

WHATCOM COUNTY HEARING EXAMINER

RE: Zoning Conditional Use Permit ) CUP2010-0007  
Application for )  
 )  
*Heather Veenstra* ) FINDINGS OF FACT,  
 ) CONCLUSIONS OF LAW,  
 ) AND DECISION

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**SUMMARY OF APPLICATION AND DECISION**

Application: The Applicant is requesting a Zoning Conditional Use Permit to authorize the construction and operation of a commercial dog kennel for the purposes of boarding and breeding dogs. Up to 56 dogs will be housed in three (3) new buildings proposed for a 13.36 acre site, located at 5891 Olson Road, Ferndale, Washington.

Decision: The requested Zoning Conditional Use Permit is approved, subject to Conditions of Approval.

**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: Heather Veenstra  
Property Owner: Heather Veenstra  
Site Location/Address: 5891 Olson Road  
Ferndale, WA 98248

Site is located ¼ mile west of the City of Ferndale and its associated Urban Growth Area; north of Mountain View Road, south of Thornton Road, and east of Barr Road.

Legal Description: A Portion of the Northeast ¼ of the Southeast ¼ of Section 23, Township 39N, Range 1E, W.M.; more specifically, Lot 4 of the R and S Cluster Short Plat as recorded under Auditor’s File No. 1990903101.

Assessor’s Parcel Number(s): 390123 465220

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

Comprehensive Plan: Rural

Subarea: Cherry Point Ferndale Subarea

Total Acreage: 13.36 acres

Roads: Public

Water Supply: Private Well

Sewage Disposal: On Site Sewage System

Solid Waste Disposal: On Site Collection Tank/Baker Septic Tank Pumping

Fire Protection: Whatcom County Fire District No. 7

Law Enforcement: Whatcom County Sheriff’s Office

Public Schools: Ferndale School District No. 502

Topography: The site is described as partly level with a grade bench that quickly drops off into a gently sloping terrain to the west featuring two small ponds.

Vegetation: The western portion of the site abutting Olson Road consists of a cultivated field. The site includes two (2) small ponds. A row of deciduous and evergreen trees is situated at the southern property line, and a small grove of deciduous trees is located on the westernmost portion of the site. The residential home site is landscaped with lawn, shrubs, and fruit trees.

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

Easements: As recorded under WC Auditor's file #'s 1378942; 1990903102; and 1991002027

SEPA Review: SEPA (WAC 197-11) Determination of Non-significance issued July 20, 2010.

AUTHORIZING CODES, POLICIES, PLANS, AND PROGRAMS:

Revised Code of Washington Chapter 36.70

Whatcom County Comprehensive Plan.

Whatcom County Code, Title 14, Use of Natural Resources

Whatcom County Code Chapter 15, Building Code

State Environmental Policy Act (SEPA). Washington Administrative Code Chapter 197-11, Whatcom County Environmental Policy Administration Chapter 16.08

Whatcom County Code Chapter 16.16, Critical Areas

Whatcom County Code, Title 20, Official Whatcom County Zoning Ordinance

Whatcom County Code, Title 24, Environmental Health Regulations

Legal Notices: Posted – September 2, 2010  
Mailed – August 29, 2010  
Published – April 21, July 20 and September 2, 2010

Hearing Date: September 15, 2010

Parties of Record:

Heather Veenstra  
5891 Olson Road  
Ferndale, WA 98248

Doug Scoggins  
Pioneer Post Frame Inc.  
PO Box 2965  
Ferndale, WA 98248

Brian and Jan Wilson  
2986 Amber Lane  
Ferndale, WA 98248

Nathan Graf  
2957 Amber Lane  
Ferndale, WA 98248

Ron Young  
1198 Northwind Circle  
Bellingham, WA 98226

Louise Sager  
5659 Olson Road  
Ferndale, WA 98248

Henry Razazi  
Khadijeh Sadr Mohammadi  
5866 Olson Road  
Ferndale, WA 98248

Walter Haugen  
5890 Barr Road  
Ferndale, WA 98248

Mike Mehler  
2989 Amber Lane  
Ferndale, WA 98248

Erin Osborn  
Planning and Development Services

Sanja Barisic  
Division of Engineering

Exhibits:

- 1 Land Use Application
  - 1-1 Supplemental Application
  - 1-2 Determination of Completeness, dated April 16, 2010
  - 1-3 Address Labels
  - 1-4 Preliminary Stormwater Proposal
  - 1-5 Revocable Encroachment Permit Application
  - 1-6 Form Memo to Tech Committee, April 21, 2010
  - 1-7 Form Letter to Property Owners, April 21, 2010
  - 1-8 PDS Questionnaire Form
  - 1-9 Preliminary Traffic & Concurrency Information
  - 1-10 Easement and Deed info
  - 1-11 R and S Cluster Short Plat, Surveyor's Certificate, June 1999
  - 1-12 Hearing Examiner Checklist, dated April 21, 2010
- 2 Staff Report, dated September 8, 2010

- 3 Aerial Photo
- 4 Vicinity Map
- 5 Zoning Map
- 6 Site Drawing, showing 2 existing access points off Olson Road
- 7 Health Department Public Water Availability Notification, March 4, 2010
- 8 On-Site Sewage Disposal Construction Permit, August 24, 1999
- 9 Contract for Septic Service-unsigned
- 10 Site Plans,
  - 10-1 Angelbaby Pet Resort, Design Plan
  - 10-2 Landscape Plan
  - 10-3 Revised Floor Plan, July 2010
  - 10-4 Site Plan, April 28, 2010
- 11 DNS, dated July 20, 2010
- 12 Legal Notice of Application, dated April 21, 2010
- 13 SEPA Legal Notice, dated July 20, 2010
- 14 Certificate of Mailing of Notice of Public Hearing, August 29, 2010
- 15 Certificate of Posting, September 2, 2010
- 16 Legal Notice of Public Hearing, September 2, 2010
- 17 Correspondence between Staff and Applicant
- 18 Public Comments
- 19 Staff Comments
- 20 Site Photos
- 21 Preliminary Stormwater Site Plan, June 16, 2010, prepared by Ronald Jepson & Assoc
- 22 Stormwater Site Plan, July 16, 2010, prepared by Ronald T. Jepson & Associates

- 23 Certificate of Mailing of Notice of Application, April 21, 2010
- 24 Letter of Concern, dated September 10, 2010
- 25 Letter of Concern, dated September 12, 2010 from Toni Lyons and Walter Haugen
- 26 Letter dated September 13, 2010 from Steve and Serena Leibrant
- 27 Jan Wilson’s Testimony presented at public hearing
- 28 Petition to Deny with Legend showing property owners’ locations
- 29 Letter dated September 13, 2010 from Ken and Louise Sager
- 30 Letter, April 28, 2010 to Mr.& Mrs. Graf from Kurt Swanson, Windemere Real Estate
- 31 Two site photos [stapled together]
- 32 One sheet showing three photos of Habib Razazi home across Olson Rd from bldg site
- 33 Bundle of Photos, “The Rural Pastoral Setting and View”
  - 33-1 Existing Pole Building
  - 33-2 Existing Kennel locations in Bellingham
  - 33-3 The Real Estate Values
- 34 Three sheets of photos showing Olson Road and Amber Lane properties
- 35 Booklet of Site Photos, submitted by Kenneth Sager
  - 35-1 Letter dated September 1, 2010 from Bob Hunter and Janet Goodfellow, Muljat Group Realtors, to Louise and Ken Sager re: property values
- 36 Amendment to By-Laws of North Star Water Association
- 37 By-Laws of North Star Water Association, Nonprofit
- 38 Site Photos showing demolished and new structures and proposed design
- 39 Aerial Photos showing neighboring properties to proposed site

## **II.**

The Applicant is requesting Zoning Conditional Use Permit Approval for the proposed construction of three new pole buildings to house a proposed dog kennel on a 13.36 acre site, zoned

Rural and located on Olson Road.

The project includes removal of three accessory older buildings totaling approximately 9,500-square feet. These buildings will be replaced with three new pole buildings containing approximately 9,000-square feet. The new buildings are to house a dog kennel operation, consisting of breeding of dogs as well as the temporary boarding of dogs for off-site individuals.

### **III.**

The Technical Review Committee of Whatcom County Planning and Development Services has reviewed the proposal in a 20-page Staff Report. The Technical Committee has recommended approval of the project subject to six-pages of conditions. The description of the proposal and the surrounding area and uses set forth in the Staff Report accurately describes the proposal and neighboring area. This description is adopted by the Hearing Examiner as Findings of Fact herein by this reference. The Staff Report, Exhibit No. 2 in the Hearing Examiner file is attached hereto.

### **IV.**

This proposal has significant opposition from residents and/or property owners in the general vicinity of the site. There are two single-family residences located across Olson Road from the site of the proposed buildings. These residences will be located from 100-feet to 150-feet from the newly constructed buildings. Otherwise, the nearest residences to the actual buildings will be approximately 400-feet, or more, away.

Planning Department Staff reviewed the numerous concerns expressed by the community about this project; addressed these concerns with specific conditions; and concluded that, subject to conditions, the proposed kennel business could be constructed and operated in a manner consistent with the Conditional Use Criteria. The project was reviewed by Staff of Whatcom County Planning and Development Services, the Whatcom County Health Department, the Whatcom County Building Services Division, the Whatcom County Fire Marshal, and the Engineering Division of Whatcom County Public Works. All County Agencies concluded that, subject to specific conditions, the requirements of the Whatcom County Code administered by the various departments and divisions could be met. This resulted in the Technical Committee's Recommendation of Approval, subject to extensive and numerous conditions.

### **V.**

The Whatcom County SEPA Official reviewed the project and issued a Threshold Determination of Environmental Nonsignificance, after concluding that potential significant impacts from the proposed kennel operation could be adequately mitigated through conditions imposed based on existing County regulations. There was no appeal of the SEPA Determination.

## **VI.**

The existing buildings will be replaced with new pole buildings. The new buildings incorporate roof styles, along with windows and doors which make them aesthetically pleasing and appropriate in appearance for a Rural zone setting. The buildings being replaced include two older, steel pole buildings which are rusted and in poor condition, and an older, poorly maintained, stick-built structure. The site will be more visually appealing after the demolition of existing buildings and their replacement with the new proposed buildings. The proposed buildings are similar to accessory buildings widely found in both the Rural and Agricultural zones and mimic characteristics of residential structures in the zones.

## **VII.**

A kennel operation could have adverse impacts on the ability of property owners in the general vicinity to enjoy the use of their property if noise is not adequately dealt with. Whatcom County has adopted the Noise Regulations set forth in the Washington Administrative Code and, at a minimum, the Applicants will be required to meet those standards. Additionally, the dogs will be confined within the walls of the three buildings proposed except during the transportation of the dogs between the buildings or during delivery or pick-up of the animals. The proposed buildings will be insulated and a Condition of Approval imposed by the Hearing Examiner will require that the kennel be operated in accordance with Conditional Use Criteria 6 of WCC 20.84.220, which reads as follows:

20.84.220

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

Whatcom County Planning and Development Services has enforcement capabilities. Fines can be imposed and permits can be revoked if the conditions of the permit are not met.

## **VIII.**

The Division of Engineering of Whatcom County Public Works has indicated that improvements to Olson Road along the length of the Applicants' property, plus the installation of a commercial paved apron, are required. Subject to compliance with these requirements, Engineering has concluded that the traffic impacts from the proposal will be properly mitigated and that the approaches to the property will be designed in a manner which will not create interference for traffic on surrounding public streets. Olson Road itself is easily capable of handling the additional moderate level of traffic that will be generated by this business.



## **IX.**

The report from the Technical Committee, Exhibit No. 2, a copy of which is attached hereto, contains Staffs' individual analysis of the concerns raised by members of the public and states the basis for Staffs' conclusion that, subject to the Conditions of Approval recommended, this project can be constructed and operated in a manner which will not have significant adverse impacts on the surrounding community. After a review of the entire file, a site visit, and consideration of the testimony at the hearing, the Hearing Examiner concurs with the conclusions reached by the Technical Committee.

## **X.**

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.**

A carefully conditioned dog kennel which does not result in significant impacts on surrounding property owners is consistent with the Whatcom County Comprehensive Plan. Much of the Rural zone in Whatcom County consists of single-family residences on acreage-size parcels, agricultural uses, and scattered low-impact commercial activity.

The Whatcom County Comprehensive Plan makes it clear that the Rural zone is a Mixed-Use zone and that certain Commercial Uses, when adequately conditioned, are appropriate in the Rural zone. The Staff Report specifically lists some of the Goals and Policies of the Plan, which support the creation of employment opportunities in the rural parts of Whatcom County, support small business, resource-based, commercial uses, including agriculture, and along with other appropriate light industrial uses in the Rural zone.

The proposed dog kennel, if constructed and operated in a manner consistent with the Conditional Use Criteria, the Goals of the Whatcom County Comprehensive Plan, and the Conditions of Approval will in fact be consistent with the Whatcom County Comprehensive Plan.

A number of the comments from concerned citizens suggested that a commercial use, or this use in particular, was not appropriate in the Rural zone. However, the Comprehensive Plan and Zoning Regulations, in fact, allow and encourage commercial uses of certain types in the Rural zone.

#### **II.**

The Whatcom County Zoning Ordinance specifically allows commercial dog kennels as a Conditional Use within the Rural District. WCC 20.36.156

Kennel is defined in the Zoning Ordinance, WCC 20.97.191, to include commercial establishments involved in the breeding and boarding of dogs. This proposal meets the definition of kennel and can be conditionally approved at the proposed location.

### III.

The Technical Committee has reviewed the specific development standards applicable to the proposed site development, including setbacks, lot coverage, and height limitations, and has concluded that the proposal, as designed, will meet all of these requirements.

### IV.

All commercial development allowed by Conditional Use within the Rural zone is required to prepare and present a landscaping and parking plan pursuant to and consistent with WCC 20.80.300. These requirements are a Condition of Approval for this proposal.

### V.

Numerous concerns were raised in regard to the handling of dog waste and the potential for pollution of either surface waters in the general area or the aquifer. Recommended Conditions of Approval require a Solid Waste Management Plan approved by the Whatcom County Health Department. Animal waste will not be introduced into an onsite septic system. Animal waste will be contained within the building and transported offsite for handling according to existing Health Regulations and the required Solid Waste Management Plan.

### VI.

A significant amount of citizen testimony along with numerous written comments were received and indicate a high level of concern about the potential adverse impacts of a kennel business on property values within the general area. Staff pointed out that the replacement of the somewhat dilapidated and rusted accessory buildings on site with the new proposed, aesthetically attractive pole buildings would be a positive for property values.

The Hearing Examiner agrees with the surrounding community that if the kennel is not operated as proposed, subject to the Conditions of Approval, and in a manner which is consistent with the Conditional Use Criteria, an adverse affect on property values is possible. The Hearing Examiner concludes that if the dog kennel is operated as proposed and consistent with the numerous conditions, the proposed use should not have a negative impact on the value of surrounding properties. A kennel which creates a nuisance will adversely impact the area, but one which is carefully constructed and operated will not.

The Hearing Examiner believes that a modest negative impact on the value of surrounding properties is not of and in itself a reason to deny a Conditional Use Permit. Paragraph 5 of WCC 20.84.220(5) indicates that a Conditional Use not be detrimental to the “**economic welfare of the**

**community.”** This is a broader view of economic impacts which goes beyond possible impacts on property values. Increased development is often allowed, even though current residents of an area believe that their property values would be higher if the development were denied. To some degree, a diminution in value is a byproduct of allowed, new development. However the economic welfare of the community includes the creation of business opportunities and employment. The Whatcom County Comprehensive Plan specifically encourages business and job creation in the Rural zone, including dog kennels, where negative impacts are appropriately minimized.

If this kennel is properly managed so that it does not have offsite impacts related to the production of noise, smoke, fumes, glare, or odors, the only remaining impacts would be a result of traffic and visual adverse impacts. The Hearing Examiner finds no convincing evidence that the proposal would have significant traffic impacts on the surrounding area and specifically concludes that the proposed replacement of the existing accessory structures with the new pole buildings would be an aesthetic improvement to the area. Additionally, approval of the proposal allows the Applicants to use their Rural zoned property in a manner which provides them economic benefits and which creates job opportunities.

## VII.

The Hearing Examiner concludes that, subject to the Conditions of Approval recommended by Staff, and the addition of a general condition proposed by the Hearing Examiner requiring that the business be operated in the future in a manner consistent with the Conditional Use Criteria, the proposed development will have modest impacts, at most, on surrounding properties, and will be consistent with the requirements for a Zoning Conditional Use Permit.

## VIII.

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

*The Whatcom County Hearing Examiner hereby grants a Zoning Conditional Use Permit, CUP2010-0007, to Heather Veenstra, approving the Applicant's request for a permit to authorize the operation of a commercial dog kennel on a 13.36-acre site, located at 5891 Olson Road, Ferndale, Washington, for the purposes of boarding and/or breeding operations for dogs, to house no more than 56 dogs at the site, subject to the following conditions:*

1. The Applicant shall comply with all of the Conditions of Approval recommended by the Technical Review Committee in the Staff Report, Exhibit No. 2 in the Hearing Examiner file, a copy of which is attached hereto.
2. The Applicant shall operate the proposed kennel in a manner which keeps it with consistent with the Conditional Use Criteria of WCC 20.84.220(3) and (6).

3. The Applicant shall complete construction or, if no construction is contemplated as a part of this permit, shall demonstrate compliance with all of the conditions of this permit within 24 (twenty-four) months of the date of the issuance of this decision. Failure to complete construction or demonstrate compliance shall result in the expiration of this permit. Substantial progress toward completion may satisfy the terms of this condition if approved by Whatcom County Planning & Development Services and the Hearing Examiner. The applicant or permit holder may apply for an extension for a term of up to one year upon a showing that substantial progress has been made toward completion or compliance. An extension shall be granted if the Hearing Examiner finds that the applicant or permit holder will suffer a substantial hardship if the extension is denied. The Hearing Examiner may grant an extension for any other good cause shown, in his discretion, but extraordinary circumstances must be shown to obtain an extension of more than one year. The Hearing Examiner shall obtain the comments of Whatcom County Planning & Development Services before granting any extension.

#### NOTICE

This approval is subject to all of the above-stated conditions. Failure to comply with them may be cause for its revocation. Complaints regarding a violation of the conditions of this permit should be filed with Whatcom County Planning and Development Services. The Hearing Examiner may not take any action to revoke this approval without further public hearing.

Violations of this title shall constitute Class I civil infractions pursuant to RCW 7.80.120. The maximum penalty and the default amount for such violations shall be consistent with Chapter 7.80.RCW.

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

This action of the Hearing Examiner is final. The following review procedure is available from this decision and may be taken by the applicant, any party of record, or any County department.

Appeal to County Council. Within ten business days of the date of the decision a written notice of appeal may be filed with, and all required filing fees paid to, the Whatcom County Council, Courthouse - 1st Floor, 311 Grand Avenue, Bellingham, WA 98225. The appeal notice must state either:

- 1) The specific error of law which is alleged, or
- 2) How the decision is clearly erroneous on the entire record.

More detailed information about appeal procedures is contained in the Official Zoning Ordinance at Section 20.92.600-.830. A copy of this document is available for review at the County Council Office.

After an appeal has been filed and the Council office has received the hearing record and transcript of the public hearing, the parties will be notified of the time and date to file written arguments.

DATED this 30<sup>th</sup> day of September 2010.

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Michael Bobbink, Hearing Examiner

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



**J.E. "Sam" Ryan**  
Interim Director

## WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

September 8, 2010

The application of <b>Heather Veenstra</b>		CUP2010-00007
for a Zoning Conditional Use Permit		FINDINGS, CONCLUSIONS, AND
		RECOMMENDATIONS

### **I. SUMMARY OF APPLICATION AND RECOMMENDATIONS**

Summary: The applicant is requesting a zoning conditional use permit to authorize the operation of a commercial kennel consisting of three (3) new buildings to be constructed on a 13.36 acre site located at 5891 Olson Road for the purposes of boarding and breeding operations to house a total of 56 dogs at the site.

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

### **II. PRELIMINARY INFORMATION**

#### **A. BACKGROUND INFORMATION**

Applicant: Heather Veenstra  
5891 Olson Road  
Ferndale, WA 98248

Property Owner: Heather Veenstra  
5891 Olson Road  
Ferndale, WA 98248

Authorized Agent: Pioneer Post Frame Inc.  
PO Box 2965  
Ferndale, WA 98248

Site Location/Address: Site address: 5891 Olson Road. Site is located ¼ mile west of the City of Ferndale and its associated Urban Growth Area; north of Mountain View Road, south of Thornton Road, and east of Barr Road.

Legal Description: A Portion of the Northeast ¼ of the Southeast ¼ of Section 23, Township 39N, Range 1E, W.M.; more specifically, Lot 4 of the R and S Cluster Short Plat as recorded under Auditor's File No. 1990903101.

Assessor's Parcel Number(s): 390123465220

Zoning: Rural District – 1 Dwelling Unit per Five Acres (R5)

Comprehensive Plan: Rural

Subarea: Cherry Point Ferndale Subarea

Total Acreage: 13.36 acres

Roads: Water Public

Supply: Private well

Sewage Disposal: On site sewage system

Solid Waste Disposal: On site collection tank/Baker Septic Tank Pumping

Fire Protection: Whatcom County Fire District No. 7

Law Enforcement: Whatcom County Sheriff's Office

Public Schools: Ferndale School District # 502

Topography: The site is described as partly level with a grade bench that quickly drops off into a gently sloping terrain to the west featuring two small ponds.

Vegetation: The western portion of the site abutting Olson Road consists of a cultivated field. The site includes two (2) small ponds. A row of deciduous and evergreen trees is situated at the southern property line, and a small grove of deciduous trees is located on the westernmost portion of the site. The residential home site is landscaped with lawn, shrubs, and fruit trees.

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

Easements: As recorded under WC Auditor's file #'s 1378942;  
1990903102; and 1991002027

SEPA Review: SEPA (WAC 197-11) Determination of Non-  
significance issued on July 20, 2010.

**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 has applied for a zoning conditional use permit to authorize a commercial kennel consisting of three (3) new buildings to be constructed on a 13.36 acre site located at 5891 Olson Road for the purposes of boarding and breeding a total of 56 dogs on the subject parcel.

The original proposal consisted of a phased approach to development in which demolition of previously existing buildings and new construction on the site would take place over a period of years. When the applicant learned that a two year time frame was typically granted for the completion of the scope of approval, the applicant decided that a phased approach would not be necessary, as the construction activities would be complete as proposed within a two year time period.

Three (3) new buildings (Buildings A, B & C) consisting of a total of 8,592 square feet are proposed to be constructed to house proposed kennel operations of Angelbaby Pet Resort (Veenstra Kennels) which includes boarding and breeding facilities for a total of 56 dogs to be on site at any given time.

The applicant is proposing to board and maintain 32 privately owned animals in the kennel building identified as "Building B" as shown on the site plan submitted on record; 24 of these dogs are breeding stock (19 females & 5 males) with one litter of pups, i.e. 8 puppies on site at any given time to be sold for fee or compensation. The applicant is also proposing to use Building C as an indoor recreational and exercise facility for her privately owned dogs.

An additional 24 dogs are proposed to be housed in Buildings A & C as part of the commercial kennel boarding services. In combination, Buildings A & C will provide both long term and short term housing for the boarding and care of 24 dogs; (short term stay is often termed "doggie daycare"). Animals housed in Building A will be



walked to and from Building C which will be used to provide an indoor play area and exercise area for all dogs housed on site, including the privately owned breeding stock as discussed above.

Building construction as proposed is ranch style barn with gable roof, covered porches and architectural stone exterior wainscoting. The structures are proposed to be insulated for sound control in such a way to meet or exceed commercial kennel industry standards. In addition, each unit will have radiant heat installed in the floors, with ventilation and air conditioning provided in each building. Pet waste will be collected in a tank that is to be pumped at regular intervals under a service contract with treatment of the waste conducted off-site.

As shown on photographs submitted by the applicant, the site was previously developed with two steel sided pole buildings (since demolished) and a stick frame built shop (proposed to be demolished) for a total of 9,569 square feet of structures 'previously' existing. The three new buildings proposed to be constructed, identified as Building(s) A, B & C and are located a minimum of 50' back from the property line abutting the west side of Olson Road. Building C as proposed is a long and narrow structure to be located lengthwise along Olson Road, and is proposed to be screened from view of road with a tree line of mixed deciduous and coniferous trees. Proposed Buildings A & B will be located thirty feet to the west of Building C, just behind the proposed Building C. Facility design includes aggregate walkways joining to make entrance at the rear of Building C and extending north to the designated parking area.

The proposal includes a staff of (2) full time employees. Hours of operation as proposed are 8 am to 6 pm, seven days a week. The applicant proposes that customer traffic is expected to be up to 15 customer visits to site per day, and that all customer visits will be by appointment or reservation. In addition, the proposal states that an average of one (1) delivery truck per day will visit the site. Customer parking will be located in the adequate area provided in the front (north) of the proposed buildings. Signage is proposed as a 6 foot by 30 inch sign, a total of 15 square feet to be installed in the parking area. The signage as proposed will be for directional purposes only, and shall state the name of the facility, the hours of operation including pick-up and drop off times, and also state clearly that customer visits will be by reservation and appointment only.

In summary, the request is to authorize use of the property for a commercial kennel as provided WCC Section 20.36.156 which provides for commercial kennels and stables intended for the boarding or training of domestic animals in the Rural District. The applicant intends to board up to 24 dogs for fee, and also intends to keep 24 privately owned dogs for breeding purposes with 8 puppies on the site for a total of not more than 56 dogs on the site at any given time.

#### **IV. SITE DESCRIPTION**

The subject property is a 13.36 acre site, and is accessed from Olson Road. Property address is 5891 Olson Road, and is Lot 4 of a 4 Lot Cluster Short Plat in the Rural

zoning district. The site is located ¼ mile west of the City of Ferndale and its associated Urban Growth Area. The site is located north of Mountain View Road, south of Thornton Road, and east of Barr Road in Whatcom County.

The site is accessed from the west side of Olson Road by a circular driveway on the northern portion of the site of which the northern arm of said driveway serves an existing residential home site. The residence is landscaped with fruit trees, shrubs and lawn, and is located abutting Private Amber Lane which serves Lots 1, 2 & 3 of the R & S Cluster Short Plat. To the south of the circular driveway there is a small cultivated field and a grade bench that quickly drops off into a gently sloping terrain to the west featuring two small ponds. The residence on the site is rented and is not proposed to be part of the commercial kennel operation at this time. The applicant's future long term goal is to demolish the existing residence and construct a new home and live on the site. The existing shop is proposed to be demolished, in addition to the two former steel sided farm pole buildings which have already been removed.

A short row of deciduous and evergreen trees is situated at the southern property line, and a small grove of scattered deciduous trees are located on the westernmost portion of the site just beyond the small ponds. The site is partially screened from adjacent uses from the south by the existing row of deciduous and evergreen trees. A tree line of mixed deciduous and coniferous trees is proposed along the property line abutting Olson Road which would provide a buffer to screen the proposed commercial use from existing residential and agricultural uses, and from the public road way. Property surrounding the site to the north, south, east and west is zoned Rural (R5). Parcels surrounding the site to the north, south and east are developed with residential homesites with a predominant land use of agriculture, and to the west parcels are developed primarily with residential land use.

## **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 April 21, 2010. The fifteen (15) day comment period ended on May 6, 2010. Notice was also mailed to property owners within 1000 feet of the site on April 21, 2010 with the same 15 day comment period ending on May 6, 2010.

Public Comment: During the public comment period for the Notice of Application, the County received twenty-one (21) written comments. A summary of the comments and a brief response to those comments is listed below:

- Noise from barking dogs
- Increase in traffic
- Impacts to property views (aesthetics)
- Impacts to water quality
- Offensive smells or odors
- A decrease in property values

Planning Development Services Department Planning Division staff reviewed the scope of the potential impacts as addressed in public comment, and in response to those comments requested additional information from the applicant to clarify the following: hours of operation; number of customer visits per day; type of sound insulation provided in each building; heating, ventilation, and air conditioning systems which might alleviate air quality concerns (and type of possible noise generated by such systems) the type of signage proposed and the intent of such signage; how impacts of barking dogs would be mitigated; the means of handling pet feces; and how any proposed structures would be screened from adjacent uses.

In response to the additional information provided by the applicant, staff has proposed conditions agreed to by the applicant to eliminate potential impacts from the noise of barking dogs by proposing that all dogs on site be confined within the insulated interior walls of the three buildings except when being walked to and from the designated exercise building – Building C and to the designated parking area for pick-up or delivery. In addition, in order to alleviate any future public costs associated with dispatch of enforcement to answer potential complaints about noise from barking dogs, the applicant has agreed to post a security bond in the amount of \$1000.00 to be used by the County to hire an independent sound analyst should legitimate complaints be made to indicate that the approved measures to condition impacts were not successful, warranting random review, and further mitigation. This bond is to be maintained for the duration of the approved use. The applicant also agreed to a proposed condition that posted signage would direct customer visits to the site by reservation or appointment only. Traffic impacts have been addressed by Public Works, Engineering Division road improvement requirements. Issues about water quality were raised because of a concern that animal feces would be deposited on site; the applicant clarified that all animal waste will be collected in a sealed tank and transported for treatment off site. A detailed approved landscaping plan will be required that buffers any impacts from the proposed structures and traffic from view of the public. Public comment included professional opinions submitted on behalf of several Parties of Record to indicate that property values would decrease if a commercial kennel were to be located on the site. In response, the property owner/applicant sought opinions from other real estate professionals both of whom indicated that the proposed development might actually enhance property values in the area.

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 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. A Determination of Non-significance (DNS) was issued July 20, 2010. The comment period for this DNS ended on August 3, 2010. No comments were received. The appeal period for this DNS ended on August 13, 2010. No appeals to this determination were filed.

## **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 County's 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. The proposed use that is the subject of this report has been reviewed for consistency with the following goals and policies of the Whatcom County Comprehensive Plan:

**Goal 2FF:** Provide employment opportunities in the rural parts of Whatcom County.

**Policy 2FF-1:** Support small businesses, cottage industries, home occupations, resource-based and other appropriate light industry in the rural areas of Whatcom County.

#### **Whatcom County County-Wide Planning Policies:**

**Goal # 8** – Economic development should be encouraged that: a) does not adversely impact the environment; b) is consistent with community values; c) encourages development that provides jobs to county residents d) addresses industries for a more diversified economic base; e) promotes reinvestment in the local economy; and f) supports retention and expansion of existing businesses.

*The Technical Review Committee finds that the application for a conditional use permit to authorize the establishment of a commercial kennel on a site located within the Rural zoning district is consistent with the relevant Whatcom County Comprehensive Plan goals and policies listed above.*

### **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 zoning district 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 20.97 – Definitions**

**20.97.191 Kennel.** "Kennel" means a commercial establishment in which five or more dogs, cats, or other household pets are housed, groomed, bred, boarded, trained or sold for a fee or compensation.

## **Chapter 20.36 - Rural District**

### **20.36.150 Conditional uses.**

**20.36.156** Commercial kennels and stables intended for the boarding or training of domestic animals.

Listed below are specific code requirements pertaining to site development in the Rural zoning district:

### **20.36.350 Building setbacks.**

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

### **20.36.350 Height limitations.**

Maximum height shall be limited to 35 feet. Height of structures shall also conform to the general requirements of WCC 20.80.675 (Ord. 85-70, 1985; Ord. 84-38, 1984).

### **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.

### **20.36.650 Development Criteria.**

**20.36.652 Use of natural resources.** All discretionary project permits for land on or within one-half mile of the area designated as Agriculture, Rural, Commercial Forestry or Rural Forestry or within 300 feet of an area designated as Mineral Resource Lands in the Whatcom County Comprehensive Plan, or upon which farm operations are being conducted, shall be subject to the right to farm, right to practice forestry and mineral land disclosure policies contained in WCC Title [14](#), Use of Natural Resources. (Ord. 98-083 Exh. A § 44, 1998; Ord. 96-056 Att. A § A2, 1996; Ord. 92-015, 1992).

### **20.36.653 Landscaping.**

Landscaping and parking requirements shall be installed pursuant to WCC [20.80.300](#) (Ord. 89-117, 1989).

### **20.36.654 Parking requirements.**

Parking shall conform to the requirements of WCC [20.80.500](#).

### **20.36.656 Drainage.**

Approval of this application shall be subject to the stormwater management provisions of the Whatcom County Development Standards, unless specifically exempted.

*Building setbacks, off street parking, lot coverage as proposed all meet current regulations; the submitted preliminary draft landscaping site plan is sufficient for review of the conditional use permit, however an approved landscape site plan including proposed signage and lighting will be required to be submitted and reviewed at the time of commercial building permit submittal.*

*The Technical Review Committee has determined that as conditioned, the proposal to operate a commercial kennel that provides boarding facilities for 48 full grown dogs, and 8 puppies, for a maximum total of 56 dogs to be at the site housed in three buildings that are insulated to control sound, with all animals confined within the interior walls of the approximately 8,592 square feet of proposed structures except for transport between and amongst the buildings as proposed meets the requirements of Chapter 20.36 of the Whatcom County Code.*

Whatcom County Code, Section 20.84.200 establishes the role of the Whatcom County Hearing Examiner in approving applications for conditional use permits as provided in the Official Whatcom County Zoning Ordinance. When it is determined by the hearing examiner that such uses meet specific criteria, the hearing examiner may approve such uses, subject to conditions as necessary to ensure that any specific standards of the use district defining the conditional use are fulfilled, and that the criteria applicable to conditional uses are met. The approval criteria that applies to conditional uses and a discussion as to how the proposed use is consistent with those criteria is listed below:

### **20.84.200 Conditional uses.**

#### **20.84.220 (1) through (8) Criteria:**

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

Discussion: The Whatcom County Comprehensive Plan – Rural Lands Section places emphasis on the importance of providing for uses that preserve rural character, and at the same time provide for business opportunities that support the local economy and are compatible with a rural lifestyle. A privately owned commercial kennel operation is in conformance with the Comprehensive Plan goals and policies to allow for a mixture of low density residential uses including home occupations and cottage industries. Comprehensive Plan goals and strategies encourage supporting cottage industries, home occupations and small businesses. It is noted that although the proposed commercial kennel is a small business, it is not a “cottage industry” because the applicant is not currently proposing to live on site, and that the use is otherwise expressly provided as a conditional use; however, in terms of the number

of employees, and the projected traffic pattern, it falls within the parameters set for approval of home based businesses such as cottage industries.

**(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 structures that are proposed to house the proposed kennel operations have been designed and will be constructed in a manner that is consistent with the appearance of other structures found within the general vicinity. The three proposed kennel buildings are of a typical ranch house style construction with covered porches extending from the main body of the building, shingled gable ends, and architectural stone wainscoting. The design of the proposed buildings to be constructed on the site are similar in appearance to those found in the nearby residential community of the R & S Cluster Short Plat which is accessed by Amber Lane following the northern property line of the subject parcel. The structures proposed to house the commercial kennel operation are situated so that vehicles may enter and exit without encumbering the ingress or egress of other existing uses on the site. The existing residence will remain until at such time the applicant is able to finance demolition and reconstruction of a new single family residence in which she plans to reside. Until such time, the existing residence, with its fruit trees, grassy areas and shrubs areas blends well with other typical home sites found in the area. Of note is that although the subject parcel is part of the R & S Cluster Short Plat, the subject parcel was excluded from the private covenants, codes and restrictions applicable to the residential homesites established on Lots 1-3, which prohibit commercial businesses.

The applicants have requested that up to (2) full time employees be permitted in the operations of the proposed use. It is noted that although the business is proposed to be operated by the applicant and one assistant, at some time in the future there may be a need to hire other staff. Staff is recommending that the number of persons employed at the site not exceed a maximum total of four (4) full time employees engaged in the proposed commercial kennel business. This recommendation is consistent with the approval criteria set forth for cottage industries.

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

Discussion: The proposed use as conditioned is not considered hazardous by the technical review committee.

Additional traffic of up to 15 customer visits per day, could potentially affect adjacent uses. Proposed hours of operation are 8 am – 6 pm seven days per week. There are several nearby residences; two across the road from the site could be impacted, along with the three residences that share Amber Lane which follows the subject parcel's northern property line. As conditioned roadway and driveway access improvements at the site are designed to mitigate any increase in traffic to the site. Many of the property owners in the immediate vicinity submitted comments about a variety of concerns that are discussed in more detail in Section 6. Staff reviewed these concerns, and has proposed that to ensure compatibility with existing and

future land uses, and to prevent disturbance to existing or future property owners in the vicinity, that a condition of approval include a requirement that any signage posted will be for directional purposes only, and will clearly state that services are offered by reservation or appointment only.

**(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/private facilities. It appears that the subject parcel is within the North Star Water Association, Declared Water Service Area, a Group A, Public Water Utility that may not be able to serve the use as proposed. County Health Department comments indicate that the proposed use may require public water, if public water is not available from the local purveyor, then the applicant may elect to form a Group B water source. The site will be served by a new septic system as permitted by the County Health department. Animal feces is not considered sewage, it is considered Solid Waste; and as such it will be collected in an onsite tank and pumped at regular intervals and transported for treatment by a company contracted to provide such service. Fire protection is provided by Fire District #7. Refuse disposal is provided by the private sector. Engineering staff has reviewed the preliminary stormwater application submitted by the applicant and found that the use will be required to submit an Engineered Stormwater Design Report with TESC Plan.

**(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: As reported by the applicant, the need for commercial kennels to house the County's thousands of licensed dogs is growing. A legally permitted commercial kennel in the Rural zone may be a benefit to rural residents who wish to board their dogs in closer proximity than might otherwise be available. In order to alleviate any future costs associated with dispatch of enforcement to answer potential complaints about noise from barking dogs, the applicant has agreed to post a security bond in the amount of \$1000.00 to be used by the County to hire an independent sound analyst should complaints be made to indicate that the approved measures to condition impacts were not successful, warranting random review, and further mitigation.

**(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 proposed use will not be detrimental to persons, property, or the general welfare, as conditions placed on the operation and use of the property for the business will serve to mitigate potential impacts.



Twenty-one of the forty-eight property owners who were sent notices of the proposed use have submitted comments about concerns of noise, smells, traffic, impacts to water quality, aesthetics (interference with views), and concerns expressed about a potential decrease in property values if the proposed use were to be approved.

Staff has reviewed the extent of public comment and communicated the essence of these comments to the applicant, and in response the applicant modified the proposal submitted to address:

1) Noise from barking dogs – Potential impacts from barking dogs are proposed to be alleviated by confining the dogs within the interior walls of an insulated structure (with the exception of being walked from Building A & B to Building C for exercise and to the parking area for pick-up and or delivery). Noise from HVAC will be confined to the interior walls of mechanical rooms in Buildings A, B & C; 2) Impacts to aesthetics, particularly views will be reduced given that the proposed structures are of an architecturally pleasing style that appears to blend in with surrounding uses, and that adequate landscaping and vegetative buffers will be required as part of a required commercial building permit. As condition of approval, there will be a requirement of the installation and maintenance of adequate vegetative screening to buffer the use and associated buildings from public view. The applicant has proposed to install a row of mixed species deciduous and coniferous trees along the property line abutting Olson Road, extending from just south of the proposed development to its designated parking area. Once developed into maturity, the tree line will serve to effectively screen the proposed operation from view of the public road to south bound traffic and minimize disturbance to existing or future uses; 3) Traffic concerns have been addressed by the Public Works Engineering department; 4) Water quality impacts have been addressed by the County Health Department conditions and requirements that all animal feces be collected and transported off site for treatment, and that a newly designed and permitted on site sewage system (septic system) will be required to be installed to serve the proposed kennel facility; 5) Impacts to property values have been addressed by letters submitted by real estate agents who wrote professional opinions at the request of the applicant – in summary the shared opinion of two realtors whose opinions were sought indicated that the commercial kennel as proposed might actually enhance the property area values, and almost certainly would increase the value of the subject parcel; 6) Fumes or smells will be handled by the heating ventilation and air conditioning systems that will be installed in all buildings, and any odors will be dissipated in the air, and as proposed will not reach other uses; 7) Glare impacts will be mitigated by conditions that require lighting to be directed away from adjacent uses.

**(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 Engineering Services Division of the Whatcom County Public Works Department Engineering Division staff has reviewed the proposed use for traffic impacts and found that the applicant will be required to install a 3 foot gravel

shoulder along Olson Road for the length of the property to accommodate a proposed increase in traffic to the site, and also will be required to install a commercial paved apron. In addition, the applicant will be required to obtain a Revocable Encroachment Permit prior to installation of paved aprons 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 feature of major importance.

*The Technical Review Committee has determined that the subject to the requested conditions proposed in Section IX of this report, that the applicant's request to approve the proposed use meets the criteria for approving conditional uses as provided in WCC 20.84.220 (1) through (8).*

**C. 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 the application for a conditional use permit on April 21, 2010. Based on Whatcom County critical area maps, regulated critical areas may be located on the parcel. However, it appears that all proposed new development will occur within the already developed portions of the parcel. If this is correct, no further critical area review is required. If expansion is proposed outside the already developed portions of the parcel, a critical areas assessment report will be required.

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

**D. Fire Marshal's Office**

The Whatcom County Deputy Fire Marshal submitted a memo dated April 27, 2010 with conditions of approval for this proposal.

*The Technical Review Committee has determined that as conditioned, the proposal meets the requirements of Whatcom County Code Section 20.80.212 - Concurrency.*

**E. 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 June 28, 2010 listing conditions of approval for this proposal.

*The Technical Review Committee has determined that as conditioned, the project meets the requirements of Title 24, Whatcom County Code.*

## **F. Building Code (Title 15)**

The Whatcom County Chief Plans Examiner submitted a memo dated May 3, 2010 with comments and conditions.

*The Technical Review Committee has determined that as conditioned, the proposal meets the requirements of Title 15, Whatcom County Code.*

## **G. Whatcom County Development Standards**

The Whatcom County Public Works, Engineering Division staff submitted a memo dated June 23, 2010 with the following comments: The applicant submitted an application for a Zoning Conditional Use Permit to operate a dog kennel located at the above address. Subject parcel is Lot #4 of the existing R & S Cluster Short Plat. The zoning is Rural 5 Acres (R5A). **Olson Rd** is classified as a Rural Minor Collector. Speed limit in this area is 35MPH with 738 ADT (average daily trip).

*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.

1. The Technical Review Committee recommends approval of the application for a conditional use permit to authorize the operations associated with a commercial kennel with a maximum of 4 employees that provides boarding facilities for 48 full grown dogs, and 8 puppies, with a maximum total of 56 dogs to be at the site, at any given time subject to the following conditions:

## **IX. CONDITIONS OF APPROVAL**

### **A. Planning Division – Current Planning**

2. Use and location: The use and location on the site shall not be modified or changed in any way without further approval of the Whatcom County Hearing Examiner.
3. Employees: A maximum total of four (4) full time employees may be employed in the operations of the commercial kennel.

4. Landscaping: Landscaping shall be maintained pursuant to WCC 20.80.300. A scaled landscape site plan detailing the existing and proposed vegetative buffers screening the use from adjacent uses shall be submitted and approved by planning and development services department prior to issuance of the commercial building permit as required in Section IX (D) of these conditions.
5. 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.
6. Parking: Pursuant to WCC 20.80.500, adequate parking shall be established on an approved customer, employee, and parking plan that shall be submitted prior to issuance of the required commercial building permit [see Section IX (D)].
7. Business Hours: Hours of Operation for customer visits to the site are between 8 am – 6 pm seven days per week by reservation, or appointment only.
8. Lighting: Pursuant to WCC 20.80.523; any lights used to illuminate a parking lot shall be so arranged as to direct the light away from the adjoining property and the public road.
9. Noise: The buildings will be insulated to control sound to industry standards for commercial kennels, and all animals are to be confined within the interior walls of the approximately 8,592 square feet of proposed structures comprising the kennel operations except when walked from Buildings A & B to Building C for exercise.
10. Security Bond For Independent Noise Analysis: In order to alleviate any future public costs associated with dispatch of enforcement to answer potential complaints about noise from barking dogs, the applicant has agreed to post a security bond in the amount of \$1000.00 to be used by the County to hire an independent sound analyst should legitimate complaints be made to indicate that the approved measures to condition impacts from potential noise from barking dogs were not successful, warranting random review, and further mitigation. This bond shall be maintained for the duration of the approved use.
11. Trash and storage areas: Pursuant to WCC 20.80.355; all trash and/or garbage collection and storage areas must be screened from view from adjacent streets and properties using a solid fence or wall a minimum of six feet high.
12. Signage: Directional signage shall comply with WCC 20.80.400. In addition to posting hours of operation (including pick-up and delivery times), in very clear language, posted signage will state that customer visits to the site including pick-up or delivery of dogs will be with advance notice only and only by reservation.

13. 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.

14. Whatcom County Code, Title 14, Right to Farm – Disclosure:

- 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. Health Department**

1. The applicant shall comply with the conditions of the Whatcom County Health and Human Services Department in the memo dated June 28, 2010, unless modified by that Department or appealed to the appropriate agency.
2. Water: If any employees or the public have access to water then public water is required.
3. Sewage: If water is to be run to any new building, then an approved on-site sewage permit will be required. The expansion of any existing building will trigger Health Department review of the on-site septic system.

4. Solid Waste: Dog feces and wash down area are not sewage. Approval from the Washington State Department of Ecology and the Whatcom County Health Department are required prior to building permit issuance.

### **C. Building Services Division**

The Whatcom County Plans Examiner requires the following condition(s) for the above permit.

1. 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 following are general comments are not intended to be the final comments or requirements for any one project.
2. Upon approval a building permit is required for this proposal.
3. Due to the scope of the proposed project, the applicant must apply to the Building Official for a pre-application screening prior to building permit application submittal. At the Building Official's discretion a pre-application meeting may be required.
4. Applicable code references for this project proposal are the 2006 International Building Code (IBC); the 2006 International Fire Code (IFC); the 2006 International Mechanical Code (IMC); the 2006 International Fuel Gas Code (IFGC); the 2006 Uniform Plumbing Code (UPC); all applicable code referenced manuals and standards; all applicable Washington State Amendments to the above referenced codes; the 2006 Washington State Non-residential Energy Code (NREC) and Ventilation & Indoor Air Quality Code (VIAQ). If applied for after July 1, 2010 applicable codes shall be per the 2009 code editions.
5. A Washington State Professional Engineer shall engineer the proposed building. The engineer shall perform a complete structural analysis for the proposed building(s).
6. The engineer shall provide analysis for any special loads such as those imposed by an automatic sprinkler system, mechanical equipment, concentrated loads, impact loads, cranes, etc. The engineer should also include any required anchorage of non-building structures (signs, tanks, storage racks, equipment, etc.) to resist seismic loads.
7. A Washington State registered architect is required to design and stamp plans for all "non-exempt" structure of 4,000 square feet or greater in size.--- A Washington State licensed architect will be required by the Building Official to prepare plans and construction documents. (IBC Section 106.1, RCW 18.08.410) Plans prepared by a WA State licensed architect must be stamped and signed by the architect. (RCW 18.08.410[9])

8. **(REQUIRED) Provide a code data summary sheet on the plan drawing submittals.** List all applicable code data specific to the proposed project, including but not limited to types of occupancy, type(s) of construction, allowable height and area justification, occupant loads, egress path and travel distance, required exits and widths, non-separated or separated use, mixed occupancy, incidental and or accessory uses, fire protection systems, building design criteria, plumbing fixture counts, etc.
9. Geotechnical engineer may be required, per the request of the engineer of record or the building official.
10. A design professional of record (licensed architect or engineer of record) shall be designated on the permit submittal documents and drawings where appropriate. The design professional of record shall be responsible for reviewing and coordinating all submittal documents prepared by others, including deferred submittal items, for compatibility with the design of the building. (IBC Section 106.3.4)
11. All materials and components used in construction of the Kennels shall be approved by the engineer of record or the design professional of record, and upon request may require listings to be provided to the building inspector or the building official.
12. Occupancy separation shall be constructed as required per the current adopted edition of the International Building Code (IBC).
13. Exits shall meet the requirements of Chapter 10 of the International Building Code.
14. The proposal shall meet the barrier-free, handicap accessible requirements of the International Building Code, Chapters 10 & 11; IBC Appendix E; ICC/ANSI A117.1-03; applicable sections of the Washington State Amendments, per WAC 51-50. Accessibility design details shall be indicated on the plan drawings and submitted with the building permit.
15. Heating, cooling, ventilation and/or lighting (interior and exterior) of the building shall require compliance with the current adopted edition of the Washington State Nonresidential Energy Code (NREC) and Ventilation and Indoor Air Quality Code (VIAQ).
16. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County.
17. When required, Sprinkler system and fire alarm system submittals shall be applied for at the same time as the building permit, unless otherwise approved by the Fire Marshal.

18. Required plans for this project shall include but not be limited to. (Suggested scales)
- a. Site plan (1/10<sup>th</sup> 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)
19. Minimum plumbing facilities (restrooms) are required in accordance with Washington State Amendments to the International Building Code, Chapter 29. Accessible facilities must be located in the new structure or conveniently in a building adjacent thereto on the same property.
20. Storage of flammable and combustible materials and/or high piled storage items shall conform to the requirements of the current adopted edition of the International Fire Code (IFC).
21. Roof assemblies and roof structures are per IBC Chapter 15. Minimum roof covering classification according to type of construction is per Table 1505.1. Documentation will be required verifying the classification.

*Note: Whatcom County will be adopting the 2009 edition of most applicable Codes on July 1 of this year (2010). All building permit applications submitted after June 30, 2010 will be reviewed under the new Codes.*

#### **D. Fire Marshal's Office**

1. Fire extinguisher size shall be 2A:10BC in the building at locations approved by the Fire Marshal.
2. Fire department access shall meet the minimum requirements of the Whatcom County Development standards for roads.
3. Any future enclosure of the "roof only" sections of the building will require additional fire suppression requirements
4. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County.

#### **E. Public Works – Engineering Division**

1. An Engineered Stormwater Design Report with TESC Plan shall be submitted to and approved by the PW Engineering Services prior to any land disturbance or the issuance of any building permits.
2. Certified Record drawings (as-built) for the new drainage facility shall be provided and approved by the PW Engineering Services prior to any Certificate of Occupancy.



3. As per Chapter 2, Sec. 218, (B), the applicant shall post a maintenance security with the PW Engineering Services for drainage facilities. The security shall be for an amount of 10% of the engineer's construction cost estimate or \$5,000 (whichever is greater). The security shall be in effect for 2 years from the date of provisional acceptance of new drainage facilities.
4. The existing access point on Olson Rd shall be improved and commercial paved apron installed, as per Road Standards, Chapter 5. The applicant shall obtain a Revocable Encroachment Permit from the Engineering Services prior to installation of commercial paved apron on Olson Rd.
5. Based on proposed project ADT (average daily trips) and proportional impact traffic mitigation basis, the owner shall install a 3 ft gravel shoulder along Olson Rd for the length of their property. More detailed road construction plans shall be submitted and approved prior to issuance of any building or land disturbance permit.
6. All appropriate permits must be obtained before construction. Obtaining a county permit does not replace or over-ride other state and federal statutes and regulations that may apply to this project.

Report prepared for the Technical Review Committee by:

Erin Osborn,  
Planner