

WHATCOM COUNTY HEARING EXAMINER

RE: Zoning Conditional Use Permit ) CUP2010-0005  
Application for )  
 )  
*Mark Beckwith* ) 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 expand a Nonconforming Use in order to authorize a maximum total of five (5) full-time employees (not including family members) for a Cottage Industry consisting of an existing business for used battery and tire sales on the site, located at 8666 Delta Line Road, Custer, Washington.

Decision: The requested Zoning Conditional Use Permit is approved, subject to conditions.

**FINDINGS OF FACT**

**INTRODUCTION**

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

**I.**

Applicant: Mark Beckwith

Site Location/Address: Property address is 8666 Delta Line Road.  
Custer, Washington

Site is generally located north of Birch Bay-Lynden Road and south of West Badger Road, and east of Custer School Road and Stein Road.

Legal Description: Located within a Portion of the South ½ of the North ½ of Government Lot 3 in Section 18, Township 40N, Range 2E, W.M.

Assessor’s Parcel Number(s): 400218 043212 and 400218 011232

Zoning: Agriculture (AG) District

Comprehensive Plan: Agriculture

Subarea: Lynden Nooksack Valley Subarea

Total Acreage: Approximately 5.81 acres

Roads: Public

Water Supply: Private well

Sewage Disposal: On site septic system

Fire Protection: Whatcom County Fire District No. 21

Law Enforcement: Whatcom County Sheriff's Office

Public Schools: Ferndale School District # 502

Topography: The site is described as mostly level. A small pond is located in the north central portion of the site.

Vegetation: Vegetation consists of mostly wooded tall mature Western Red Cedar and Red Alder, and residential areas landscaped with lawn and shrubs.

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

Easements: Shared easement for roads and ingress egress and is recorded under Auditor's File Number 1047265

SEPA Review: SEPA EXEMPT (WAC 197-11)

Legal Notices: Posted – June 30, 2010  
Mailed – June 25, 2010  
Published – July 1, 2010

Hearing Date: July 14, 2010

Parties of Record:

Mark & Shauna Beckwith  
8666 Delta Line Road  
Custer, WA 98240

Joseph Pemberton  
Pemberton & Hoogestraat, P.S.  
120 Prospect Street, Suite 1  
Bellingham, WA 98225

Philip Serka  
Adelstein, Sharpe & Serka, LLP  
PO Box 5158  
Bellingham, WA 98227

Robert Seaman  
8670 Delta Line Road  
Custer, WA 98240

Erin Osborn  
Planning and Development Services

Sanja Barisic  
Division of Engineering

Exhibits:

- 1 Land Use Application
  - 1-1 Supplemental Application
  - 1-2 Customer Receipt
  - 1-3 Statutory Warranty Deed
  - 1-4 Determination of Completeness, dated March 16, 2010
  - 1-5 Property Owner Addresses
  - 1-6 Preliminary Traffic and Concurrency Information
  - 1-7 Preliminary Stormwater Proposal
  - 1-8 Revocable Encroachment Permit Application
  - 1-9 Sewage Disposal Permit
  - 1-10 Hearing Examiner Checklist
- 2 Staff Report dated July 2, 2010
- 3 Agency Comments

- 4 Memo, dated May 24, 2010 from Erin Osborn to Michael Bobbink re: addition information, Revised Stormwater Info, attached
  - 4-1 Revised Preliminary Stormwater Proposal
  - 4-2 Industrial Stormwater General Permit and report log
- 5 Aerial Photo
- 6 Vicinity Map
- 7 Zoning Map
- 8 Site Plan
- 9 Additional Application Materials re: Beacon Batteries and Tires with Parking Plan attached
- 10 Comment Letters
  - 10-1 Robert Seaman, June 7, 2010
  - 10-2 Letter dated May 27, 2010 from Philip Serka with attached Seaman v. Beckwith Court of Appeals Decision; Beckwith Contempt Order; Seaman Findings of Fact and Conclusions of Law and Judgment; Hicks v. Beckwith – Judgment
  - 10-3 Gary Smith, April 4, 2010
  - 10-4 Letter dated March 26, 2010 from Philip Serka
  - 10-5 Letter dated March 23, 2010 from Philip Serka
  - 10-6 Email from Ken Pemberton, dated March 9, 2010 with Draft and Declaration of Brenda Wilson, No. 04-2-00823-5 attached
- 11 Letter dated April 26, 2002 from Michele Bodtke re: Nonconforming Status Revision, with attached information:
  - 11-1 Email from Ken Pemberton, dated March 9, 2010 with Declaration of Brenda Wilson
- 12 Staff Correspondence re: Request for Additional Info
- 13 Legal Notice, dated March 22, 2010
- 14 Certificate of Posting, June 30, 2010
- 15 Certificate of Mailing, June 25, 2010
- 16 Legal Notice, dated July 1, 2010
- 17 Refund Authorization Request, dated July 16, 2002 with extensive supporting documents
- 18 Notice of Appearance, dated July 13, 2010, from Philip Serka, representing Mr. Robert Seaman

- 19 Site Photos (a-h)
- 20 Memorandum on Behalf of Robert L. Seaman to Deny Conditional Use Permit, dated July 14, 2010, submitted by Philip Serka
- 21 Declaration of Mark and Shauna Beckwith, No. 04-2-00823-5, dated September 15, 2009
- 22 Response to Plaintiff Robert Seaman's Motion for Contempt, No. 04-2-00823-5, dated June 17, 2009
- 23 Site Photos (a – ff)

**II.**

The Land Use Services Division of Whatcom County Planning and Development Services recommended approval of the requested Zoning Conditional Use Permit, subject to conditions. The Findings of Fact and Conclusions of Law of the Division are set forth in a Staff Report, Exhibit #2, dated July 2, 2010, a copy of which is attached hereto and incorporated herein by this reference.

The Applicant indicated there were no factual inaccuracies in the Staff Report. The Applicant indicated no objection to any of the Conditions of Approval requested by Staff.

**III.**

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

**CONCLUSIONS OF LAW**

**I.**

The proposed expansion of a Nonconforming Use in order to authorize a maximum total of five full-time employees [not including family members] for a Cottage Industry, consisting of an existing used battery and tire sales business can be approved if it is consistent with the Zoning Conditional Use Criteria of WCC 20.84.220 (2 through 8). Subject to the Conditions of Approval attached to the granting of this permit, the proposal is consistent with the Conditional Use Criteria. A Zoning Conditional Use Permit should be granted, subject to conditions.

**II.**

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

## DECISION

*A Zoning Conditional Use Permit is hereby granted to Mark Beckwith for the proposed expansion of a Cottage Industry consisting of an existing used battery and tire sales business in order to authorize a maximum total of five full-time employees [not including family members] to be located on Assessor's Parcel Nos.400218 043212 and 011232, 8666 Delta Line Road, Custer, Washington, subject to the following conditions:*

### **A. Planning Division**

1. 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.
2. Landscaping: shall be maintained pursuant to WCC 20.80.300. A scaled landscape site plan detailing the existing vegetative buffers screening the cottage industry from adjacent uses shall be submitted and approved by planning and development services department prior to issuance of the tenant improvement commercial building permit as required in Section IX (D) (3) of these conditions.
3. Drainage: Pursuant to WCC 20.40.652, approval of this application shall be subject to the stormwater management provisions of the Whatcom County Development Standards, unless specifically exempted.
4. Customer & Employee Parking: Pursuant to WCC 20.80.500, adequate parking shall be maintained as shown on the approved parking plan submitted on June 28, 2010. Prior to issuance of the required tenant improvement commercial building permit [see Section IX (D) (3)] an approved scaled parking plan for employee parking shall be submitted to and approved by planning and development services. In addition, there shall be one employee on site at all times during the hours of business operation who is designated as a customer parking monitor; it shall be the responsibility of the property owners/applicant to ensure that the designated employee is in attendance at all times, and that in absolutely no case shall the number of customer vehicles on the site exceed the amount of parking provided, and that all customer vehicles shall be parked in parking areas so designated.
5. Business Hours: Approved Hours of Operation are 9 am – 6 pm Monday through Saturday. No customer traffic is authorized on Sundays.
6. 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.
7. 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.

8. Signage: New directional signage as shown on the approved parking plan, as submitted by the Applicant on June 28, 2010, is required. Signage shall be posted on the north side of the access driveway, and shall state the following: "Park only in designated areas." In addition, the driveway will be striped with bright yellow cross hatching against black seal coated pavement, with "NO PARKING" printed in bold lettering at intervals along the shared access easement. Driveway seal coating and striping will be maintained and re-painted at reasonable intervals to ensure optimum visibility.
9. 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.

## **B. Health Department**

1. The Applicant shall comply with the conditions of the Whatcom County Health and Human Services Department as outlined 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.

## **C. Building Services Division**

1. The Applicant shall comply with the conditions of the Whatcom County Chief Plans Examiner outlined in the memo dated April 1, 2010, unless modified by the Chief Plans Examiner or appealed to the appropriate agency.
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 following are general comments are not intended to be the final comments or requirements for any one project.
3. A building permit for tenant improvement is required for this proposal.
4. Due to the scope of the proposed project, the Applicant must apply to the Building Official for a pre-application screening after CUP has been approved and prior to building permit application submittal. At the Building Official's discretion, a pre-application meeting may be required.

5. 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 addition)*
6. A Washington State Professional Engineer (if required) shall engineer the proposed building or changes.
7. **(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.
8. Exits shall meet the requirements of Chapter 10 of the International Building Code.
9. 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.
10. 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).
11. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County.
12. 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)
13. Prior to application for a building permit, a special inspection of the existing facility shall be conducted by the Building Inspector and/or Deputy Fire Marshal (at the applicant's expense) to determine occupancy classification and code compliance.



14. Once employees are hired for the business, **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 one of the structure. (The one in the house is not applicable)
15. 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).
16. 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.

#### **D. Fire Marshal**

1. The Applicant shall comply with the conditions of the Whatcom County Deputy Fire Marshal as outlined in the memo dated March 24, 2010, unless modified by the Deputy Fire Marshal or appealed to the appropriate agency.
2. Tire piles shall not exceed 5,000 square feet of continuous area and shall not be piled higher than 10 feet. Multiple tires shall have a minimum separation distance of 40 feet between piles.
3. Fire extinguisher size shall be 2A:20BC in the building at locations approved by the Fire Marshal.
4. Fire department access shall meet the minimum requirements of the Whatcom County Development Standards for Roads.
5. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County.

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

Based on submitted Preliminary Traffic Analyses the applicant is anticipating approximately 50 clients/customers per day. Site has an existing paved driveway entrance from Delta Line Rd and also additional access to the site from Delta Line Rd for employee's parking. The owner has an Industrial Stormwater General Permit obtained from DOE that addresses the stormwater quality from the site.

**Delta Line Rd** (this segment) is classified as a Rural Local Access. Speed limit in this area is 35MPH with 729 ADT (average daily trip).

The following comments and conditions apply to the proposed project:

1. The applicant shall remove the existing sign panel installed in the county rights-of-way in order to obtain safe and required sight distance. Any sign related to the business shall be installed on the owner's property, min. 10 ft away from the rights-of-way /property line.

2. Engineering Services determined that proposed development is exempt from Concurrency Evaluation and it will generate 9 or less new p.m. peak hr trips in one direction. This is based on submitted preliminary traffic information from the owner.
3. All development shall comply with WC Development Standards.
4. 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 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 19<sup>th</sup> day of July 2010.

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Michael Bobbink, Hearing Examiner



WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES  
 STAFF REPORT

July 2, 2010

The application of <b>Mark Beckwith</b> for a Conditional Use Permit	CUP2010-00005 FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS
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**I. SUMMARY OF APPLICATION AND RECOMMENDATIONS**

Summary: The applicant is requesting a zoning conditional use permit for an expansion of a nonconforming use to authorize a maximum total of five (5) full time employees (not including family members) at an existing used battery and tire sales business conducted as a cottage industry in two existing buildings with outside storage on a site located at 8666 Delta Line Road.

Recommendation: The Technical Review Committee recommends approval of the request for an expansion of a nonconforming use - conditional use permit, subject to the attached conditions.

**II. PRELIMINARY INFORMATION**

A. BACKGROUND INFORMATION

<u>Applicant:</u>	Mark & Shauna Beckwith 8666 Delta Line Road Custer, WA 98240
<u>Site Location/Address:</u>	Property address is 8666 Delta Line Road. Site is generally located north of Birch Bay-Lynden Road and south of West Badger Road, and east of Custer School Road and Stein Road.
<u>Legal Description:</u>	Located within a Portion of the South ½ of the North ½ of Government Lot 3 in Section 18, Township 40N, Range 2E, W.M.
<u>Assessor's Parcel Number(s):</u>	400218 043212 & 400218 011232

<u>Zoning:</u>	Agriculture (AG) District
<u>Comprehensive Plan:</u>	Agriculture
<u>Subarea:</u>	Lynden Nooksack Valley Subarea
<u>Total Acreage:</u>	Approximately 5.81 acres
<u>Roads:</u>	Public
<u>Water Supply:</u>	Private well
<u>Sewage Disposal:</u>	On site septic system
<u>Fire Protection:</u>	Whatcom County Fire District No. 21
<u>Law Enforcement:</u>	Whatcom County Sheriff's Office
<u>Public Schools:</u>	Ferndale School District # 502
<u>Topography:</u>	The site is described as mostly level. A small pond is located in the north central portion of the site.
<u>Vegetation:</u>	Vegetation consists of mostly wooded tall mature Western Red Cedar and Red Alder, and residential areas landscaped with lawn and shrubs.
<u>Adjacent Land Uses:</u>	North: Undeveloped East: Residential South: Residential and Agriculture West: Residential and Agriculture
<u>Easements:</u>	Shared easement for roads and ingress egress and is recorded under Auditor's File Number 1047265
<u>SEPA Review:</u>	SEPA EXEMPT (WAC 197-11)

B. AUTHORIZING CODES, POLICIES, PLANS, AND PROGRAMS:

1. Revised Code of Washington Chapter 36.70
2. Whatcom County Comprehensive Plan.
3. Whatcom County Code Chapter 15, Building Code
4. State Environmental Policy Act (SEPA). Washington Administrative Code Chapter 197-11, Whatcom County Environmental Policy Administration Chapter 16.08
5. Whatcom County Code Chapter 16.16, Critical Areas

6. Whatcom County Code Title 20, Official Whatcom County Zoning Ordinance
7. Whatcom County Code Title 24, Health Regulations

### **III. APPLICATION PROPOSAL**

The applicant, Mark B. Beckwith, has applied for a conditional use permit to approve an expansion of a non-conforming use. The family business, Beacon Batteries Industries, consists of used tire and battery sales, and has been owned and operated by Mark Beckwith and Shauna Beckwith on property where they both reside at 8666 Delta Line Road for the last 26 years. The applicant is requesting approval to authorize the family owned business to employ the number of persons currently employed on the site, not to exceed a maximum total of five (5) full time employees (not including family members) in the operations of the used battery and tire sales business known as Beacon Batteries Industries.

Other than building permits obtained for the construction of a new battery shop building issued in 1993 under building permit file number BLD93-1531 (which specifies use as a cottage industry) county records show no other permits issued to authorize the use of the property for the business. However, in 1999 it was determined by Whatcom County Planning staff that the part of the Beckwith business associated with used tire sales was legally non-conforming as described on the Affidavit of Nonconforming Use established under case file number: NON1999-00017. Later, in 2000, another Affidavit of Nonconforming Use was issued under case file number NON2000-00020 to establish that signs advertising the business posted on Birch Bay-Lynden Road, and on Delta Line Road were legally non-conforming. Thence in 2002, another determination was made to revise the previous NON1999-00017 determination; in correspondence contained within the case file record (NON1999-00017), a letter was found indicating that County staff considered both the battery and tire sales business to be a single business and legally non-conforming.

None of the above referenced documents specify as to the number of persons employed at the site. Commencing in 1984, Mark and Shauna Beckwith, along with their son, have employed anywhere from 1-5 employees during the 26 years of business operations. The Beckwith business "Beacon Batteries Industries" is registered as a Sole Proprietorship under the ownership of Mark Bradley Beckwith & Shauna Rae Beckwith, and licensed with the State of Washington Master License Service with Unified Business ID # 600 531 655.

In summary, as stated above, the applicant is requesting approval to authorize the number of persons currently employed on the site, not to exceed a maximum total of five (5) full time employees (not including family members) in the operations of the used battery and tire sales business known as Beacon Batteries Industries.

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

The subject property is an approximately 5.81 acre site, and is accessed from Delta Line Road. Property address is 8666 Delta Line Road, and is generally located north of Birch Bay-Lynden Road, south of West Badger Road, and east of Custer School Road and Stein Road, in Whatcom County.

The site consists of generally level terrain with the main developed area situated on the western portion of the site which includes paved driveway and parking area, a single family residence and landscaped areas, a used battery sales shop building, customer parking, directional signage, and a stormwater catch basin. A small pond is located in the north central portion of the site which is surrounded by aquatic vegetation; and a cultivated stand of bamboo covers the southwest edge of the pond. The site is mostly covered with a mixed stand of Western Red Cedar and Red Alder, particularly in the eastern portion of the site and along the perimeter of the entire parcel. Extending to the east is a loop trail through the forested area where stacks of used tires and wheels (rims) are stored. Further to the east and south is a personal storage building, and to the north of that is another storage building used to store used tires that are sold as part of normal business operations.

Property surrounding the site to the east is zoned Rural (R5) and to the north, south and east, the zoning is Agriculture. Parcels located to the east are developed with homesites with a predominant land use of agriculture. Land use to the south and north of the subject parcel is residential and agriculture. Directly to the east is a predominantly forested site that includes a residential homesite.

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

Public Comment: During the public comment period for the Notice of Application, the County received two written comments. Additional comments were received both before the Notice of Application public comment period began, and after it ended. These comments are included in the case file as part of the record. A summary of all comments and a brief response to those comments is listed below:

- Discussion included anecdotal reports of a long held dispute about traffic congestion generated by the cottage industry that occurs along the shared access easement that has been granted in favor of Beckwith and the abutting property owner, Seaman.
- Court documents were submitted that describe previous litigation, and court

rulings, and also contain information as to the nature and extent of the dispute between Beckwith and Seaman in regards to the use of the shared access easement. These documents are included in the case file record, including a ruling by Judge Ira Uhrig ordering Mark and Shauna Beckwith to apply for a conditional use permit to obtain authorization to employ any person other than the Beckwith family members.

- Concerns were raised that the application submitted by Mr. Beckwith did not contain enough information with which to conduct a meaningful review, and comments also indicated that the Beckwith business is in conflict with the purpose of the Agricultural zone.
- Concerns were raised that staff has incorrectly identified the status of the business and questions were raised as to whether the separate components of the business i.e. used battery sales and used tire sales are respectively: a cottage industry and a non-conforming use.

Planning Development Services Department Planning Division staff reviewed public comments and in response to these comments requested additional information from the applicant to specify the number of employees proposed to be engaged in the business; staff also requested additional information about stormwater containment and discharge, and required the applicant to submit a more detailed stormwater site plan, along with a copy of his National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permit for Stormwater Discharges Associated with Industrial Activities.

Planning Development Services Department Planning Division staff also conducted research and found County documents to establish that as of 2002 both the used battery portion of the business and the used tire sales portion of the business were considered by the County Planning Department to be legally non-conforming. On the basis of this information, staff is considering the business a *non-conforming* used battery and tire sales business conducted as a *cottage industry*.

- Concerns were raised regarding potential hazards from battery residues leaching into the ground water.
- Concerns were raised about the potential of West Nile Virus, due to the presence of tires that may collect rainwater and provide a breeding ground for mosquitoes.

The Whatcom County Health Department and Public Works Engineering Division have both reviewed public comment and have responded to these comments. Health Department staff discussed the handling of solid waste and West Nile Virus in an email dated June 30, 2010. Public Works Department Engineering Division staff discussed the concerns of battery residues, stormwater quality and discharge in an email dated June 30, 2010.



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 made a determination that the proposed expansion of a non-conforming use and application for a conditional use permit to authorize the number of persons employed at the site not to exceed a total maximum of five (5) full time employees (other than family members) is categorically exempt from SEPA review. This determination was made on March 15, 2010.

## **VII. FINDINGS OF FACT and CONSISTENCY WITH REGULATIONS**

### **A. Whatcom County Comprehensive Plan**

Expansion of nonconforming uses are exempt from conditional use permit criteria which require such uses to be consistent with the general and specific objectives of the Whatcom County Comprehensive Plan: However, zoning regulations of a specific district are meant to implement the goals and policies of the County's Comprehensive Plan; therefore, review for consistency has been conducted; it has been found by staff that the application is consistent with the following Whatcom County Comprehensive Plan goals and policies.

**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.

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

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

**Goal # 1** – "Whatcom County shall primarily become a government of rural areas in land use matters directed towards agriculture, forestry and other natural resources and natural resource based industries."

**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 the proposal in compliance with the relevant goals and policies of the Whatcom County Comprehensive Plan.*

## **B. Official Whatcom County Zoning Ordinance (Title 20, WCC)**

### **20.83.020 (2) Expansion of Nonconforming use.**

The expansion of a nonconforming use by addition or enlargement (i.e. an increase in number of employees) shall require a conditional use permit. Such expansion shall be approved if it is consistent with the applicable zoning regulations *except for the use restrictions* and complies with the conditional use approval criteria set forth in WCC [20.84.220](#) (2) through (8). Subject to review, conditions on application approval are set forth by the hearing examiner in order to ensure that criteria are satisfied and potential impacts are mitigated.

### **20.84.200 Conditional uses. & 20.84.220 (2) through (8) Criteria.**

Before approving an application for a conditional use permit for an expansion of a nonconforming use, the hearing examiner shall ensure that any specific standards of the use district defining the conditional use are fulfilled, and shall find adequate evidence showing that the proposed conditional use at the proposed location:

**(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: Approving the request to authorize the number of employees permitted at the site to a total maximum of five (5) full time employees (other than family members) will not cause an increase in the size of any structures on the subject parcel. Structures housing the cottage industry are existing, and no new buildings or structures are planned for (with the exception of new directional signage). All on-site structures are constructed in a manner that is consistent with the appearance of other structures found within the general vicinity. The Beckwith home is of a gambrel roof style associated with a barn style construction. Both the battery shop building and single family residence are finished with a "barn red" material, and both blend in with the architectural style typically found in the district. The tire shop is located within the forested area of the parcel and is not clearly visible from any adjacent property.

It is noted that cottage industries employing up to (4) employees may be permitted under the conditional use permit criteria in the agriculture zoning district as described in text in the following section of this report. Authorizing the number of persons employed at the site, not to exceed a maximum total of five (5) full time employees (not including family members) engaged in the operations of an existing used battery and tire sales business in two existing buildings with outside storage will be conditioned so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and will not change the essential character of the same area.

**(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 Health Department, Engineering Division, the Fire Marshal or Building Services Division; however, there is a long history of conflict associated with the use of the access easement by the Beckwith business. Activities of the business have been said to encroach upon the shared roadway, and have been reported as extremely disturbing to an adjacent property owner (Robert Seaman) who shares the same access easement to access his property. Activities such as parking in undesignated areas, and blocking ingress and egress have been documented by the adjacent property owner.

In order to prevent any future disturbance to the adjacent property owner, and in order to ensure compatibility with existing or future surrounding land uses, conditions of approval have been attached in Section IX - Conditions of Approval, (A) (1-9).

In summary, conditions of approval include an approved parking plan that clearly identifies adequate parking for customers, employees and for the single family residence. Parking for customers will consist of ten (10) 10' X 20' clearly marked parking spaces for customers and business vehicles, an additional one (1) handicapped accessible parking space; two (2) parking spaces to be reserved for the family home; and one (1) parking space for every employee. Employee parking is to be located on the access road along the southern property line of the subject parcel, and strictly prohibited in areas reserved for customers.

To further ensure compatibility with existing and future land uses, and to prevent disturbance to adjacent property owners, conditions of approval include a requirement that the applicant designate one employee on site at all times during the hours of business operation that is designated as a customer parking monitor to ensure that in absolutely no case shall the number of customer vehicles on site exceed the amount of parking provided. The designated customer parking monitor employee will be responsible for directing customer traffic into the designated parking areas that are clearly marked, and if business volume exceeds the capacity for parking, these customers will be routed to the Beacon Batteries Industries new business location in Custer, or be given an appointment time to return to the 8666 Delta Line site during business hours that are typically associated with low volume. However, should such customer return at the appointed time and adequate parking is still not available, a new appointment shall be made, or the customer will be routed to the new Beacon Batteries Industries location in Custer.

In addition, new directional signage as shown on the approved parking plan as submitted by the applicant on June 28, 2010 is required. Signage shall be posted on the north side of the access driveway, and shall state the following: "Park Only in Designated Areas". In addition, the driveway is required to be striped with bright yellow cross hatching against black seal coated pavement, with "NO PARKING" printed in bold lettering at intervals along the shared access easement where parking is prohibited. Driveway seal coating and striping shall be maintained and re-painted at reasonable intervals to ensure optimum visibility.

**(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: The site is serviced adequately by necessary public facilities. Engineering Division staff has reviewed the National Pollutant Discharge Elimination System (NPDES) Permit issued to the applicant for the proper treatment of stormwater on the site, and has found it to be in compliance with the conditions of the permit. Fire protection is provided by Fire District #21. Refuse disposal is provided by the private sector. Potable water is provided by the existing well and the site is served by an existing on site sewage system.

**(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: Approving the applicants request to authorize the number of employees permitted at the site to a total maximum of five (5) full time employees (other than family members) will not create excessive additional requirements at public cost. As reported by the applicant, this home based business is thriving, despite the current economic downturn; a total of five (5) employees on the site will allow the business to serve customers more quickly, and also monitor the customer parking. It appears that a business that sells used batteries and tires may be a benefit to the citizens of the community, especially when many citizens are on tight budgets, and are looking for ways to keep vehicles in operation, and at the same time save money. In addition, as reported by the applicant, the business provides a much needed service that supplies alternative energy markets with lead acid batteries for energy storage, and also provides tires and wheels to customers who restore and recondition trucks, automobiles, and farm equipment.

**(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: Activities generated by a total of five (5) full time employees on the site will not be detrimental to persons, property, or the general welfare because conditions placed on the operation and use of the property for the business will serve to mitigate potential impacts. Fumes that are generated from the battery recharging activities are mostly odorless, and are dissipated in the adequately ventilated battery shop. Glare impacts will be mitigated by conditions that require lighting to be directed away from adjacent uses. Engineering Division staff has determined that the proposed development is exempt from Traffic Concurrency Evaluation as it will generate 9 or less new p.m. peak hr trips in one direction. Potential of future impacts generated by traffic congestion have been addressed in Items (3) & (5) above, and are also addressed in Section IX – Conditions of Approval.

**(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 has determined that the public roadway is designed to meet the traffic requirements associated with the proposed expansion of use. In addition, existing signage found to be located in the County right of way will be required to be re-located to allow for improved sight distance, meeting engineering requirements.

**(8) Will not result in the destruction, loss or damage of any natural, scenic or historic feature of major importance.**

Discussion: The proposed expansion of use will not result in the destruction, loss or damage of natural, scenic or historic feature of major importance.

**Agriculture Zoning District (WCC Chapter 20.40)**

Although the subject application consists of a request for approval of an expansion of a nonconforming use, it is important to establish for the record that cottage industries with a maximum of four (4) employees may be approved in the applicable zoning district subject to approval through the issuance of a conditional use permit.

**WCC 20.40.155.** A cottage industry employing no more than four persons on-site, other than family members residing on the premises, and which may be conducted in structures other than the dwelling unit; provided, that in addition to the criteria set forth in WCC [20.84.220](#) and [20.97.087](#), the hearing examiner shall find that the cottage industry satisfies the criteria of WCC [20.36.161](#)(1) through (5).

**WCC.20.36.161** Cottage industries employing no more than four people on-site, other than family members residing on the premises, conducted in a structure(s) other than the dwelling unit; provided, that in addition to the criteria found in WCC [20.84.220](#) and [20.97.087](#):

(1) The hearing examiner, at his discretion, may place limitations on the square footage used in an existing or new structure used for a cottage industry and construction of new buildings to house said activity shall not, in any case, exceed 2,500 square feet of total floor area. The total land area used for buildings and outside storage or uses related to the cottage industry shall not exceed one acre or 25 percent of the site, whichever is less.

(2) In the event materials will be stored outdoors, the hearing examiner shall require adequate landscaping, screening or other devices in order that the material will not be visible by surrounding uses or roads.

(3) One nonilluminated freestanding sign, visible from the road, and not exceeding six feet in height, may be permitted. One additional nonilluminated

sign may be attached to the building for a maximum total signage of 16 square feet. No portion of any sign shall extend above the lowest portion of the roof.

(4) In the R-10A zone, where the cottage industry involves production or processing of forestry or agricultural related products on parcels larger than 10 acres, the maximum number of employees outside the family may be increased at the rate of one additional employee for each additional 10 acres to a maximum of 10 employees outside the family. In the event that the property is reduced in size below the acreage used to qualify for additional employees under this section, the number of employees shall be proportionately reduced.

(5) Seasonal employees working less than 21 days per year will not be counted as employees if they are engaged in work directly related to agriculture or forestry.

Listed below are specific code provisions that define cottage industries, and list specific criteria under which cottage industries with a maximum of (4) employees may be approved with conditions set forth by the hearing examiner in the agriculture zoning district:

**WCC.20.97.089** "Cottage industry" means a small light industrial, commercial, or service operation, on a parcel where the operator resides; frequently with an art or craft orientation or related to information processing or to the natural resources of the area, which meets all of the following criteria:

(1) The size and scale of the operation is in keeping with the surrounding area and off-site impacts are comparable in intensity to those generated by uses allowed in the zone.

(2) Building size, lot coverage and number of employees shall be consistent with the standards of each district.

(3) The use of the dwelling unit or accessory structure for the cottage industry shall be clearly incidental and subordinate to its use for residential purposes and the purpose of the applicable zoning district.

(4) There shall be no change in the outside appearance of the building or premises inconsistent with the residential character of the dwelling or use of the surrounding zoning district, other than signage consistent with the zoning regulations of the applicable district.

(5) No traffic shall be generated by such cottage industry in greater volume than would normally be expected in the applicable zoning district and appropriate for the road classification which serves the property.

(6) Any need for parking generated by the conduct of such cottage industry shall meet the off-street parking requirements as specified in this title. At least one additional space shall be provided for each nonresident on-site employee.

(7) No equipment, process, or materials shall be used in such cottage industry which creates noise, vibration, glare, fumes, odors or electrical interference off the lot in sufficient amounts and of such characteristics and duration as is likely

to be injurious or cause damage to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.

(8) Sales in connection with the activity are limited to merchandise manufactured or repaired on the premises, items accessory to a service (such as hair care products for a beauty salon), catalog or e-commerce sales or other products related to or incidental to the primary business.

(9) Customers/clients are prohibited on the premises prior to 7:00 a.m. and after 8:00 p.m. unless an exception is specifically granted by the administrator.

(10) The portion of the structure housing the cottage industry shall comply with life/safety regulations.

(11) Cottage industries should be limited to the manufacture and assembly of finished products that shall not include the primary manufacture of petroleum products, rubber, plastics, chemicals, asbestos products or primary metal industries. Such uses shall be sufficiently enclosed to mitigate potential impacts. Site requirements for the Agriculture zoning district are listed below.

*The Technical Review Committee has determined that although the subject application is for an expansion of a nonconforming use, the specific use meets the primary definition of a cottage industry i.e. "a small light industrial, commercial, or service operation, on a parcel where the operator resides."*

*Listed below are specific provisions of the conditional use permit approval for cottage industries with which the Beckwith Business fails to conform: 1) the number of on site employees that are approved; 2) the amount of outdoor storage (tire storage), and 3) the hours of operation. The Technical Review Committee has determined that the proposed expansion of a non-conforming use and application for a conditional use permit: A request for approval to authorize the number of persons employed at the site to a total maximum of five (5) full time employees (other than family members) to be engaged in the operations of the used battery and tire sales business known as Beacon Batteries Industries shall be considered a "nonconforming cottage industry", and as conditioned will meet the requirements of approval for expansion of non-conforming uses as established in WCC 20.83.020 (2) & 20.84.220 (2) through (8).*

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

**20.40.350 Building setbacks.**

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

**20.40.450 Lot coverage.**

No structure or combination of structures, including accessory buildings, shall occupy or cover more than 25 percent of the total area of the subject parcel. A review of the site plan indicates that the lot coverage requirements have been met.

**20.40.651 Landscaping.**

Refer to WCC 20.80.300 for landscaping requirements.

**20.40.652 Drainage.**

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

*No new construction except for the installation of signage is proposed. Building setbacks will be reviewed at the time of building permit review. The Technical Review Committee has determined that, as conditioned, the proposal meets the requirements of Title 20, Whatcom County Code.*

**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 March 23, 2010, and as a result of this review, critical areas staff determined that there will be no wetland or habitat area impacts as a result of this proposal.

*The Technical Review Committee has determined that 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 March 24, 2010 with conditions of approval for this proposal.

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

**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 with comments.

*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 June 28, 2010 with comments.

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

## **VIII. RECOMMENDATION**

The Technical Review Committee has determined that subject to the following proposed conditions, the proposed expansion of a nonconforming use would comply with applicable Whatcom County regulations.

As stated above the Technical Review Committee recommends approval of the application of a conditional use permit for an expansion of a non-conforming use, subject to the following conditions:

## **IX. CONDITIONS OF APPROVAL**

### **A. Planning Division**

1. 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.
2. Landscaping: shall be maintained pursuant to WCC 20.80.300. A scaled landscape site plan detailing the existing vegetative buffers screening the cottage industry from adjacent uses shall be submitted and approved by planning and development services department prior to issuance of the tenant improvement commercial building permit as required in Section IX (D) (3) of these conditions.
3. Drainage: Pursuant to WCC 20.40.652, approval of this application shall be subject to the stormwater management provisions of the Whatcom County Development Standards, unless specifically exempted.
4. Customer & Employee Parking: Pursuant to WCC 20.80.500, adequate parking shall be maintained as shown on the approved parking plan submitted on June 28, 2010. Prior to issuance of the required tenant improvement commercial building permit [see Section IX (D) (3)] an approved scaled parking plan for employee parking shall be submitted to and approved by planning and development services. In addition, there shall be one employee on site at all times during the hours of business operation that is designated as a customer parking monitor; it shall be the responsibility of the property owners/applicant to ensure that the designated employee is in attendance at all times, and that in absolutely no case shall the number of customer vehicles

on the site exceed the amount of parking provided, and that all customer vehicles shall be parked in parking areas so designated.

5. Business Hours: Approved Hours of Operation are 9 am – 6 pm Monday through Saturday. No customer traffic is authorized on Sundays.
6. 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.
7. 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.
8. Signage: New directional signage as shown on the approved parking plan as submitted by the applicant on June 28, 2010 is required. Signage shall be posted on the north side of the access driveway, and shall state the following: "Park only in designated areas". In addition, the driveway will be striped with bright yellow cross hatching against black seal coated pavement, with "NO PARKING" printed in bold lettering at intervals along the shared access easement. Driveway seal coating, and striping will be maintained and re-painted at reasonable intervals to ensure optimum visibility.
9. 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.

## **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.

#### D. Building Services Division

1. The applicant shall comply with the conditions of the Whatcom County Chief Plans Examiner in the memo dated April 1, 2010 unless modified by the Chief Plans examiner or appealed to the appropriate agency.
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 following are general comments are not intended to be the final comments or requirements for any one project.
3. A building permit for tenant improvement is required for this proposal.
4. Due to the scope of the proposed project, the applicant must apply to the Building Official for a pre-application screening after CUP has been approved and prior to building permit application submittal. At the Building Official's discretion a pre-application meeting may be required.
5. 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 addition)*
6. A Washington State Professional Engineer (if required) shall engineer the proposed building or changes.
7. **(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.
8. Exits shall meet the requirements of Chapter 10 of the International Building Code.
9. 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.
10. 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).

11. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County.
12. 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)
13. Prior to application for a building permit, a special inspection of the existing facility shall be conducted by the Building Inspector and/or Deputy Fire Marshal (at the applicant's expense) to determine occupancy classification and code compliance.
14. Once employees are hired for the business, **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 one of the structure. (The one in the house is not applicable)
15. 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).
16. 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.

#### **E. Fire Marshal**

1. The applicant shall comply with the conditions of the Whatcom County Deputy Fire Marshal in the memo dated March 24, 2010 unless modified by the Deputy Fire Marshall or appealed to the appropriate agency.
2. Tire piles shall not exceed 5,000 square feet of continuous area and shall not be piled higher than 10 feet. Multiple tires shall have a minimum separation distance of 40 feet between piles.
3. Fire extinguisher size shall be 2A:20BC in the building at locations approved by the Fire Marshal.

4. Fire department access shall meet the minimum requirements of the Whatcom County Development standards for roads.
5. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County.

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

Based on submitted Preliminary Traffic Analyses the applicant is anticipating approximately 50 clients/customers per day. Site has an existing paved driveway entrance from Delta Line Rd and also additional access to the site from Delta Line Rd for employee's parking. The owner has an Industrial Stormwater General Permit obtained from DOE that addresses the stormwater quality from the site.

**Delta Line Rd** (this segment) is classified as a Rural Local Access. Speed limit in this area is 35MPH with 729 ADT (average daily trip).

The following comments and conditions apply to the proposed project:

1. The applicant shall remove the existing sign panel installed in the county rights-of-way in order to obtain safe and required sight distance. Any sign related to the business shall be installed on the owner's property, min. 10 ft away from the rights-of-way /property line.
2. Engineering Services determined that proposed development is exempt from Concurrency Evaluation and it will generate 9 or less new p.m. peak hr trips in one direction. This is based on submitted preliminary traffic information from the owner.
3. All development shall comply with WC Development Standards.
4. 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