

WHATCOM COUNTY HEARING EXAMINER

RE: Preliminary Long Subdivision)	LSS2008-0003
Application by)	
)	
<i>Jeff Grove</i>)	FINDINGS OF FACT, CONCLUSIONS
<i>“Meridian Meadows Long Plat”</i>)	LAW, AND DECISION

SUMMARY OF APPLICATION AND DECISION

Application: Jeff Grove is requesting Preliminary Long Subdivision approval for the proposed creation of a six lot single-family residential subdivision on approximately 20 acres, located in the Rural (R5A and R2A) zoning designation.

Decision: The requested preliminary approval is hereby granted subject to the conditions set forth in the Staff Report, dated September 22, 2010, Exhibit #2 of the Hearing Examiner file, attached hereto and incorporated herein.

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.

<u>Applicant:</u>	Jeff Grove
<u>Site Location/Address:</u>	6693 Guide Meridian Lynden, Washington
<u>Legal Description:</u>	N ½ of the NE ¼ of the SE ¼ Sec11, T39N, R2E, W.M.
<u>Assessor’s Parcel Number:</u>	390212 470232
<u>Zoning:</u>	Rural, R2A and R5A
<u>Comprehensive Plan:</u>	Transportation Corridor and Rural
<u>Subarea:</u>	Lynden – Nooksack Valley
<u>Number of Lots:</u>	Six single family residential lots

<u>Total Acreage:</u>	Approximately 20 acres
<u>Roads:</u>	Private Road
<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>	Meridian School District
<u>Topography:</u>	The site is described as mostly flat
<u>Vegetation:</u>	Vegetation consists mostly of pasture grass areas
<u>Adjacent Land Uses:</u>	North: Agricultural East: Guide Meridian South: Residential and agricultural West: Residential and agricultural
<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 July 6, 2010

Authorizing Ordinances:
Revised Code of Washington Chapter 58.17
Whatcom County Comprehensive Land Use Plan
Whatcom County Code Chapter 12.08, Development Standards
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 21, Subdivision Regulations
Whatcom County Code Title 24, Health Regulations

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 – September 23, 2010
 Mailed – November 27, 2008 and September 15, 2010
 Published – November 24, 2008 and September 23, 2010

Hearing Date: October 6, 2010

Parties of Record:

Jeff Grove
1114 -235th Place SW
Bothell, WA 98021

Larry and Jason Stoner
4751 Birch Bay-Lynden Road #259
Blaine, WA 98230

Allen and Christy Antila
225 Russet Avenue
Lynden, WA 98264

Susie Marino
226 West King Tut Road
Lynden, WA 98264

Amy Keenan
Planning and Development Services

Mary White
Division of Engineering

Exhibits:

- 1 Land Use Application
 - 1-1 Supplemental Application
 - 1-2 Lot of Record Confirmation

- 1-3 Deed History
- 1-4 Letter of Complete Application, November 19, 2008
- 1-5 Applicant's Brief Statement
- 1-6 Form Letter, Notice of Application, November 24, 2008
- 1-7 Preliminary Stormwater Proposal
- 1-8 Preliminary Traffic Analysis
- 1-9 Fire/School District Concurrency Letter
- 1-10 Letter dated April 30, 2007 from Fire District No. 21 re: Confirming Rural LOS
- 1-11 Whatcom County Health Dept Public Water System –Denial Form
- 1-12 Property Owner Mailing Labels
- 1-13 Applicant/Consultants Address Information
- 1-14 Staff Email, September 8, 2010 re: hearing notice
- 1-15 Tracking Forms

- 2 Staff Report, dated September 22, 2010

- 3 Agency Comments

- 4 Public Comments

- 5 SEPA, DNS, July 6, 2010

- 6 Site Plan

- 7 Section Map Parcel

- 8 Soils Map

- 9 Aerial Map

- 10 Topo Map

- 11 Zoning and Vicinity Map

- 12 Site Overview Preliminary Soils assessment

- 13 Site Plan showing Ingress / Egress/ Utility Easement

- 14 WA State DOT Letter dated March 5, 2007 with attached access permit for Noncommercial Road Approach Design

- 15 Wetland Delineation Addendum, January 26, 2009

- 16 Wetland Delineation, dated September 2007

- 17 Certificate of Mailing of Notice of Application, November 27, 2008
- 18 Legal Notice of Application dated November 24, 2008
- 19 Certificate of Mailing of Notice of Public Hearing, dated September 15, 2010
- 20 Legal Notice of Notice of Public Hearing, dated September 23, 2010
- 21 Certificate of Posting of Notice of Public Hearing, dated September 23, 2010

II.

The proposed 6-lot subdivision was reviewed by the Technical Review Committee. The recommendation of this Committee was set forth in a Staff Report, prepared by the Land Use Services Division of Whatcom County Planning and Development Services, and entered into the Hearing Examiner file as Exhibit #2, dated September 22, 2010. 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.

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 #2, dated September 22, 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 #2, dated September 22, 2010, a copy of which is attached hereto and incorporated herein by this reference.

IV.

A neighboring property owner commented at the public hearing, expressing his opposition to the proposal if the view from his property would be impacted by new home construction. The Applicant volunteered to work with the neighboring property owner to retain a view corridor for his property.

V.

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 Jeff Grove, granting preliminary approval for LSS2008-0003, a six-lot single-family residential long subdivision, "Meridian Meadows," to be located on Assessor's Parcel No. 390212 470232, at 6693 Guide Meridian, Lynden, Washington, subject to the conditions set forth in the Staff Report, dated September 22, 2010, Exhibit #2 of the Hearing Examiner file, a copy of which is attached hereto and incorporated herein.

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

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

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

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

More detailed information about appeal procedures is contained in the Official Zoning Ordinance at Section 20.92.600-.830. A copy of this document is available for review at the County Council Office. After an appeal has been filed and the Council office has received the hearing record and transcript of the public hearing, the parties will be notified of the time and date to file written arguments.

DATED this 15th day of October 2010.

Michael Bobbink, Whatcom County Hearing Examiner

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



J.E. "Sam" Ryan
Director

WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

September 22, 2010

The application of Jeff Grove for a		LSS2008-00003
Long Subdivision (Meridian Meadows		FINDINGS, CONCLUSIONS, AND
Long Subdivision)		RECOMMENDATIONS

I. SUMMARY OF APPLICATION AND RECOMMENDATIONS

Summary: The project consists of a six lot residential subdivision on approximately 20 acres.

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

II. PRELIMINARY INFORMATION

A. BACKGROUND INFORMATION

Applicant: Jeff Grove
1114 235th Place SW
Bothell, WA 98021

Agent/
Representative: Larry and Jason Stoner
4751 Birch Bay-Lynden Road #259
Blaine, WA 98230

Site
Location/Address: 6693 Guide Meridian

Legal Description: The north half of the NE quarter of the SE quarter
Section 11, Township 39 North, Range 2 East
Willamette Meridian.

Assessor's Parcel
Number: 390212 470232

<u>Zoning:</u>	Rural R(2) and R(5)
<u>Comprehensive Plan:</u>	Transportation Corridor and Rural
<u>Subarea:</u>	Lynden – Nooksack Valley
<u>Number of Lots:</u>	Six single family residential lots
<u>Total Acreage:</u>	Approximately 20 acres
<u>Roads:</u>	Private Road
<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>	Meridian School District
<u>Topography:</u>	The site is described as mostly flat
<u>Vegetation:</u>	Vegetation consists mostly of pasture grass areas
<u>Adjacent Land Uses:</u>	North: Agricultural East: Guide Meridian South: Residential and agricultural West: Residential and agricultural
<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 July 6, 2010

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 20-acre site, and is located at 6693 Guide Meridian, on the west side of the intersection of the Guide Meridian and Beard Road.

The site is bordered on the north by Russet Avenue. The majority of the site is vegetated with grasses. A single family residence and some outbuildings are located on site. The site is a split zoned lot with the eastern 10 acres zoned Rural R(2) and the western 10 acres zoned Rural R(5). Property surrounding the site is zoned Rural R(2) and R(5) and is mostly agricultural fields and single family residences developed on large lots.

IV. PROJECT PROPOSAL

The Meridian Meadows proposal is to subdivide approximately 20 acres into six single-family residential parcels Rural R2 and R5 zone. The residential lots range from 5.25 acres to 2.00 acres. Access to the site will be provided by a private road through the plat accessing off the Guide Meridian. Public water will be provided by an on-site Group 'B' Water System to service all six lots. All lots will have individual on-site septic systems.

Assessor's parcel number 390212 470232 was created in 1919 under Auditor's File Number 223413 as a twenty acre parcel and as such is considered a legal lot of record pursuant to WCC 20.97.220.

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 May 18, 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 one written comment. A summary of the comment and a response follows:

- Concerns regarding increase in traffic and potential accidents.

Whatcom County has a requirement for reviewing all development for potential impacts to the transportation system. This project was reviewed by the Whatcom County Public Works Engineering Division and found not to impact the transportation facility per WCC 20.78.030(5).

- Concerns regarding building new homes and planting trees that may obstruct views of Mt. Baker.

The development of the individual residential lots will be determined at the time of building permit. The building height limit is 35 feet and the building must meet all front, side and rear setbacks.

Notice of SEPA Threshold Determination: The Notice of Decision for the Determination of Non-Significance (DNS) for this project was issued on July 6, 2010. The notice was also sent to state and local agencies, and Parties of Record for the project. During the public comment period for the DNS, the County received two written comments.

- The Lummi Nation Tribal Historic Preservation Office (LNTHPO) has coordinated an internal review in response to the Notice of Application. The LNTHPO utilized records on file with the Lummi Nation's Cultural Resource Management Program. Based on the review, an archaeological assessment is not recommended at this time. While the presence of cultural resources is not anticipated, the LNTHPO requested that the standard inadvertent discovery language be included within the approval conditions.

The standard inadvertent discovery language has been added to the conditions of approval.

- Washington State Department of Ecology Water Master submitted a letter on July 15, 2010 regarding water resources and the groundwater exemption. See Health Department discussion for more details.

- The Washington State Department of Ecology Water Quality Specialists also commented regarding impacts to water quality. The applicants have been notified and will be required to obtain all permits necessary prior to physical development of the site.

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 July 6, 2010 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 December 4, 2008 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.

The following wetland reports were submitted and reviewed:

- Wetland Delineation from Northwest Ecological Services, LLC. dated September 2007.
- Wetland Delineation Addendum from Northwest Ecological Services, LLC. dated January 26, 2009.

A critical areas technical administrator reviewed and approved the wetland report on September 2007 and January 26, 2009. A small wetland is located on the south/central portion of the site. The Critical Areas technical administrator has determined there will be no wetland or habitat area impacts as a result of this proposal.

The Technical Review Committee has determined that, as conditioned, 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(2) and R(5) zoning district are listed in the table below.

20.36.253 Rural Site Requirements

District	Gross Density	Minimum Lot Size		Min. Reserve Area
		Conventional	Cluster	Cluster Subdivisions
R-2A w/public water	1 dwelling unit/ 2 acres	2 acres	12,500 sq. ft.	65%
R-5A w/public water	1 dwelling unit/ 5 acres	5 acres	12,500 sq. ft.	75%

The site is approximately 20 acres in size and is split zoned approximately down the center of the site. Approximately ten acres is zoned R(2) and ten acres is zoned R(5). The applicants are proposing four lots on the ten acres in the R(2) zone which is consistent with the zone. The applicants are proposing two lots on the ten acres in the R(5), again, consistent with the zone. The applicant is proposing standard lots with no cluster or reserve tract requirements.

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-2 zoning district are listed in the table below.

WCC 20.36.254 Minimum lot width and depth

District	Width at Street Line		Width at Building Line	Minimum Mean Depth
	Conventional	Cluster		
R-2	200'	70'*	80'	100'
R-5A	300'	70'*	80'	100'

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

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 and shall be consistent with the R-2 or R-5 zone as appropriate.

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. 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

The applicants are utilizing a Group 'B' water system. The water well has been drilled and tested and has adequate water quantity and quality to support this development. For more analysis regarding water see Section VII.I. 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.I. 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 21, 2008 from the Meridian School District. The school district received notice of the proposal and made no further comments.

Fire Protection

The Fire District has submitted a letter of concurrency for this proposal dated April 30, 2007 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 November 24, 2008 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.

F. 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:

All sites are proposed to be greater than two acres in size. Generally, open space will be accommodated on the individual lots and there is no requirement for additional open space, parks or playgrounds.

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 6 of this plat shall be served by the private interior road which accesses off the Guide Meridian at a Washington State Department of Transportation approved intersection.

In summary, 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:

The Technical Review Committee has determined that the proposal, as conditioned, is not expected to generate significant levels of air, water or soil pollution, as it is a residential development.

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

The Meridian School District was notified of the project and provided a letter of availability; therefore, the Technical Review Committee has determined that the proposal is providing adequately for schools.

6. With regard to compliance with the relevant policies 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

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 land use controls.

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

G. 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 August 26, 2010 with the following comments.

The Whatcom County Health Department (WCHD) has reviewed the above submittal, and recommends preliminary approval with the following conditions:

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. The Group B water system has been approved utilizing a well that is exempt from applying for and receiving a state water right (RCW 90.44.050, the Groundwater Exemption). As such, this project is limited to withdrawing up to 5,000 gallons per day for domestic use and the total property (non-commercial lawn or garden) being irrigated cannot exceed ½ acre. The agent for the developer would like to equally divide the ½ acre of non-commercial lawn or garden amongst all lots. As such, a plat note, and language in the C,C& R's must state that each lot is limited to non-commercial lawn or garden irrigation in the amount of 1/6 of ½ acre or 3,630 sq. ft.

The current design shows an existing irrigation well within the access and utility easement on lot 6. This well must be decommissioned prior to final plat approval.

Sewage:

An On-site Sewage System (OSS) subdivision application has been approved by WCHD, identifying soils to support OSS for this project. There will be no further requirements prior to final plat approval.

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 following note shall be placed on the face of the plat:

RIGHT-TO-FARM COVENANT (THIS PROPERTY IS LOCATED WITHIN ONE-HALF MILE OF AN OPERATING FARM OR AN AGRICULTURE DISTRICT.) THE DEVELOPER AND ANY SUBSEQUENT PURCHASER OR SUCCESSORS IN INTEREST OF ALL OF THE LOTS WITHIN THIS SHORT PLAT WILL REFRAIN FROM ANY LEGAL ACTION TO RESTRAIN OR COLLECT DAMAGES FROM OWNERS OR OPERATORS OF SUCH SAID AGRICULTURAL LANDS, OR FROM WHATCOM COUNTY, ARISING OUT OF ANY REASONABLE AND LAWFUL FARM OPERATIONS ON. THE SELLER SHALL REQUIRE THAT THE "DISCLOSURE STATEMENT" AS SET FORTH IN TITLE 14.02 BE SIGNED BY THE PURCHASER AND RECORDED IN THE WHATCOM COUNTY AUDITOR'S OFFICE IN CONJUNCTION WITH THE DEED CONVEYING SAID LOT. THIS COVENANT SHALL RUN WITH THE LAND.

8. 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

9. The applicant shall comply with the conditions of the Whatcom County Health and Human Services Department in the memo dated August 26, 2010, unless modified by that Department or appealed to the appropriate agency.
10. 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. The Group B water system has been approved utilizing a well that is exempt from applying for and receiving a state water right (RCW 90.44.050, the Groundwater Exemption). As such, this project is limited to withdrawing up to 5,000 gallons per day for domestic use and the total property (non-commercial lawn or garden) being irrigated cannot exceed ½ acre. The agent for the developer would like to equally divide the ½ acre of non-commercial lawn or garden amongst all lots. As such, a plat note, and language in the C,C& R's must state that each lot is limited to non-commercial lawn or garden irrigation in the amount of 1/6 of ½ acre or 3,630 sq. ft.
11. The current design shows an existing irrigation well within the access and utility easement on lot 6. This well must be decommissioned prior to final plat approval.

C. Natural Resources Division

12. Critical Areas Administrator
 - a. The applicant shall comply with all of the conditions of the Critical Areas Administrator in the memo dated November 25, 2009, unless modified by the Critical Areas Administrator or appealed to the appropriate agency.
 - b. Prior to final approval per WCC265(C), the critical areas and required buffer located on the site shall be protected using one of the following mechanisms:
 - a. Placed in a separate tract or tracts owned in common by all lots within a subdivision;
 - b. Covered by a protective easement, or public or private land trust dedication; or
 - c. Preserved through an appropriate permanent protective mechanism that provides the same level of permanent protection as designation of a separate tract or tracts as determined by the county technical administrator or hearing examiner.

D. Building Division

13. The applicant shall comply with the conditions of the Whatcom County Chief Plans Examiner in the memo dated December 4, 2008 unless modified by the

Chief Plans examiner or appealed to the appropriate agency.

14. 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.
15. A Washington State Professional Engineer may be required to engineer applicable portions of any proposed nonexempt structures or buildings.
16. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County.
17. 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.
18. 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 approved, recorded plat and/or subdivision plan(s), no exceptions.
19. 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

20. The applicant shall comply with the conditions of the Whatcom County Deputy Fire Marshal in the memo dated November 24, 2008 unless modified by the Deputy Fire Marshall or appealed to the appropriate agency.
21. Fire flow system shall provide a minimum 500 gpm delivered at 20 psi to hydrants located within 600 feet of the building areas.
22. Fire department access shall meet the requirements of the Whatcom County Development standards for roads.
23. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County.

F. Lummi Nation

24. Should archaeological materials (e.g. shell midden, faunal remains, stone tools) or human remains be observed during project activities, 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.

F. Public Works – Engineering Division

25. The applicant shall comply with the conditions of the Whatcom County Engineering Division in the memo dated December 3, 2009 unless modified by the Engineering Division or appealed to the appropriate agency.

- a. All development shall comply with Whatcom County Development Standards.
- b. Applicant shall provide the County with a current WSDOT access permit before any road construction begins.
- c. A preliminary traffic analysis has been submitted. A traffic concurrency study was submitted and approved. Traffic concurrency is met.
- d. The plat road shall meet the rural private road standards for all lots being served by the roadway, drawing 505.E-1. Provisions for private road maintenance shall be required per section 505.E, Whatcom County Development Standards, Chapter 5.
- e. A prohibited vehicle access note shall be placed on the face of the plat along the Guide Meridian, except at the access point.
- f. All signing and striping shall be installed per MUTCD standards at the developer's expense.
- g. A Preliminary Storm Drainage Report has been submitted.
- h. 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.

- i. Provision for maintenance of private stormwater system will be required as set forth in Whatcom County Development Standards, Chapter 2, Section 220.
- j. Erosion control plans shall be submitted and approved prior to any clearing or grading on the site.
- k. 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)]
- l. 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. The address fee shall be paid prior to recording.
- m. Record drainage system drawings and a letter of certification from a licensed engineer must be submitted to the County Engineer before project approval and final mylar.
- n. Developer shall provide a plat layout to the post office to get approved mailbox location(s).

Report prepared for the Technical Review Committee by:

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