

**WHATCOM COUNTY HEARING EXAMINER**

RE: SHORELINE SUBSTANTIAL DEVELOPMENT ) SHR2014-0001  
Application for )  
 )  
*Lake Whatcom Water and Sewer District* ) FINDINGS OF FACT,  
 ) CONCLUSIONS OF LAW,  
 ) AND DECISION

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**SUMMARY OF APPLICATION AND DECISION**

Application: The Applicant is requesting approval of a Shoreline Substantial Development Permit to upgrade the Boulevard Sewer Pump Station.

Decision: The requested permit is granted, subject to conditions.

**FINDINGS OF FACT**

**INTRODUCTION**

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted herein and evidence presented at the public hearing.

**I.**

**PRELIMINARY INFORMATION**

Applicant: Lake Whatcom Water and Sewer District

Property Location: 0 Lake Whatcom Boulevard  
Bellingham, Washington

Assessor's Parcel No. 3803260000044120

Legal Description: Within Section 26, Township 38 North, Range 3 East, W.M.

Adjacent Water Body: Lake Whatcom

Shoreline Designation: Shoreline Residential

Statewide Significance: Yes

Authorizing Ordinances: SMP 23.50 Applicability  
SMP 23.70.010 Administration  
SMP 23.70.030 Hearing Examiner

Applicable Shoreline Program Provisions

SMP 23.20 Goals and Objectives  
SMP 23.30.020 Official Shoreline Map  
SMP 23.30 Shoreline Designations  
SMP 23.60.010 Substantial Development Permit Criteria  
SMP 23.90 General Policies & Regulations

SEPA Review: SEPA Exemption issued by Lake Whatcom Water and Sewer District, January 21, 2014

Legal Notices: Published – Notice of Application Feb 6, 2014;  
Notice of Public Hearing, April 10, 2014  
Posted – Notice of Public Hearing, April 10, 2014  
Mailed – Notice of Application, February 6, 2014 and Notice of Public Hearing, April 4, 2014

Hearing Date: April 23, 2014

Parties of Record

Carl Hathcock  
Lake Whatcom Water and Sewer District  
1220 Lakeway Drive  
Bellingham, WA 98229

Dan Burwell  
RH2 Engineering, Inc.  
4134 Meridian Street, Suite 302  
Bellingham, WA 98226

Sanja Barisic  
Division of Engineering

Sam McDaniel  
Planning and Development Services

Exhibits:

1. Land Use Application with attachments

- 1-1 Fee Responsibility
- 1-2 Supplemental Application
- 1-3 Project Narrative
- 1-4 Determination of Completeness, Jan 28, 2014
- 1-5 PDS Comment Form Letter: Notice of Application
- 1-6 Mailing Labels
- 1-7 Easement, May 30 and June 10, 1974
- 1-8 Preliminary Stormwater Proposal
  
- 2 Staff Report, April 23, 2014
  
- 3 Agency Comments: Watersheds Office, March 6, 2014  
Division of Engineering, March 6, 2014
- 4 Aerial Site Photo
  
- 5 Proposed Site Plan, Jan 9, 2014
  
- 6 SEPA Exemption, January 21, 2014, Responsible Official: Lake Whatcom Water & Sewer District
  
- 7 Certificate of Mailing: Notice of Application, February 6, 2014
  
- 8 Legal Notice of Application, February 6, 2014
  
- 9 Legal Affidavit of Public Hearing, April 10, 2014
  
- 10 Certificate of Mailing April 4, 2014: Notice of Public Hearing
  
- 11 Certificate of Posting: Notice of Public Hearing, April 10, 2014

**II.**

Lake Whatcom Water and Sewer District is seeking approval for a Shoreline Substantial Development Permit to upgrade the existing Boulevard Sewer Pump Station.

**III.**

The Applicant has indicated that the Staff Report is factually correct. The Applicant stated no objection to the Conditions of Approval recommended by Staff. There was no public comment on this matter at the hearing. The Findings of Fact and Conclusions of Law of the Shoreline Planner of the Land Use Services Division of Whatcom County Planning and Development Services, as set forth in the Staff Report,

Exhibit No. 2, dated April 23, 2014, a copy of which is attached hereto, are adopted and incorporated herein by this reference.

**IV.**

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

**CONCLUSIONS OF LAW**

**I.**

The Whatcom County Shoreline Planner has recommended approval of the requested Shoreline Substantial Development Permit for the proposed upgrade to the Boulevard Sewer Pump Station.

The Findings of Fact and Conclusions of Law are set forth in the Staff Report, Exhibit No. 2 in the Hearing Examiner file, dated April 23, 2014. Subject to the Conditions of Approval recommended by Staff, the Hearing Examiner also concludes that the proposal is consistent with the Goals, Policies, and Purpose of the Shoreline Management Act, RCW 90.58, and with the Goals and Policies of the Whatcom County Shoreline Management Program. The Conclusions of Law adopted by Staff in the Staff Report are incorporated herein as Conclusions of Law.

**II.**

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following:

**DECISION**

A Shoreline Substantial Development Permit is hereby granted to Lake Whatcom Water and Sewer District for the proposed upgrade to the Boulevard Sewer Pump Station

located in the right-of-way adjacent to property addressed as 2586 and 2582 Lake Whatcom Boulevard, Bellingham, Washington. The permit is granted subject to the following conditions:

1. The proposed shoreline developments shall be consistent with the scope and site plan approved by this Shoreline Substantial Development Permit. Any changes to the proposed development may require additional review and approval by the Whatcom County Shoreline Administrator and/or Whatcom County Hearing Examiner.
2. Best Management Practices (BMPs) for control of erosion and sedimentation shall be implemented for all development in shorelines through an approved Temporary Erosion and Sedimentation Control (TESC) Plan reviewed and approved by the Shoreline Administrator, or administrative conditions associated with the pending building permit application measures.
3. Construction and/or demolition debris shall be removed from the shoreline area upon completion of the project.
4. The Applicant shall comply with the requirements contained in the Division of Engineering Memo, dated March 6, 2014, unless modified by the Division of Engineering, or appealed to the appropriate agency.
5. The project shall comply with all applicable Federal, State, and local laws and regulations.
6. The Applicant shall comply with the requirements of the Watersheds Office Administrator, as outlined in the memorandum, dated March 6, 2014, unless modified by the Watersheds Administrator or appealed to the appropriate agency.
7. If archaeological materials (bone, shell midden, cobble tools, etc.) are observed during site work, work in the area of discovery shall cease and the Whatcom County SEPA Administrator (360-676-6907), LNTHPO (360-384-2298), and Washington State Office of Archaeology and Historic Preservation (360-586-3065) shall be contacted immediately to determine the significance of the discovery. If human remains are observed, the Whatcom County Sheriff (911) and LNTHPO Dept. (360-384-2298) shall be contacted immediately. Compliance with all other applicable laws pertaining to archaeological resources is required.
8. Construction shall commence within two years of the effective date of shoreline variances and substantial development permits as defined by WAC 173-27-090 (3), provided that the Whatcom County Hearing Examiner may authorize a single extension for a period not to exceed one year based on reasonable factors if a

request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology.

### NOTICE

In addition to incurring civil liability under Shoreline Management Program Section 23.80.20 and RCW 90.58.210, pursuant to RCW 90.58.220 any person found to have willfully engaged in activities on shorelines of the state in violation of the provisions of the act or the Shoreline Management Program or other regulations adopted pursuant thereto shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than \$25 or more than \$1,000 or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment; provided that the fine for the third and all subsequent violations in any five year period shall not be less than \$500 nor more than \$10,000. Any person who willfully violates any court order, regulatory order or injunction issued pursuant to the Shoreline Management Program shall be subject to a fine of not more than \$5,000, imprisonment in the county jail for not more than 90 days, or both.

### NOTICE OF ADMINISTRATIVE 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 opponent of record, or any County department. Appeal to County Council. Within ten calendar days of the date of the written 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.

Any party of record may request a closed record review of the Hearing Examiner's Decision, issued under SMP 23.60.15.H.4, by the County Council. Such an appeal shall be filed with the County Council on forms supplied by the County within ten (10) calendar days of the written decision. If appeal is made to the County Council, notice of appeal shall be provided to all parties of record at least fifteen (15) days prior to consideration by the County Council. The Council shall meet to review the Hearing Examiner's decision within twenty-one (21) days of transmittal thereof, at which time it may approve or disapprove the application, or remand the matter to the Hearing Examiner.

More detailed information about appeal procedures is contained in the Official Zoning Ordinance at Section 20.92.600-.830 and Section 23.60.15.H. 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 23<sup>rd</sup> day of April 2014.

A handwritten signature in cursive script that reads "Michael Bobbink".

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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  
Director

EXHIBIT  
# 2

April 23, 2014

WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES

STAFF REPORT

The application of <b>Lake Whatcom Water &amp; Sewer District</b> for a Shoreline Substantial Development Permit		SHR2014-00001
		FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

**I. SUMMARY OF APPLICATION AND RECOMMENDATIONS**

Application: The applicant is requesting approval of a shoreline substantial development permit to upgrade the Boulevard Sewer Pump Station.

Recommendation: Staff recommends approval of the requested developments, subject to the conditions of approval.

**II. PRELIMINARY INFORMATION**

Applicant: Lake Whatcom Water & Sewer District  
1220 Lakeway Drive  
Bellingham, WA 98229

Property Location: 0 Lake Whatcom Boulevard

Legal Description: 3803260000044120  
Within Section 26, Township 38 North, Range 3 East, W.M.

Adjacent Water Body: Lake Whatcom

Shoreline Designation: Shoreline Residential

Statewide Significance: Yes

Authorizing Ordinances:

SMP 23.50	Applicability
SMP 23.70.010	Administration
SMP 23.70.030	Hearing Examiner

Applicable Shoreline Program Provisions:

SMP 23.20	Goals and Objectives
SMP 23.30.020	Official Shoreline Map
SMP 23.30	Shoreline Designations
SMP 23.60.010	Substantial Development Permit Criteria
SMP 23.90	General Policies & Regulations

SEPA Review: SEPA Exemption issued by Lake Whatcom Water and Sewer District on January 21, 2014.



### III. FINDINGS

Lake Whatcom Water & Sewer District (LWWSD) is requesting approval of a shoreline substantial development permit to upgrade the existing Boulevard Sewer Pump Station. The proposal includes replacement of the existing pumps with submersible grinder pumps. The 6-foot-diameter wetwell lid will be raised approximately 5 feet so that the hatch elevation matches adjacent road and shoulder elevation. Currently, the station is in a cinderblock-lined hole with pump housing hidden from street view. Twenty cubic yards of existing road and shoulder subgrade fill (sand and gravel) will be excavated for the installation of new 2-inch and 4-inch piping related to the pump station. The excavated material will be reused on-site. The hole will be filled in using upwards of 50 cubic yards of backfill sand and gravel, and new asphalt will be installed to provide parking for LWWSD staff and neighbors. This will improve road safety by providing a full shoulder, which is typically 10 feet from the fog line. The proposed layout will provide better access to the wetwell from street level. The pumps will be located inside the wetwell, with three hatches at grade. Electrical panels will be moved to a new awning adjacent to the wetwell, complete with roof and light, with a height of 8 feet pending neighbor review. Bollards will be placed to protect the electrical panel. In all, the project area will be less than 500 square feet (sf), with less than 300 sf of new impervious surface and about 80 sf of replaced impervious surface.

The project area is surrounded by ornamental shrubs, herbaceous plants (ivy, grass, ferns), and low overhanging tree branches. No trees will be removed; minor limbing may occur to facilitate construction, or else the tree branches may be tied back during construction to avoid limbing. Shrubs will be removed that restrict access.

According to the Official Shoreline Map (Map) as outlined in 23.30.02.A, the subject site is located within the Shoreline Residential designation. Lake Whatcom is a shoreline of the state and thus subject to the provisions of the SMP. Pursuant to 23.90.13.C, the required shore setback is established by Whatcom County Code 16.16. Pursuant to 16.16.740, the required Habitat Conservation Area buffer is 100-feet from the OHWM of Lake Whatcom.

The proposal requires approval of a Shoreline Substantial Development Permit pursuant to 23.60.01.A, as it does not strictly meet one of the listed exemptions. Based on review of the submitted application materials, it has been determined that this permit decision requires a public hearing pursuant to 23.60.13.

In the granting of all shoreline substantial development permits consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area. For example, if shoreline substantial development permits were granted for other developments in the area where similar circumstances exist, the sum of the permitted actions should also remain consistent with the policy of RCW 90.58.020 and should not produce significant adverse effects to the shoreline ecological functions and processes or other users.

### IV. CONCLUSIONS

#### Substantial Development Permit Criteria

A substantial development permit shall be required for all proposed use and development of shorelines unless the proposal is specifically exempt from such requirements pursuant to one or more of the listed exemptions in 23.60.020.2 (23.60.010.A).

According to 23.60.010.B, in order to be approved, the decision maker must find that the proposal is consistent with the following criteria:

- 1. All regulations of the SMP appropriate to the shoreline designation and the type of use or development proposed shall be met, except those bulk and dimensional standards that have been modified by approval of a shoreline variance under SMP 23.60.030;**
- 2. All policies of the SMP appropriate to the shoreline area designation and the type of use or development activity proposed shall be considered and substantial compliance demonstrated;**

General and use-specific policies and regulations are found within Sections 23.90 and 23.100 respectively. Applicable policies and regulations associated with the proposed development are listed and discussed below:

### **23.90.03 Ecological Protection and Critical Areas**

#### **23.90.03.A Policies**

1. Shoreline use and development should be carried out in a manner that prevents or mitigates adverse impacts so that the resulting ecological condition does not become worse than the current condition. This means assuring no net loss of ecological functions and processes and protecting critical areas designated in WCC 16.16, in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property. Permitted uses shall be designed and conducted to minimize, in so far as practical, any resultant damage to the ecology and environment (RCW 90.58.020). Shoreline ecological functions that should be protected include, but are not limited to, fish and wildlife habitat, food chain support, and water temperature maintenance. Shoreline processes that should be protected include, but are not limited to, water flow; littoral drift; erosion and accretion; infiltration; ground water recharge and discharge; sediment delivery, transport, and storage; large woody debris recruitment; organic matter input; nutrient and pathogen removal; and stream channel formation/maintenance.
2. In assessing the potential for net loss of ecological functions or processes, project-specific and cumulative impacts should be considered.
3. Development standards for density, frontage, setbacks, impervious surface, shoreline stabilization, vegetation conservation, buffers, critical areas, and water quality should protect existing shoreline ecological functions and processes. During permit review, the Administrator should consider the expected impacts associated with proposed shoreline development when assessing compliance with this policy.

#### **23.90.03.B Regulations**

1. Mitigation Sequencing - To comply with the policies of SMP 23.90.03.A, a shoreline permit applicant or project proponent shall demonstrate all reasonable efforts have been taken to provide sufficient mitigation such that the activity does not have significant adverse impacts. Mitigation shall occur in the following prioritized order:
  - a. Avoiding the adverse impact altogether by not taking a certain action or parts of an action, or moving the action.
  - b. Minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce adverse impacts.
  - c. Rectifying the adverse impact by repairing, rehabilitating or restoring the affected environment.
  - d. Reducing or eliminating the adverse impact over time by preservation and maintenance operations during the life of action.
  - e. Compensating for the adverse impact by replacing, enhancing, or providing similar substitute resources or environments and monitoring the adverse impact and the mitigation project and taking appropriate corrective measures.
2. Because of its incorporation by reference herein under Section 23.10.06.A. above, the provisions of the Whatcom County Critical Areas Ordinance, WCC 16.16, shall apply to any use, alteration or development within shoreline jurisdiction whether or not a shoreline permit or written statement of exemption is required. Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered, or land divided without full compliance with WCC 16.16 and the Program, provided that alteration for a water-oriented use may be allowed in accordance

with WCC 16.16.225.B.3. Within shoreline jurisdiction, the regulations of WCC 16.16 shall be liberally construed together with the Program to give full effect to the objectives and purposes of the provisions of the Program and Act.

3. Unless otherwise stated, critical area buffers shall be protected and/or enhanced pursuant to this Program and WCC 16.16.
7. The cumulative effects of individual development proposals shall be identified and evaluated to assure that no net loss standards are achieved.

Comment:

*The location of the proposed upgrades is located 105 feet from the OHWM of Lake Whatcom within the existing developed footprint. The proposed location meets the setback requirements outlined in 23.90.13.C. No functional buffer will be converted or eliminated as part of the proposal. The proposal complies with the Ecological Protection and Critical Areas policies and regulations.*

**23.90.04 Water Quality and Quantity**

**23.90.04.A Policies**

1. The location, construction, operation, and maintenance of all shoreline uses and developments should maintain or enhance the quantity and quality of surface and ground water over the long term.
2. Shoreline use and development should minimize the need for chemical fertilizers, pesticides or other similar chemical treatments to prevent contamination of surface and ground water and/or soils, and adverse effects on shoreline ecological functions and values.
3. Appropriate buffers along all wetlands, streams, lakes, and marine water bodies should be provided and maintained in a manner that avoids the need for chemical treatment.

**23.90.04.B Regulations**

1. Shoreline use and development shall incorporate measures to protect and maintain surface and ground water quantity and quality in accordance with all applicable laws.
2. New development shall provide stormwater management facilities designed, constructed, and maintained in accordance with the current stormwater management standards. Deviations from these standards may be approved where it can be demonstrated that off-site facilities would provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan.
3. Best management practices (BMPs) for control of erosion and sedimentation shall be implemented for all development in shorelines through an approved temporary erosion and sediment control (TESC) plan, or administrative conditions.
5. All materials that may come in contact with water shall be constructed of materials, such as untreated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic or pentachlorophenol is prohibited in or above shoreline water bodies.

Comment:

*The proposal is located within National Pollution Discharge Elimination Phase 2 area; this recommendation of approval has been conditioned that the applicant submit a Stormwater Pollution Prevention Plan (SWPPP) as required by the 2012 Stormwater Management Manual for Western Washington for review and approval prior to ground disturbing activities.*

**23.90.06                   Vegetation Conservation**

**23.90.06.A               Policies**

1. Where new developments and/or uses are proposed, native shoreline vegetation should be conserved to maintain shoreline ecological functions and/or processes and mitigate the direct, indirect and/or cumulative impacts of shoreline development, wherever feasible. Important functions of shoreline vegetation include, but are not limited to:
  - a. Providing shade necessary to maintain water temperatures required by salmonids, forage fish, and other aquatic biota.
  - b. Regulating microclimate in riparian and nearshore areas.
  - c. Providing organic inputs necessary for aquatic life, including providing food in the form of various insects and other benthic macro invertebrates.
  - d. Stabilizing banks, minimizing erosion and sedimentation, and reducing the occurrence/severity of landslides.
  - e. Reducing fine sediment input into the aquatic environment by minimizing erosion, aiding infiltration, and retaining runoff.
  - f. Improving water quality through filtration and vegetative uptake of nutrients and pollutants.
  - g. Providing a source of large woody debris to moderate flows, create hydraulic roughness, form pools, and increase aquatic diversity for salmonids and other species.
  - h. Providing habitat for wildlife, including connectivity for travel and migration corridors.

**23.90.06.B               Regulations**

1. Shoreline developments shall comply with the vegetation conservation policies of this Program through compliance with the critical area standards of WCC 16.16.335, 16.16.360, 16.16.630 and 16.16.740 for protection and maintenance of critical area and buffer vegetation.
2. Where compliance with SMP 23.90.06.B.1 is not feasible or required, new developments shall be required to develop and implement a vegetation management plan. When required, vegetation management plans shall be prepared by a qualified professional and shall be consistent with the requirements in WCC 16.16.260.B and .C, provided that the Administrator may establish prescriptive standards for vegetation conservation and management as an alternative to requiring a specific plan for a development. Vegetation management plans shall describe actions that will be implemented to ensure that buffer areas provide ecological functions equivalent to a dense native vegetation community to the extent possible given the area that is feasibly available. Required vegetation shall be maintained over the life of the use and/or development by means of a conservation easement or similar legal instrument recorded with the Whatcom County Auditor.
4. Vegetation clearing shall be limited to the minimum necessary to accommodate approved shoreline development.

Comment:

*The proposal complies with the Vegetation Conservation policies and regulations. Proposed upgrades and new structures will be within the existing developed area No new functional buffer will be lost or converted as part of this proposal. The amount of clearing is the minimum necessary to accommodate the approved shoreline development.*

**23.90.10                   Landfill and Excavation**

**23.90.10.A               Policies**

1. Landfill and excavation should only be permitted to the minimum extent necessary to accommodate an approved shoreline use or development and with assurance of no net loss of shoreline ecological functions and processes. Enhancement and voluntary restoration of landforms and habitat are encouraged.
2. Landfill in water bodies, floodways, and/or wetlands should not be permitted for creation of new uplands, unless it is part of an approved ecological restoration activity. Landfill should be permitted in limited instances to restore uplands where recent erosion has rapidly reduced upland area, to build beaches and protective berms for shore stabilization or recreation, to restore or enhance degraded shoreline ecological functions and processes, or to moderately elevate low uplands to make such uplands more suitable for purposes consistent with this Program.

#### **23.90.10.B Regulations**

1. Landfill and excavation shall be minimized to the maximum extent practicable and allowed only along with approved shoreline use and development activities that are consistent with this Program.
8. A temporary erosion and sediment control (TESC) plan shall be provided for all proposed landfill and excavation activities.

#### Comment:

*The proposal complies with the Landfill and Excavation policies and regulations. This recommendation of approval has been conditioned that the applicant submit a TESC plan for review and approval prior to ground disturbing activities.*

#### **Cumulative Impact Analysis**

In the granting of all shoreline substantial development permits, consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area. For example, if shoreline substantial development permits were granted for other developments in the area where similar circumstances exist, the sum of the permitted actions should also remain consistent with the policy of RCW 90.58.020 and should not produce significant adverse effects to the shoreline ecological functions and processes or other users.

*As stated previously within this staff report, as conditioned, staff anticipates no net loss of shoreline ecological functions or processes as a result of the proposed project. The proposal, as conditioned, appears to comply with the development standards, bulk and dimensional setbacks, vegetation conservation standards, and critical area requirements. As such, additional approvals for additional developments where similar circumstances exist are not likely to represent a cumulative environmental impact to the shoreline.*

#### **V. PUBLIC COMMENTS**

No Comments public comments were received.

#### **VI. AGENCY COMMENTS**

The **Whatcom County Department of Engineering Services** submitted the following comments via memo dated March 6, 2014.

Engineering Services recommend the following conditions for approval:

1. **All development shall comply with the WC Development Standards.**
2. **Proposed project is in NPDES 2 area and therefore subject to Min. requirement #2: Construction Stormwater Pollution Prevention Plan (SWPPP).**
3. **The applicant shall obtain a Revocable Encroachment Permit application prior to any construction work in the county right-of-way area.**

**4. Traffic Control Plan shall be submitted for review and approval.**

**\*\*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.**

The **Lake Whatcom Technical Administrator** submitted the following comments via memo dated March 6, 2014.

This property is located within the Lake Whatcom watershed and therefore is subject to the regulations listed in WCC 20. 51.

- An Erosion Control Plan required by Engineering will suffice for Watershed requirements.
- WCC 20.51.410 prohibits clearing activities that will result in exposed soils exceeding 500 square feet from October 1<sup>st</sup> through May 31<sup>st</sup> in the Lake Whatcom Watershed. Permits that propose to exceed this threshold are approved and placed on HOLD for June 1<sup>st</sup> issuance.

**VII. RECOMMENDATIONS**

*Based on the above findings, Staff recommends approval of the Shoreline Substantial Development Permit subject to the following conditions:*

- 1. The proposed shoreline developments shall be consistent with the scope and site plan approved by this shoreline conditional use permit. Any changes to the proposed development may require additional review and approval by the Whatcom County Shoreline Administrator and/or Whatcom County Hearing Examiner.*
- 2. Best management practices (BMPs) for control of erosion and sedimentation shall be implemented for all development in shorelines through an approved temporary erosion and sedimentation control (TESC) plan reviewed and approved by the Shoreline Administrator, or administrative conditions associated with the pending building permit application measures.*
- 3. Construction and/or demolition debris shall be removed from the shoreline area upon completion of the project.*
- 4. The applicant shall comply with the requirements contained in the Department of Engineering Services Memo dated March 6, 2014, unless modified by the Department of Engineering or appealed to the appropriate agency.*
- 5. The applicant shall comply with the requirements contained in the Lake Whatcom Technical Administrator Memo dated March 6, 2014, unless modified by the Administrator or appealed to the appropriate agency*
- 6. The project shall comply with all applicable federal, state and local laws and regulations.*
- 7. If archaeological materials (bone, shell midden, cobble tools, etc.) are observed during site work, work in the area of discovery shall cease and the Whatcom County SEPA Administrator (360-676-6907), LNTHPO (360-384-2298), and Washington State Office of Archaeology and Historic Preservation (360-586-3065) shall be contacted immediately to determine the significance of the discovery. If human remains are observed, the Whatcom County Sheriff (911) and LNTHPO Dept. (360-384-2298) shall be contacted immediately. Compliance with all other applicable laws pertaining to archaeological resources is required.*
- 8. Construction shall commence within two years of the effective date of the shoreline variances and substantial development permit as defined by WAC 173-27-090 (3), provided that the Whatcom County Hearing Examiner may authorize a single extension for a period not to exceed one year based on reasonable factors if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology.*

Report prepared by:

Sam McDaniel  
Whatcom County Shoreline Administrator  
Planning and Development Services