BAY WATERSHEDS

STORMWATER SPECIAL DISTRICT AND WATER RESOURCE SPECIAL MANAGEMENT AREA NOTE:

THE LOTS WITHIN THIS PLAT ARE LOCATED IN AN AREA DESIGNATED AS A STORMWATER SPECIAL DISTRICT AREA AND WATER RESOURCE SPECIAL MANAGEMENT AREA. ANY DEVELOPMENT OF SAID LOTS SHALL BE SUBJECT TO THOSE REGULATIONS PURSUANT TO WCC 20.80.636 AND WCC 20.80.735.

1. The Applicant shall comply with the conditions of the Whatcom County Chief Plans Examiner in the memo dated May 26, 2010 unless modified by the Chief Plans Examiner or appealed to the appropriate agency.
2. A building permit is required at the initial site development stage of the project for any proposed nonexempt structures or buildings. See the applicable code sections of current codes (current code as of submittal is, 2006 International Building Code (IBC), Section 105.2) regarding nonexempt structures.
3. A Washington State Professional Engineer may be required to engineer applicable portions of any proposed nonexempt structures or buildings.
4. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County.
5. Nonexempt structures may include fences, retaining walls, concrete vaults and other poured-in-place concrete structures, some retention/detention structures, bridges, permanent signs and the like.
6. All information, details, conditions and specifications which determine the building envelope for each individual lot, including but not limited to easements, setbacks, critical areas buffers, etc., shall be clearly indicated on the face of the check-prints.
7. Plans that may be required for proposed structures for given project may include but not be limited to. (Suggested scales)
 - a. Site plan (1/10th scale)
 - b. Foundation plan (1/4" =1' scale)
 - c. Floor plan (plan views) (1/4" =1' scale)
 - d. Elevation plans (1/4" =1' scale)
 - e. Structural plans (1/4" =1' scale)
 - f. Section views (1/2" =1' scale)
 - g. Details (special construction and or connections) (1/2" =1' scale)

E. Fire Marshal

1. The Applicant shall comply with the conditions of the Whatcom County Deputy Fire Marshal in the memo dated July 14, 2010 unless modified by the Deputy Fire Marshal or appealed to the appropriate agency.
2. Fire flow required. Fire flow shall be a minimum 500 gpm at 20 psi to the most hydraulically remote hydrant on the system. Separate permit will be required for the installation of the fire flow system. OR All buildings that require a building permit are required to have a fire sprinkler

system installed in them. All sprinkler systems shall meet the requirements of NFPA. Separate permit will be required for the installation of fire sprinkler systems.

3. Fire department access shall meet the requirements of the Whatcom County Development Standards for Roads.
4. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County.

F. Public Works – Engineering Division

1. The Applicant shall comply with the conditions of the Whatcom County Engineering Division in the memo dated May 25, 2010 unless modified by the Engineering Division or appealed to the appropriate agency.
2. All development shall comply with Whatcom County Development Standards and be inspected and/or approved by Whatcom County Engineering.
3. Sight distance at entrance to the access road shall meet Whatcom County Development Standards.
4. A current preliminary traffic analysis has been submitted and an Exemption from Concurrency Evaluation determination has been made. No Traffic Study will be required by Whatcom County.
5. Whatcom County agrees with the Applicant that the roads should be private. However, the Applicant will need to show that all the criteria in 505.E of the Whatcom County Standards can be met. The roads may be built to Whatcom County Private Rural Road Standards with approved turnaround and paved apron at Birch Bay Lynden Road with the private road criteria met.
6. All signing and striping shall be installed per MUTCD standards at the developer's expense.
7. A current Preliminary Storm Drainage Report has been submitted. However, 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 for this subdivision.
8. Provision for maintenance of private stormwater system will be required as set forth in Whatcom County Development Standards, Chapter 2, Section 220.
9. A Revocable Encroachment Permit will be obtained for work within the county right-of-way. A land disturbance permit will be required for any work within the adjacent property.
10. Erosion control plans shall be submitted and approved prior to any clearing or grading on the site.

11. All easements, any physical appurtenances such as fences or structures which may indicate encroachment, lines of possession, or conflict of title must be shown on the final mylar. [WAC 332-130-050(1)(b)]
12. Road name proposals for all roads must be submitted for approval. A map at 1"=400' scale of the lots shall be provided to Whatcom County Engineering for address assignment. Address fee shall be paid prior to recording.
13. All road, 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. As-built road plans and a letter of certification from a licensed Engineer must be submitted to the County Engineer prior to acceptance of any roads into the County Road System.
14. Developer shall provide a plat layout to the post office to get approved mailbox location(s).

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 day 16th of July 2010.

Michael Bobbink, Whatcom County Hearing Examiner

WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive,
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David Stalheim
Director

J.E. "Sam" Ryan
Assistant Director

WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

July 1, 2010

The application of Doug Connelly		LSS2006-00007
for a Long Subdivision (Connelly		FINDINGS, CONCLUSIONS, AND
Cluster Long Subdivision)		RECOMMENDATIONS

I. SUMMARY OF APPLICATION AND RECOMMENDATIONS

Summary: The project consists of four clustered single-family residential lots and one reserve tract located on an approximately 27.32-acre site within the Rural-5A zoning designation.

Recommendation: The Technical Review Committee recommends approval of the requested subdivision, subject to the attached conditions.

II. PRELIMINARY INFORMATION

A. BACKGROUND INFORMATION

<u>Applicant:</u>	Doug Connelly 8154 Comox Road Blaine, WA 98230
<u>Agent/ Representative:</u>	Doug Campbell, P.E. Associated Project Consultants, Inc. 1401 Astor Street Bellingham, WA 98225
<u>Site Location/Address:</u>	North of Birch Bay-Lynden Road between Custer School Road and Valley View Road.
<u>Legal Description:</u>	Located within the W ½ of the SE ¼ of Section 23, Township 40N, Range 1E, W.M.
<u>Assessor's Parcel Number:</u>	400123 363165

<u>Zoning:</u>	Rural-5A
<u>Comprehensive Plan:</u>	Rural
<u>Subarea:</u>	Birch Bay/Blaine
<u>Number of Lots:</u>	Four single family lots and one buildable reserve tract
<u>Reserve Area:</u>	20.49 acres
<u>Total Acreage:</u>	Approximately 27.32 acres
<u>Roads:</u>	Private
<u>Water Supply:</u>	Group 'B' water system
<u>Sewage Disposal:</u>	On site septic systems
<u>Fire Protection:</u>	Whatcom County Fire District No. 21
<u>Law Enforcement:</u>	Whatcom County Sheriff's Office
<u>Public Schools:</u>	Ferndale and/or Blaine School District
<u>Topography:</u>	The site is described as mostly flat with a man made berm along the eastern portion of the site. A small lake and pond are located in the north central portion of the site.
<u>Vegetation:</u>	Vegetation consists mostly of grass areas with some forested areas.
<u>Adjacent Land Uses:</u>	North: Residential, Undeveloped East: Residential, Undeveloped South: Residential and commercial West: Residential
<u>Utilities Easements:</u>	Necessary utility easements will be established prior to recording the final plat.
<u>Variances:</u>	No variances requested
<u>SEPA Review:</u>	Determination of Non-significance issued September 18, 2007.

B. AUTHORIZING ORDINANCES:

1. Revised Code of Washington Chapter 58.17
2. Whatcom County Comprehensive Land Use Plan.
3. Whatcom County Code Chapter 12.08, Development Standards
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 21, Subdivision Regulations
9. Whatcom County Code Title 24, Health Regulations

III. SITE DESCRIPTION

The subject property is an approximately 27-acre site, and is located north of Birch Bay-Lynden Road, northwest of the intersection of Birch Bay-Lynden Road and Custer School Road.

The site is fairly flat with a berm running north/south along the eastern border of the property. A small lake and adjoining pond are located in the north central portion of the site. The site is vegetated with mostly large coniferous trees, particularly in the southern portion of the site and along the perimeter of the northern portion of the site. The area surrounding the pond is mostly vegetated with grasses and small trees. Property surrounding the site is zoned Rural (R-5A) with mostly single-family residential home sites, although there are some commercial establishments adjacent to the project including a tree service and a shooting range.

IV. PROJECT PROPOSAL

The Connelly Cluster Long Subdivision is proposing to subdivide 27.32 acres into four single-family residential parcels and one buildable 20.49 acre reserve tract in the Rural (R-5A) zone. The residential lots range from 1.50 acres to 1.80 acres. Access to the site will be provided off an easement to Birch Bay-Lynden Road through the neighboring property to the south. Water service will be provided by a Group 'B' Water System. All lots will have individual on-site septic systems.

Based on the deed history submitted, this parcel (Assessor's Parcel Number 400123 363165) was established as a remainder parcel when a 6.3-acre parcel to the south was approved as a road frontage exemption pursuant to WCC 21.12.030(2) in 2001 under Auditor's File Number 2011102798.

V. PUBLIC NOTICE AND COMMENT

Requirements for public notice are contained in WCC 2.33.

Notice of Application: The Notice of Application for this proposal was published on October 7, 2009. Notice was also mailed to property owners within 1000 feet of the site.

Public Input: During the public comment period for the Notice of Application, the County received three written comments. A summary of the comments and a response follows:

- Concerns regarding the access easement from Birch Bay Lynden Road and the proposed property and traffic issues.
- Concerns regarding ground water supply.
- Concerns regarding density and rural development.

The subject property is zoned R-5A which allows a residential density of one unit per five acres. The lot is over 27 acres and has the ability to develop five residential lots. The Whatcom County Health Department and Engineering Divisions have reviewed and submitted conditioned approval of the proposal.

Notice of SEPA Threshold Determination: The Notice of Decision for the Determination of Non-Significance (DNS) for this project was issued on September 18, 2007. The notice was sent to state and local agencies. During the public comment period for the DNS, the County received one written comment.

- The Washington State Department of Ecology commented regarding proposed water source.

The applicant is proposing a Group 'B' water system to serve the subdivision. See the Health Department discussion and conditions of approval.

Notice of Public Hearing: The Notice of Public Hearing for this project was posted on the site and the notice was included in a one-time newspaper publication.

VI. STATE ENVIRONMENTAL POLICY ACT (SEPA)

The State Environmental Policy Act (SEPA) requires applicants to disclose potential impacts to the environment as a result of their project. The Environmental Checklist submitted by the applicant adequately discloses anticipated environmental impacts as a result of this project. Whatcom County codes and regulations adequately mitigate for these anticipated environmental impacts. Therefore, a Determination of Non-Significance (DNS) is the appropriate threshold determination for this project. The DNS was issued on September 18, 2007 and no appeals were filed.

VII. FINDINGS OF FACT and CONSISTENCY WITH REGULATIONS

A. Building Code (WCC Title 15)

WCC Title 15 adopts and amends the applicable building and fire codes. The Building Official is authorized to promulgate such rules, policies and/or procedures as deemed necessary for the efficient operation of the permit process as administered by the department of building safety, designated in IBC Section 103.1, and hereby referred to as the building services division of the Whatcom County planning and development services department.

The Whatcom County Chief Plans Examiner submitted a memo dated January 15, 2009 with conditions of approval for this proposal. The applicant shall comply with all of the conditions of the Chief Plans Examiner's unless modified by the Chief Plans Examiner or appealed to the appropriate agency.

The Whatcom County Plans Examiner required conditions for the above permit, with the following provisions:

1. Until structures are proposed, the plans examiners have no comments for the Preliminary Long Subdivision, at which point the attached conditions may apply.
2. Due to the scope of this project, these comments do not address any specific requirements. Specific requirements will be discussed at time of application of each individual building pre-application meeting and or submittal when more detailed plans are available. The comments [as conditions of approval] are general comments are not intended to be the final comments or requirements for any one project.

The Technical Review Committee has determined that, as conditioned, the project meets the requirements of WCC Title 15.

B. Critical Areas (Title 16)

WCC Chapter 16.16 of the Whatcom County Code contains standards, guidelines, criteria and requirements intended to identify, analyze, preserve and mitigate potential impacts to the County's critical areas and to enhance and restore degraded resources such as wetlands, riparian stream corridors or habitat, where possible.

A critical areas technical administrator reviewed and verified the submitted wetland reconnaissance and approved the proposed subdivision on October 14, 2009. Critical areas staff had determined there will be no wetland or habitat area impacts as a result of this proposal.

The Technical Review Committee has determined that the project meets the requirements of WCC Chapter 16.16.

C. Rural Zone Site Requirements (WCC Chapter 20.36)

The Maximum Density and Minimum Lot Size Chart, WCC Section 20.36.253, establishes the basic density and lot size requirements for residential development in the Rural zone. Flexibility from these requirements may only be obtained through the planned unit development process. The requirements for the R-5A zoning district are listed in the table below.

20.36.253 Maximum density and minimum lot size

District	Gross Density	Minimum Lot Size		Minimum Reserve Area (Cluster Subdivisions Outside UGA)
		Conventional	Cluster	
R-5A with public water	1 dwelling unit/5 acres	5 acres	12,500 sq ft	75%

The site is approximately 27 acres in size with a density of one unit per five acres for a total of five units. The applicant is proposing four residential lots with one reserve tract. The reserve tract will be allowed one single-family residential unit. The average cluster lot size for the proposal is 1.70 acres with the smallest lot size at 1.50 acres.

Minimum lot width and depth for residential development in the Rural zone are determined by WCC Section 20.36.254. The requirements for lot width and depth for the R-5A zoning district are listed in the table below.

20.36.254 Minimum lot width and depth

District	Width at Street Line		Width at Bldg. Line	Minimum Mean Depth
	Conventional	Cluster		
R-5A	300'	70'*	80'	100'

The project, as proposed meets the requirements of WCC 20.36.254.

WCC Section 20.36.300 lists lot clustering and reserve tract standards for the Rural zoning district.

20.36.305 Lot clustering

1. The purpose of lot clustering is to provide an alternative method of creating economical building lots with spatially efficient sizes. Clustering is intended to reduce development cost, increase energy efficiency and

- reserve areas of land which are suitable for agriculture, forestry, open space or possible future development.
2. The clustering option is also intended to help preserve open space and the character of areas and reduce total impervious surface area thereby reducing runoff while assuring continued viable undeveloped natural vegetated corridors for wildlife habitat, protection of watersheds, preservation of wetlands, preservation of aesthetic values including view corridors, and preservation of potential trail and recreation areas.
 3. Lot clustering is required for residential developments on parcels 10 acres or greater when:
 - a. The property is located within a short-term planning area and public water and sewer are not available; or
 - b. The property is located within a long-term planning area.

The applicant has chosen to cluster the development to preserve a large area of open space on the reserve tract although there are no critical areas on site. The building sites will be clustered around the existing pond.

20.36.310 Design standards.

The creation of new building lots, pursuant to this section, shall be governed by the following recommended design standards:

1. Clustered building lots may be only created through the subdivision or short subdivision process.
2. Building lots should be designed and located to the fullest extent possible to be compatible with valuable or unique natural features, as well as physical constraints of the site.
3. Where practical, the majority of building sites should be arranged in a cluster or concentrated pattern to be compatible with physical site features, allow for the efficient conversion of the "reserve tract" to other uses in the future, and have no more than two common encroachments on existing county roads. The arrangement of clustered building lots is intended to discourage development forms commonly known as linear, straight-line or highway strip patterns.
4. Common access to clustered building lots should be provided by short length roads or loop roads. In addition, interior streets shall be designed to allow access to the "reserve tract" for the purpose of future approved development.
5. Where the boundaries of a proposed cluster subdivision includes land in more than one rural zone designation (R2-A, R-5A and R-10A) the following shall apply:
 - a. The total number of units permitted shall be computed by separately calculating the number of lots allowed in each zone district based on

the amount of land area within the district. The number of lots allowed in each district shall be totaled to arrive at the total number of lots.

- b. Lot clusters may be distributed or arranged on property(s) covered by the subdivision such that density from an R-5A or R-10A portion of a subdivision may be transferred to an adjacent portion of the subdivision with a different rural zoning designation (R-2A, R-5A or R-10A); provided, the total number of lots for the entire subdivision does not exceed the number calculated in subsection (5)(a) of this section; and provided further, that the lot design is consistent with subsections (1) through (4) of this section. Density from R-2A portions of the subdivision may not be transferred to R-5A or R-10A portions of the subdivision.
6. In order to preserve rural character, no more than 16 residential lots shall be permitted in one cluster and there shall be at least 500 feet of separation between any new clusters.
7. Any structure within the cluster subdivision which will be used for human habitation shall be set back a minimum of 100 feet from the property line of any parcel or portion thereof which is designated or used for agricultural purposes. No structures shall be constructed within 30 feet of exterior, side and rear property lines.

The clustered lots are being created through the long subdivision process. The proposed clustered lots are clustered on the northern portion of the lot surrounding the existing lake. The proposal is a four lot subdivision with a buildable reserve tract. There are no agricultural uses adjacent to the site at the time of subdivision approval.

20.36.320 Reserve tract.

For the purposes of this section, "reserve tract" is defined as that portion of a proposed subdivision or short subdivision which is intended for agricultural, forestry, open space or future development purposes. All "reserve tracts" created through the subdivision process shall be subject to the following provisions:

1. After a site is initially subdivided pursuant to this section, the "reserve tract" may be retained by the subdivider, conveyed to residents of the subdivision or conveyed to a third party.
2. The "reserve tract" may be considered as a building lot; provided, that such lot is included in the overall density calculation of the original parcel of record.
3. The "reserve tract" may be further subdivided only through the long subdivision process and only under one of the following circumstances:
 - a. The county finds that in developing adjacent tracts it would help to further the objectives listed in WCC [20.36.305\(2\)](#) by dividing the

- reserve tract and increasing the area of reserve proportionately on the adjacent land being subdivided so that there is no net reduction in reserve area; and when the reserve tract is owned by the original developer or a third party, no property owner within the original subdivision will be significantly adversely affected or suffer a substantial decrease of property value as a result of dividing the reserve tract; or
- b. When the Comprehensive Plan and zoning have been updated as part of the normal process (other than a revision initiated by the private sector or done for a specific area) and the public process has been gone through, subject to findings that there is no adverse impact to critical areas and when the reserve tract is owned by the original developer or a third party, no property owner within the original subdivision will be significantly adversely affected or suffer a substantial decrease of property value as a result of dividing the reserve tract; or
 - c. The site is within a short-term planning area and public water and sewer serve the proposed development on the reserve tract.
4. The purpose of the reserve tract as stated in subsections (1), (2) and (3) of this section shall be communicated in writing on the face of the plat or short plat; also, the number of developable building sites remaining (if any) with the original parcel of record, based on the assigned density, shall also be prominently displayed on the plat or short plat. Whatcom County shall make every effort to assist all agents in communicating clearly such information to all purchasers and prospective purchasers of building lots or "reserve tracts."
 5. That the requirements of subsections (2) to (4) of this section shall be recorded as a deed restriction at the time of filing of the final plat or short plat, and shall constitute an agreement between Whatcom County and the owner of record. Said deed restriction may be amended by mutual agreement between said parties after review for consistency and compliance with the Official Whatcom County Zoning Ordinance, the Whatcom County Subdivision Ordinance and the Whatcom County Comprehensive Plan.

As conditioned the reserve tract meets these requirements. These requirements have also been added as a condition of approval and will be reviewed prior to final plat approval.

20.36.350 Building setbacks.

Building setbacks shall be administered pursuant to WCC [20.80.200](#) (Setback Requirements).

20.36.400 Height limitations.

Maximum height shall be limited to 35 feet. Height of structures shall also conform, where applicable, to the general requirements of WCC [20.80.675](#).

20.36.450 Lot coverage.

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 of the total area.

Building setbacks, height limitations and lot coverage will be reviewed at the time of building permit review.

The Technical Review Committee has determined that, as conditioned, the project meets the requirements of WCC Chapter 20.32.

D. Transportation Concurrency (WCC Chapter 20.78)

WCC Chapter 20.78 gives authority to ensure adequate transportation facilities are available or provided concurrent with development.

The proposed development will not result in an "impacted transportation facility" per WCC 20.78.030(5) and therefore, will not require a transportation concurrency evaluation.

The Technical Review Committee has determined the project is exempt from the requirements of WCC Chapter 20.78.

E. Water Resources Special Management Area (WCC Chapter 20.80.735) and Stormwater Special District (WCC Chapter 20.80.635)

WCC Chapters 20.80.735 and 20.80.635 give authority for more stringent standards for clearing activity in highly valued water resource areas, environmentally sensitive areas, or areas where natural conditions are so unstable that clearing activity in the areas can result in hazardous conditions.

The proposal is located within the Drayton Harbor watershed and as such is subject to the requirements of WCC 20.80.735 and 20.80.635. Whatcom County Watershed staff reviewed the proposal and submitted a memo, dated October 20, 2009, with conditions of approval.

The Technical Review Committee has determined the project, as conditioned, meets the requirements of WCC Chapter 20.80.735 and 20.80.635.

F. Concurrency (WCC Section 20.80.212)

WCC Section 20.80.212 states that no subdivision shall be approved without a written finding that:

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

Water

Water will be supplied by a Group 'B' Public Water System. The well site has been approved by the Whatcom County Health Department. For more analysis regarding water see Section VII.H. Health Department of this report.

Sewage Disposal

There is no public sewage disposal available for this site. The applicant is proposing on-site septic systems. For more analysis regarding sewage disposal see Section VII.H. Health Department of this report.

Schools

With regard to schools and fire protection, RCW 82.02.050(b) states: "...To promote orderly growth and development by establishing standards by which counties, cities and towns may require, by ordinance, that new growth and development pay a proportionate share of the cost of new facilities needed to serve the growth and development..."

No such ordinance is in place in Whatcom County, and RCW 82.02.020 is clear that the county has no authority to require such fees. However RCW 82.02.020 "...does not prohibit voluntary agreements with counties, cities, towns, or other municipal corporations that allow a payment in lieu of a dedication of land or to mitigate a direct impact that has been identified as a consequence of the proposed development, subdivision or plat."

In addition, RCW 58.17.110 (2) requires that a proposed subdivision shall not be approved unless the city, town or county legislative body makes written findings that:

Appropriate provisions are made for the public health, safety, and general welfare and.... schools and school grounds and all other relevant facts.

The applicant submitted a will-serve letter for this proposal dated May 1, 2006 from the Blaine School District and a will-serve letter for the proposal dated May 6, 2006 from the Ferndale School District.

Fire Protection

The Fire District has submitted a letter of concurrency for this proposal dated August 5, 2009 stating that the site is located within the service area of Fire

District No. 21 and the district will provide fire protection services for this subdivision as conditioned. The fire district has determined the property is located in an area that receives a rural level of service, which means the district will service the site to the best of its ability given the dependency upon volunteers and its limited resources. The fire district has requested the following notes be placed on the face of the plat:

The subject property is within the boundaries of Whatcom County Fire Protection District No. 21, a combination district that relies upon both volunteers and paid staff to meet the service demands from the District, including fire protection, emergency response, and basic life support transport services.

The subject property will receive a rural level of service from Whatcom County Fire Protection District No. 21.

This note is not typically something shown on the face of the plat and the circumstances may change in the future. Whatcom County is not requiring these notes to be placed on the face of the plat.

The Whatcom County Deputy Fire Marshal submitted a memo dated October 6, 2009 with conditions of approval for this proposal.

The Technical Review Committee has determined that, as conditioned, the project meets the requirements of WCC Chapter 20.80.212.

G. Subdivision Regulations (Title 21)

WCC Chapter 21.05 regulates policies and procedures for approval of a long subdivision. Section 21.05.030(h)(i and ii) require:

Approval of a preliminary long subdivision shall be accompanied by written findings of fact and conclusions that:

- i. Appropriate provisions have been made for the public health, safety, and general welfare and for such open spaces, drainage ways, stormwater management, streets or roads, pedestrian and bicycle paths, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school, and the public use and interest will be served by the platting of such subdivision and dedication; and
 1. With Regard to the public health, safety and general welfare, the Technical Committee submits the following findings:

The Technical Review Committee finds that, as conditioned the development has made adequate provisions for public health, safety, and general welfare.

2. With regard to open space, parks and playgrounds the Technical Review Committee finds the following:

Seventy-five percent of the parent parcel will be set aside as reserve area and the cluster lots are all over one acre in size.

The Technical Review Committee finds that, as conditioned, the development has made adequate provisions for open space, parks and playgrounds.

3. With regard to streets or roads, alleys, other public ways and transit stops, the Technical Review Committee finds the following:

Lots 1 through 5 of this plat shall be served by the private interior access with an easement to Birch Bay Lynden Road.

The Technical Review Committee finds that the development will be adequately served by roads, subject to implementation of the conditions proposed by the Division of Engineering.

4. With regard to drainage Technical Review Committee finds the following:

An engineered stormwater report is required prior to construction of the subdivision.

5. With regard to schools the Technical Review Committee finds the following:

The applicant submitted a will-serve letter for this from the Blaine and Ferndale School District; therefore, the Technical Review Committee has determined that the proposal is providing adequately for schools.

6. With regard to compliance with the relevant polices of the Whatcom County Comprehensive Plan the Technical Review Committee finds the following:

The Whatcom County Comprehensive Plan adopted in May of 1997 applied the Rural designation to the subject site. Applicable goals of the Rural designation are as follows:

Goal 2DD: Retain the Rural character and lifestyle of Whatcom County

Policy 2DD- 4: Support cluster housing in rural subdivisions.

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- 2 Allow development in rural areas only when urban services are not required.

The Technical Review Committee finds the proposal is in compliance with the relevant policies of the Whatcom County Comprehensive Plan.

- ii. The proposal is in conformity with the Whatcom County Comprehensive Plan, applicable land division, zoning, critical areas, shoreline management, other land use regulations and Chapter 58.17 RCW.

As analyzed previously in this report, the Technical Review Committee finds that the project is in compliance with Title 20 and Title 21 and all other applicable land use controls.

The Technical Committee has determined that, as conditioned, the project meets the requirements of WCC Title 21.

H. Health Code (Title 24)

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

The Whatcom County Health Department submitted a memo dated April 24, 2009 with the following comments.

Sewage:

- An On-site Sewage System (OSS) subdivision application has been approved by WCHD. In addition, proposed drainfield locations have been identified over the approved soils, meeting setbacks to property lines. There will be no further requirements prior to final plat approval.

Drinking Water:

- The proposed Group B water system has received design approval from WCHD. Prior to final plat approval, the water system must be constructed and receive final approval from WCHD.

NOTE: Care needs to be taken during road and utility installation to prevent disturbance of proposed OSS sites.

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

VIII. RECOMMENDATION

The Technical Review Committee has determined that subject to the following proposed conditions, the project would comply with applicable Whatcom County and Washington State regulations.

As stated above the Technical Review Committee recommends approval of the Long Subdivision application, subject to the following conditions:

IX. CONDITIONS OF APPROVAL

A. Planning Division

1. The use and location on the site shall not be amended or changed in any way without further approval of the Whatcom County Hearing Examiner.
2. Signage for the site shall be limited to one site identification sign at the entrance to the site, per WCC 20.80.470 (4). The subject sign shall be limited to 64 square feet.
3. No sign shall be located closer than 10-feet to any right-of-way, per WCC 20.80.410 (1). A building permit shall be obtained for any sign installed on the site.
4. Approval of this preliminary subdivision shall become invalid unless a final plat is submitted in proper form for final plat approval within seven years of the date of preliminary subdivision approval. This expiration date may be extended pursuant to WCC 21.05.030(5).
5. An applicant requesting final approval of a subdivision shall submit to the administrative official copies of the materials and fees specified in WCC 21.06.050, and the request shall be accompanied by a statement from the county engineer that Whatcom County has accepted as complete all on-site and off-site improvements required by the conditions of preliminary plat approval, or has received cost estimates and performance guarantees to assure completion thereof.
6. The applicant shall obtain all necessary permits prior to construction.
7. The applicant shall provide written verification from Bonneville Power Authority (BPA) for the use of the access easement prior to construction of the

subdivision improvements.

8. The following cluster subdivision provisions shall apply and be shown on the face of the plat:

CLUSTER NOTES:

1. THIS FIVE (5) LOT LAND DIVISION HAS BEEN APPROVED AS A CLUSTER SUBDIVISION PURSUANT TO WHATCOM COUNTY CODE TITLE 20.36. THE FOLLOWING NOTES SHALL BE CONSIDERED A DEED RESTRICTION AND SHALL CONSTITUTE A BINDING AGREEMENT BETWEEN WHATCOM COUNTY AND ALL PRESENT AND FUTURE OWNERS OF RECORD. SAID NOTES SHALL BE INCLUDED WITHIN ALL DEEDS AND CONTRACTS OF CONVEYANCE AND MAY ONLY BE AMENDED BY MUTUAL AGREEMENT BETWEEN SAID PARTIES PURSUANT TO THE ZONING IN EFFECT AT THE TIME. ANY ALTERATION OF THE RESERVE TRACT, BOUNDARIES OR CLUSTER NOTES PURSUANT TO WCC TITLE 21.06.030 REQUIRES THE REVIEW AND FILING FOR RECORD OF A NEW ORIGINAL DRAWING.
2. LOT(S) 1, 2, 3 AND 4 HAVE BEEN DESIGNATED AS THE CLUSTERED LOT(S) AND ARE SUBJECT TO THE FOLLOWING RESTRICTIONS:
 - A. EACH CLUSTERED LOT HAS BEEN ASSIGNED ONE DENSITY.
 - B. EACH CLUSTERED LOT MAY BE UTILIZED FOR THE CONSTRUCTION OF ONE, SINGLE FAMILY DWELLING UNIT.
3. LOT 5 HAS BEEN DESIGNATED AS THE RESERVE TRACT AND IS SUBJECT TO THE FOLLOWING RESTRICTIONS:
 - A. LOT 5 HAS BEEN ASSIGNED ONE (1) DENSITY AND MAY BE UTILIZED FOR THE CONSTRUCTION OF ONE SINGLE FAMILY DWELLING UNIT.
 - B. BASED ON DENSITY CALCULATIONS MADE FOR THE ORIGINAL 27.32 ACRE PARENT PARCEL LOCATED WITHIN THE R-5A ZONE, THE RESERVE TRACTS HAS NO REMAINING RESIDENTIAL DENSITIES.
 - C. THE RESERVE TRACTS SHALL NOT BE FURTHER DIVIDED IN ANY MANNER EXCEPT AS MAY BE PROVIDED BY W.C.C. 20.36.320 OR AS AMENDED IN THE FUTURE.
 - D. THE RESERVE TRACTS MAY BE RETAINED BY THE SUBDIVIDER, CONVEYED TO THE RESIDENTS OF THIS SHORT PLAT, OR CONVEYED TO A THIRD PARTY.
 - E. THE RESERVE TRACTS CONTAIN 75% OF THE GROSS AREA OF THE PARENT PARCEL (APPROXIMATELY 20 ACRES). AS THIS PROPERTY IS SUBJECT TO THE RURAL ZONE, ANY FUTURE ALTERATIONS, AMENDMENTS, OR ADJUSTMENTS TO ANY PART OF THIS PLAT SHALL NOT RESULT IN THE MINIMUM RESERVE AREA (TRACT) BEING REDUCED BELOW THE MANDATORY 75% REQUIREMENT.
9. No land comprising any part of a proposed land division in the unincorporated area of Whatcom County shall be sold, leased, or offered for sale or lease unless approved under this title. Any person being the owner or agent of the owner of such land who shall sell, lease, or offer for sale or lease any lot or portion thereof shall be guilty of a gross misdemeanor. Each sale or lease, or offer for sale or lease shall be a separate and distinct offense for each separate

lot or portion of said land, pursuant to WCC 21.11.010.

B. Health Department

1. The applicant shall comply with the conditions of the Whatcom County Health and Human Services Department in the memo dated May 28, 2010, unless modified by that Department or appealed to the appropriate agency.
2. Water: The proposed Group B water system has received design approval from WCHD. Prior to final plat approval, the water system must be constructed and receive final approval from WCHD.
3. Sewage: An On-site Sewage System (OSS) subdivision application has been approved by WCHD. In addition, proposed drainfield locations have been identified over the approved soils, meeting setbacks to property lines. There will be no further requirements prior to final plat approval.

NOTE: Care needs to be taken during road and utility installation to prevent disturbance of proposed OSS sites.

C. Natural Resources Division

1. Critical Areas Administrator

- a. The following note shall be placed on the face of the plat:

CRITICAL AREAS ORDINANCE (CAO) NOTE:
THIS LONG SUBDIVISION HAS BEEN REVIEWED ACCORDING TO THE CRITICAL AREAS ORDINANCE, WHATCOM COUNTY CODE TITLE 16, CHAPTER 16.16 ADOPTED PURSUANT TO ORDINANCE 2005-00068. NO REGULATED CRITICAL AREAS WERE IDENTIFIED WITHIN THIS LONG SUBDIVISION AS OF APRIL 2006.

2. Watersheds Administrator

- a. The applicant shall comply with all of the conditions of the Critical Areas Administrator in the memo dated October 20, 2009, unless modified by the Critical Areas Administrator or appealed to the appropriate agency.
- b. A TESC plan shall be reviewed and approved by the Watersheds Staff prior to beginning any clearing activity. ESC measures shall be inspected when installed. Depending on the site this inspection may occur prior to, during, or after land disturbance. Call Watersheds staff to arrange inspection. Details for submittal are found in the Whatcom County Development Standards Chapters 2 and 3. The plan shall contain a site plan and narrative including, but not limited, to the following components:
- c. A ESC preconstruction meeting is required with representatives of Whatcom County PDS, Whatcom County Engineering, the Project Engineer, and Contractor in attendance.

- d. TESC Site Plan (drawn to scale) must include the following information:
- 1) Depiction of all areas where soil disturbance will occur
 - 2) Depiction of all areas where vegetation is to be removed. Clearing activity limits shall be marked and inspected on site.
 - 3) Depiction and description of the type and location of ALL TESC BMPs to be utilized on site
- e. The TESC Site Plan is required to be prepared by a Professional Civil Engineer, licensed in the State of Washington unless Whatcom County Public Works determines that engineered road plans are not required. If engineered road plans are not required, a non-engineered TESC plan must be submitted prior to any earthwork.
- f. A WA DOE NPDES Stormwater General Permit may be required (for cumulative land disturbance one acre or greater). Contact Department of Ecology at 360.738.6250 for more info.
- g. The TESC Maintenance Plan must include a narrative describing, in detail, the TESC BMP maintenance plan. BMPs shall be inspected and reinstalled, if necessary, after each phase of construction. The BMP maintenance plan shall include each anticipated inspection and the position title of the staff responsible for performing the maintenance.
- h. The TESC Maintenance Plan is required be prepared by a Professional Civil Engineer, licensed in the State of Washington unless Whatcom County Public Works determines that engineered road plans are not required. If engineered road plans are not required, a non-engineered TESC maintenance plan must be submitted prior to any earthwork.
- i. Street Sweeping Plan. In order to protect surface waters and stormwater conveyance systems all streets shall be kept free of sediment for the duration of construction including subsequent development of individual lots. Street sweeping shall be conducted on a regularly scheduled basis.
- j. A narrative describing the equipment, the disposal of sediment, and frequency of sweeping shall be submitted prior to final plat approval
- k. The Street Sweeping Plan is required to be prepared by a Professional Civil Engineer, licensed in the State of Washington
- l. Pumping Plan for Sediment or Storm Water Pond. Provide a narrative describing, in detail, measures planned to ensure capacity of the pond during the wet season. These may include but are not limited to: pumping turbid water to a truck and removing it from the site to another approved site, pumping turbid water to an approved dispersion/ infiltration system on

or off site. The name, contact info, and contract for pumping services contractor shall be on file with the technical administrator.

- m. The Pumping Plan is required to be prepared by a Professional Civil Engineer, licensed in the State of Washington
- n. The following note shall be placed on the face of the plat:

DRAYTON HARBOR AND BIRCH BAY WATERSHEDS

STORMWATER SPECIAL DISTRICT AND WATER RESOURCE SPECIAL MANAGEMENT AREA NOTE:

THE LOTS WITHIN THIS PLAT ARE LOCATED IN AN AREA DESIGNATED AS A STORMWATER SPECIAL DISTRICT AREA AND WATER RESOURCE SPECIAL MANAGEMENT AREA. ANY DEVELOPMENT OF SAID LOTS SHALL BE SUBJECT TO THOSE REGULATIONS PURSUANT TO WCC 20.80.636 AND WCC 20.80.735.

D. Building Division

1. The applicant shall comply with the conditions of the Whatcom County Chief Plans Examiner in the memo dated May 26, 2010 unless modified by the Chief Plans examiner or appealed to the appropriate agency.
2. A building permit is required at the initial site development stage of the project for any proposed nonexempt structures or buildings. See the applicable code sections of current codes (current code as of submittal is, 2006 International Building Code (IBC), Section 105.2) regarding nonexempt structures.
3. A Washington State Professional Engineer may be required to engineer applicable portions of any proposed nonexempt structures or buildings.
4. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County.
5. Nonexempt structures may include fences, retaining walls, concrete vaults and other poured-in-place concrete structures, some retention/detention structures, bridges, permanent signs and the like.
6. All information, details, conditions and specifications which determine the building envelope for each individual lot, including but not limited to easements, setbacks, critical areas buffers, etc., shall be clearly indicated on the face of the checkprints.
7. Plans that may be required for proposed structures for given project may include but not be limited to. (Suggested scales)
 - a. Site plan (1/10th scale)
 - b. Foundation plan (1/4" =1' scale)

- c. Floor plan (plan views) (1/4" = 1' scale)
- d. Elevation plans (1/4" = 1' scale)
- e. Structural plans (1/4" = 1' scale)
- f. Section views (1/2" = 1' scale)
- g. Details (special construction and or connections) (1/2" = 1' scale)

E. Fire Marshal

1. The applicant shall comply with the conditions of the Whatcom County Deputy Fire Marshal in the memo dated October 6, 2009 unless modified by the Deputy Fire Marshall or appealed to the appropriate agency.
2. Fire flow required. Fire flow shall be a minimum 500 gpm at 20 psi to the most hydraulically remote hydrant on the system. Separate permit will be required for the installation of the fire flow system.
3. Fire department access shall meet the requirements of the Whatcom County Development standards for roads.
4. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County.

F. Public Works – Engineering Division

1. The applicant shall comply with the conditions of the Whatcom County Engineering Division in the memo dated May 25, 2010 unless modified by the Engineering Division or appealed to the appropriate agency.
2. All development shall comply with Whatcom County Development Standards and be inspected and/or approved by Whatcom County Engineering.
3. Sight distance at entrance to the access road shall meet Whatcom County Development Standards.
4. A current preliminary traffic analysis has been submitted and an Exemption from Concurrency Evaluation determination has been made. No Traffic Study will be required by Whatcom County.
5. Whatcom County agrees with the applicant that the roads should be private. However, the applicant will need to show that all the criteria in 505.E of the Whatcom County Standards can be met. The roads may be built to Whatcom County Private Rural Road standards with approved turnaround and paved apron at Birch Bay Lynden Road with the private road criteria met.
6. All signing and striping shall be installed per MUTCD standards at the developer's expense.

7. A current Preliminary Storm Drainage Report has been submitted. However, 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 for this subdivision.
8. Provision for maintenance of private stormwater system will be required as set forth in Whatcom County Development Standards, Chapter 2, Section 220.
9. A Revocable Encroachment Permit will be obtained for work within the county right of way. A land disturbance permit will be required for any work within the adjacent property.
10. Erosion control plans shall be submitted and approved prior to any clearing or grading on the site.
11. All easements, any physical appurtenances such as fences or structures which may indicate encroachment, lines of possession, or conflict of title must be shown on the final mylar. [WAC 332-130-050(1)(b)]
12. Road name proposals for all roads must be submitted for approval. A map at 1"=400' scale of the lots shall be provided to Whatcom County Engineering for address assignment. Address fee shall be paid prior to recording.
13. All road, 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. As-built road plans and a letter of certification from a licensed engineer must be submitted to the County Engineer prior to acceptance of any roads into the County Road System.
14. Developer shall provide a plat layout to the post office to get approved mailbox location(s).

Report prepared for the Technical Review Committee by:

Amy Keenan, AICP
Senior Planner